

FILED

DEC 11 2007

DEPARTMENT OF REAL ESTATE

By Jean Armit

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-7782 SF
RUSS TOW,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 6, 2000, a Decision was rendered herein
revoking the real estate salesperson license of Respondent
effective July 11, 2000, but granting Respondent the right to the
issuance of a restricted real estate salesperson license. A
restricted real estate salesperson license was issued to
Respondent on July 11, 2000, and Respondent has operated as a
restricted licensee since that time.

On February 21, 2007, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

///

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate salesperson license and that it would
6 not be against the public interest to issue said license to
7 Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent if Respondent
11 satisfies the following conditions within nine (9) months from
12 the date of this Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: 11-19-17

22 JEFF DAVI
23 Real Estate Commissioner
24 
25 _____
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27

FILED
MAY - 6 2003

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
RUSS TOW,) NO. H-7782 SF
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 6, 2000, an Order was rendered herein
revoking the real estate salesperson license of Respondent, but
granting Respondent the right to the issuance of a restricted
real estate salesperson license. A restricted real estate
salesperson license was issued to Respondent on July 11, 2000,
and Respondent has operated as a restricted licensee without
cause for disciplinary action against Respondent.

On September 18, 2001, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given
notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law
5 for the issuance to Respondent of an unrestricted real estate
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent, if Respondent
11 satisfies the following conditions within nine months from the
12 date of this Order:

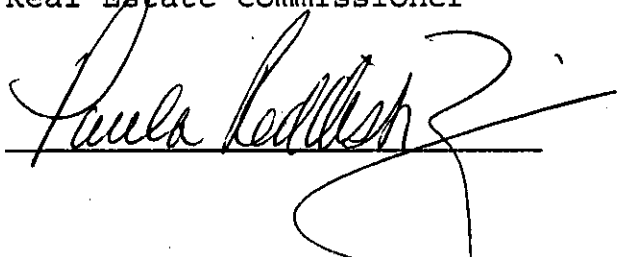
13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: February 28, 2003.
22

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 
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27

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED

JUN 19 2000

DEPARTMENT OF REAL ESTATE

By *Laurie A. Jan*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-7782 SF
RUSS TOW,) STIPULATION AND AGREEMENT
Respondent.)

It is hereby stipulated by and between Respondent RUSS TOW (hereinafter "TOW") and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 13, 2000 in this matter ("the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

DRE No. H-7782 SF

RUSS TOW

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On January 26, 2000, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that Respondent
10 understands that by withdrawing said Notice of Defense Respondent
11 will thereby waive Respondent's right to require the Commissioner
12 to prove the allegations in the Accusation at a contested hearing
13 held in accordance with the provisions of the APA and that
14 Respondent will waive other rights afforded to Respondent in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations in the
20 Accusation pertaining to Respondent RUSS TOW are true and correct
21 and stipulates and agrees that the Real Estate Commissioner shall
22 not be required to provide further evidence of such allegations.

23 5. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement as
25 her decision in this matter, thereby imposing the penalty and
26 sanctions on Respondent's real estate license and license rights
27 as set forth in the "Order" below. In the event that the

DRE No. H-7782 SF

RUSS TOW

1 Commissioner in her discretion does not adopt the Stipulation and
2 Agreement, it shall be void and of no effect, and Respondent
3 shall retain the right to a hearing and proceeding on the
4 Accusation under all the provisions of the APA and shall not be
5 bound by any admission or waiver made herein.

6 6. This Stipulation and Agreement shall not
7 constitute an estoppel, merger or bar to any further
8 administrative or civil proceedings by the Department of Real
9 Estate with respect to any matters which were not specifically
10 alleged to be causes for accusation in this proceeding.

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions and
13 waivers and solely for the purpose of settlement of the pending
14 Accusation without hearing, it is stipulated and agreed that the
15 following Determination of Issues shall be made:

16 I

17 The acts and omissions of Respondent RUSS TOW described
18 in the Accusation are grounds for the suspension or revocation of
19 the licenses and license rights of Respondent RUSS TOW under the
20 provisions of Section 10176(a) of the Code.

21 ORDER

22 I

23 All licenses and licensing rights of Respondent RUSS
24 TOW under the Real Estate Law are revoked; provided, however, a
25 restricted real estate salesperson license shall be issued to
26 said Respondent pursuant to Section 10156.5 of the Business and

1 Professions Code if, within 90 days from the effective date of
2 the Decision entered pursuant to this Order, Respondent makes
3 application for the restricted license and pays to the Department
4 of Real Estate the appropriate fee therefor.

5 The restricted license issued to Respondent shall be
6 subject to all of the provisions of Section 10156.7 of the
7 Business and Professions Code and to the following limitations,
8 conditions and restrictions imposed under authority of Section
9 10156.6 of that Code:

10 1. The restricted license issued to Respondent may be
11 suspended prior to hearing by Order of the Real Estate
12 Commissioner in the event of Respondent's conviction or plea of
13 nolo contendere to a crime which is substantially related to
14 Respondent's fitness or capacity as a real estate licensee.

15 2. The restricted license issued to Respondent may be
16 suspended prior to hearing by Order of the Real Estate
17 Commissioner on evidence satisfactory to the Commissioner that
18 Respondent has violated provisions of the California Real Estate
19 Law, the Subdivided Lands Law, Regulations of the Real Estate
20 Commissioner or conditions attaching to the restricted license.

21 3. Respondent shall not be eligible to apply for the
22 issuance of an unrestricted real estate license nor for the
23 removal of any of the conditions, limitations or restrictions of
24 a restricted license until one (1) year has elapsed from the
25 effective date of this Decision.

26 4. Respondent shall submit with any application for
27 license under an employing broker, or any application for

1 transfer to a new employing broker, a statement signed by the
2 prospective employing real estate broker on a form approved by
3 the Department of Real Estate which shall certify:

4 (a) That the employing broker has read the Decision of
5 the Commissioner which granted the right to a restricted license;
6 and

7 (b) That the employing broker will exercise close
8 supervision over the performance by the restricted licensee
9 relating to activities for which a real estate license is
10 required.

11 5. Respondent shall, within nine months from the
12 effective date of the Decision, present evidence satisfactory to
13 the Real Estate Commissioner that Respondent has, since the most
14 recent issuance of an original or renewal real estate license,
15 taken and successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
17 for renewal of a real estate license. If Respondent fails to
18 satisfy this condition, the Commissioner may order the suspension
19 of the restricted license until the Respondent presents such
20 evidence. The Commissioner shall afford Respondent the
21 opportunity for a hearing pursuant to the Administrative
22 Procedure Act to present such evidence.

23 6. Respondent shall, within six (6) months from the
24 issuance of the restricted license, take and pass the
25 Professional Responsibility Examination administered by the
26 Department, including the payment of the appropriate examination
27 fee. If Respondent fails to satisfy this condition, the

Commissioner may order the suspension of the restricted license
until Respondent passes the examination.

May 9, 2000

DATED

JAMES L. BEAVER, Counsel
Department of Real Estate

* * *

I have read the Stipulation and Agreement and its terms
are understood by me and are agreeable and acceptable to me. I
understand that I am waiving rights given to me by the California
Administrative Procedure Act (including but not limited to
Sections 11506, 11508, 11509, and 11513 of the Government Code),
and I willingly, intelligently, and voluntarily waive those
rights, including the right of requiring the Commissioner to
prove the allegations in the Accusation at a hearing at which I
would have the right to cross-examine witnesses against me and to
present evidence in defense and mitigation of the charges.

S-4-00

DATED

RUSS TOW
Respondent

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DRE No. H-7782 SF

RUSS TOW

* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted by as my Decision in this matter as to Respondent RUSS
3 TOW and shall become effective at 12 o'clock noon on
4 July 11, 2000.

5 IT IS SO ORDERED June 6, 2000.

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7 PAULA REDDISH ZINNEBANN
8 Real Estate Commissioner
9 Paula Reddish Zinnemann
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DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED

JUN 19 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Zinn

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7782 SF
LESLIE EUGENE RYAN,)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	

It is hereby stipulated by and between Respondent LESLIE EUGENE RYAN (hereinafter "RYAN") and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 13, 2000 in this matter ("the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

DRE No. H-7782 SF

LESLIE EUGENE RYAN

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On January 26, 2000, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that Respondent
10 understands that by withdrawing said Notice of Defense Respondent
11 will thereby waive Respondent's right to require the Commissioner
12 to prove the allegations in the Accusation at a contested hearing
13 held in accordance with the provisions of the APA and that
14 Respondent will waive other rights afforded to Respondent in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations in the
20 Accusation are true and correct and stipulates and agrees that
21 the Real Estate Commissioner shall not be required to provide
22 further evidence of such allegations.

23 5. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement as
25 her decision in this matter, thereby imposing the penalty and
26 sanctions on Respondent's real estate license and license rights
27 as set forth in the "Order" below. In the event that the

DRE No. H-7782 SF

LESLIE EUGENE RYAN

1 Commissioner in her discretion does not adopt the Stipulation and
2 Agreement, it shall be void and of no effect, and Respondent
3 shall retain the right to a hearing and proceeding on the
4 Accusation under all the provisions of the APA and shall not be
5 bound by any admission or waiver made herein.

6 6. This Stipulation and Agreement shall not
7 constitute an estoppel, merger or bar to any further
8 administrative or civil proceedings by the Department of Real
9 Estate with respect to any matters which were not specifically
10 alleged to be causes for accusation in this proceeding.

11 7. Respondent understands that by agreeing to this
12 Stipulation and Agreement in Settlement, the findings set forth
13 below in the Determination Of Issues become final, and that the
14 Commissioner may charge Respondent for the costs of any audit
15 conducted pursuant to Section 10148 of the Business and
16 Professions Code to determine if the violations have been
17 corrected. The maximum costs of said audit shall not exceed
18 \$7,257.53.

19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions and
21 waivers and solely for the purpose of settlement of the pending
22 Accusation without hearing, it is stipulated and agreed that the
23 following Determination of Issues shall be made:

24 I

25 The acts and omissions of Respondent described in the
26 Accusation are grounds for the suspension or revocation of the
27

1 licenses and license rights of Respondent under the following
2 provisions of the California Business and Professions Code
3 ("Code") and/or Chapter 6, Title 10, California Code of
4 Regulations ("Regulations"):

5 (a) as to Paragraph VII(a) of the First Cause of
6 Accusation, under Section 2831.2 of the Regulations in conjunction
7 with Sections 10145 and 10177(d) of the Code;

8 (b) as to Paragraph VII(b) of the First Cause of
9 Accusation, under Section 2832.1 of the Regulations in conjunction
10 with Sections 10145 and 10177(d) of the Code;

11 (c) As to the Second Cause for Accusation, under
12 Section 10177(h) of the Code.

13 ORDER

14 I

15 All licenses and licensing rights of Respondent LESLIE
16 EUGENE RYAN under the Real Estate Law are revoked; provided,
17 however, a restricted real estate broker license shall be issued to
18 said Respondent pursuant to Section 10156.5 of the Business and
19 Professions Code if, within 90 days from the effective date of the
20 Decision entered pursuant to this Order, Respondent:

21 (a) provides proof satisfactory to the Real Estate
22 Commissioner that, as of May 31, 2000, there is on deposit in one or
23 more trust bank accounts for the use and benefit of all owners of
24 funds entrusted to said Respondent an amount or amounts equal to the
25 individual and aggregate trust fund liability of said Respondent to
26 such owners;

1 **(b) pays the sum of \$6,183.93 to the California**
2 Department of Real Estate as and for the cost of the audit which
3 resulted in the determination that Respondent committed the trust
4 fund violation(s) found in paragraph I of the Determination of
5 Issues; and

6 **(c) makes application for the restricted license and pays**
7 **to the Department of Real Estate the appropriate fee therefor.**

8 **The restricted license issued to Respondent shall be**
9 subject to all of the provisions of Section 10156.7 of the Business
10 and Professions Code and to the following limitations, conditions
11 and restrictions ~~imposed under authority of Section 10156.6 of that~~
12 Code:

13 **1. The restricted license issued to Respondent may be**
14 suspended prior to hearing by Order of the Real Estate Commissioner
15 in the event of Respondent's conviction or plea of nolo contendere
16 to a crime which is substantially related to Respondent's fitness
17 or capacity as a real estate licensee.

18 **2. The restricted license issued to Respondent may be**
19 suspended prior to hearing by Order of the Real Estate Commissioner
20 on evidence satisfactory to the Commissioner that Respondent has
21 violated provisions of the California Real Estate Law, the
22 Subdivided Lands Law, Regulations of the Real Estate Commissioner
23 or conditions attaching to the restricted license.

24 **3. Respondent shall not be eligible to apply for the**
25 issuance of an unrestricted real estate license nor for the
26 removal of any of the conditions, limitations or restrictions of
27 a restricted license **until one (1) year** has elapsed from the

effective date of this Decision.

1
2 4. Respondent shall, within nine months from the
3 effective date of the Decision, present evidence satisfactory to
4 the Real Estate Commissioner that Respondent has, since the most
5 recent issuance of an original or renewal real estate license,
6 taken and successfully completed the continuing education
7 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
8 for renewal of a real estate license. If Respondent fails to
9 satisfy this condition, the Commissioner may order the suspension
10 of the restricted license until the Respondent presents such
11 evidence. The Commissioner shall afford Respondent the
12 opportunity for a hearing pursuant to the Administrative
13 Procedure Act to present such evidence.

14 5. Respondent shall, within six (6) months from the
15 issuance of the restricted license, take and pass the
16 Professional Responsibility Examination administered by the
17 Department, including the payment of the appropriate examination
18 fee. If Respondent fails to satisfy this condition, the
19 Commissioner may order the suspension of the restricted license
20 until Respondent passes the examination.

21 6. Pursuant to Section 10148 of the Business and
22 Professions Code, Respondent shall pay the Commissioner's
23 reasonable cost, not to exceed \$7,257.53, for an audit to
24 determine if Respondent has corrected the trust fund violation(s)
25 found in paragraph I of the Determination of Issues. In
26 calculating the amount of the Commissioner's reasonable cost, the
27 Commissioner may use the estimated average hourly salary for all

1 persons performing audits of real estate brokers, and shall
2 include an allocation for travel time to and from the auditor's
3 place of work. Respondent shall pay such cost within 45 days of
4 receiving an invoice from the Commissioner detailing the
5 activities performed during the audit and the amount of time
6 spent performing those activities. The Commissioner may suspend
7 the restricted license issued to respondent pending a hearing
8 held in accordance with Section 11500, et seq., of the Government
9 Code, if payment is not timely made as provided for herein, or as
10 provided for in a subsequent agreement between the Respondent and
11 the Commissioner. The suspension shall remain in effect until
12 payment is made in full or until Respondent enters into an
13 agreement satisfactory to the Commissioner to provide for
14 payment, or until a decision providing otherwise is adopted
15 following a hearing held pursuant to this condition.

16 April 26, 2000
17 DATED

18 
19 JAMES L. BEAVER, Counsel
20 Department of Real Estate

21 * * *

22 I have read the Stipulation and Agreement and its terms
23 are understood by me and are agreeable and acceptable to me. I
24 understand that I am waiving rights given to me by the California
25 Administrative Procedure Act (including but not limited to
26 Sections 11506, 11508, 11509, and 11513 of the Government Code),
27 and I willingly, intelligently, and voluntarily waive those
rights, including the right of requiring the Commissioner to
prove the allegations in the Accusation at a hearing at which I

1 would have the right to cross-examine witnesses against me and to
2 present evidence in defense and mitigation of the charges.

3 April 26, 2000
4 DATED

Leslie Eugene Ryan
5 LESLIE EUGENE RYAN
6 Respondent

7 * * *

8 The foregoing Stipulation and Agreement is hereby
9 adopted by as my Decision in this matter as to Respondent LESLIE
10 EUGENE RYAN and shall become effective at 12 o'clock noon on
11 July 11, 2000.

12 IT IS SO ORDERED

13 June 6, 2000.
14 PAULA REDDISH ZINNEBANN
15 Real Estate Commissioner
16 Paula Reddish Zinnemann
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1 JAMES L. BEAVER, Counsel (SBN 60543)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 (916) 227-0788 (Direct)
7

FILED
JAN 13 2000

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No.: H-7782 SF
12)
12 LESLIE EUGENE RYAN,) ACCUSATION
13 and RUSS TOW,)
14 Respondents.)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against LESLIE EUGENE RYAN and RUSS TOW (hereinafter
18 "Respondents"), is informed and alleges as follows:

19 FIRST CAUSE OF ACCUSATION

20 I

21 The Complainant, Les R. Bettencourt, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 Respondents are presently licensed and/or have license
26 rights under the Real Estate Law, Part 1 of Division 4 of the
27 Business and Professions Code (hereinafter "Code").

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III

At all times herein mentioned, Respondent LESLIE EUGENE RYAN (hereinafter "RYAN") was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a real estate broker.

IV

At all times herein mentioned, Respondent RYAN engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(a) and 10131(b) of the Code, including:

(a) The operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent RYAN sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchases of, solicited and obtained listings of, and negotiated the purchase and sale of real property; and

(b) The operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent RYAN leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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2 V

3 In so acting as a real estate broker, Respondent RYAN
4 accepted or received funds in trust (hereinafter "trust funds")
5 from or on behalf of owners, tenants and others in connection
6 with the property management activities described in Paragraph
7 IV(b), above, and thereafter from time to time made
8 disbursements of said funds.

9 VI

10 Some but not necessarily all of said trust funds
11 accepted or received by Respondent RYAN were deposited or caused
12 to be deposited by Respondent into one or more bank accounts
13 (hereinafter "trust fund accounts") maintained by Respondent
14 RYAN for the handling of trust funds, including but not
15 necessarily limited to the "Century 21 Les Ryan Realty Client
16 Trust Account", hereinafter Trust #1, maintained by Respondent
17 RYAN at the Ukiah, California, branch of Savings Bank of
18 Mendocino County.

19 VII

20 Between on or about January 1, 1998 and June 30, 1999,
21 in connection with the collection and disbursement of said trust
22 funds, Respondent RYAN:

23 (a) Failed to reconcile, at least once a month, the
24 balance of all separate beneficiary or transaction records with
25 the record of all trust funds received into and disbursed from
26 Trust #1; and

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1 (b) Caused, suffered or permitted the balance of
2 funds in Trust #1 to be reduced to an amount which, as of
3 June 30, 1999, was approximately \$43,706.28 less than the
4 aggregate liability of Respondent to all owners of such funds,
5 without the prior written consent of the owners of such funds.
6

7 SECOND CAUSE OF ACCUSATION

8 VIII

9 There is hereby incorporated in this second, separate
10 and distinct Cause of Accusation, all of the allegations
11 contained in Paragraphs I through IV, inclusive, of the First
12 Cause of Accusation with the same force and effect as if herein
13 fully set forth.

14 IX

15 At all times herein mentioned, Respondent RUSS TOW
16 (hereinafter "TOW") was and now is licensed by the Department as
17 a real estate salesperson in the employ of Respondent RYAN.

18 X

19 At all times mentioned herein, Respondent RYAN
20 employed Respondent TOW to perform the acts and conduct the
21 activities described in Paragraph IV(a), above.

22 XI

23 Between on or about April 10, 1998 and on or about
24 May 21, 1998, in course of the employment described in Paragraph
25 X, above, Respondent TOW induced Frances M. Pickford
26 (hereinafter "Seller") to accept an offer by Jing Quan
27 (hereinafter "Buyer") to purchase real property at 10500 East
Road, Ukiah, California.

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2 XII

3 In order to induce Seller to accept Buyer's offer to
4 purchase said real property, Respondent TOW represented to
5 Seller that Respondent TOW had received a \$1,000 earnest money
6 deposit from Buyer toward the purchase price of said real
7 property (hereinafter "the representation").

8 XIII

9 Seller accepted Buyer's offer to purchase said real
10 property in reasonable reliance on the representation.

11 XIV

12 The representation was false. In truth and fact, as
13 Respondent TOW knew full well at the time the representation was
14 made, Respondent TOW had not received any earnest money deposit
15 from Buyer.

16 XV

17 The acts and omissions of Respondent TOW described in
18 Paragraphs X through XIV, above, constitute the substantial
19 misrepresentation of a material fact, and/or fraud or dishonest
20 dealing.

21 XVI

22 At all times mentioned herein, Respondent RYAN so
23 failed to exercise reasonable supervision over the activities,
24 described above, of Respondent TOW, a real estate salesperson
25 then licensed under Respondent RYAN, as to cause, suffer and
26 permit the acts and omissions of Respondent TOW, described
27 above, to occur, in that Respondent RYAN failed to establish
policies, procedures, and systems to review, oversee, inspect

1 and manage the handling of trust funds by salespersons,
2 including Respondent TOW, licensed under Respondent RYAN, and
3 failed to establish a system for monitoring compliance with such
4 policies, rules, procedures and systems.
5

6 XVII

7 The facts alleged above are grounds for the suspension
8 or revocation of the licenses and license rights of Respondents
9 under the following provisions of the Code and/or Chapter 6,
10 Title 10, California Code of Regulations (hereinafter
11 "Regulations"):

12 (a) As to Respondent RYAN and Paragraph VII(a) of the
13 First Cause of Accusation under Section 2831.2 of the
14 Regulations in conjunction with Sections 10145 and 10177(d) of
15 the Code;

16 (b) As to Respondent RYAN and Paragraph VII(b) of the
17 First Cause of Accusation under Section 2832.1 of the
18 Regulations in conjunction with Sections 10145 and 10177(d) of
19 the Code;

20 (c) As to Respondent TOW and the Second Cause of
21 Accusation under Section 10176(a) and/or Section 10176(i) the
22 Code; and


23 (d) As to Respondent RYAN and the Second Cause for
24 Accusation under Section 10177(g) and/or Section 10177(h) of the
25 Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 under the Real Estate Law (Part 1 of Division 4 of the Business
6 and Professions Code) and for such other and further relief as
7 may be proper under other applicable provisions of law.
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9 
10 LES R. BETTENCOURT
11 Deputy Real Estate Commissioner

12 Dated at Oakland, California,
13 this 29th day of December, 1999.
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