

FILED

MAY 22 2008

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
GINTER AND BROWN REALTY,) NO. H-10316 SF
a Corporation, and,)
WILLIAM BETTENCOURT LINO,)
Respondents.)

ORDER ACCEPTING VOLUNTARY SURRENDER

On February 28, 2008, an Accusation was filed in this matter against Respondents GINTER AND BROWN REALTY, a Corporation, and, WILLIAM BETTENCOURT LINO.

By Declaration signed April 18, 2008, Respondents GINTER AND BROWN REALTY, a Corporation, and, WILLIAM BETTENCOURT LINO petitioned the Real Estate Commissioner to voluntarily surrender their real estate license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that the petition of Respondents GINTER AND BROWN REALTY, a Corporation, and, WILLIAM BETTENCOURT LINO for the voluntary surrender of their real

1 estate license(s) is accepted as of the effective date of
2 this Order as set forth below, based upon the understanding
3 and agreement expressed in the Declaration of Respondents
4 GINTER AND BROWN REALTY, a Corporation, and, WILLIAM
5 BETTENCOURT LINO dated April 18, 2008 (attached hereto as
6 Exhibit "A").

7 This Order shall become effective at 12 o'clock noon
8 on June 11, 2008.

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10 DATED: 5-14, 2008.

11 JEFF DAVI
12 Real Estate Commissioner
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-10316 SF
	)	
GINTER AND BROWN REALTY, and	)	
WILLIAM BETTENCOURT LINO,	)	
	)	
Respondents.	)	

DECLARATION

My name is WILLIAM BETTENCOURT LINO, and I am currently licensed as a real estate broker individually and as designated officer-broker for GINTER AND BROWN REALTY (herein "GABR") and have license rights with respect to both licenses. GABR and I are not represented by counsel.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license and that of GABR issued by the



1 Department of Real Estate ("Department") pursuant to Business
2 and Professions Code Section 10100.2.

3 I understand that by so voluntarily surrendering my
4 license, I may be relicensed as a broker or as a salesperson only
5 by petitioning for reinstatement pursuant to Section 11522 of the
6 Government Code.

7 I understand that by so voluntarily surrendering the
8 license of GABR, GABR may be relicensed as a broker only by
9 petitioning for reinstatement pursuant to Section 11522 of the
10 Government Code.

11 I also understand that by so voluntarily surrendering
12 the licenses, GABR and I agree to the following:

13 1. The filing of this Declaration shall be deemed as
14 my petition and the petition for GABR for voluntary surrender.

15 2. It shall also be deemed to be an understanding and
16 agreement by me on my behalf and on behalf of GABR that I and
17 GABR waive all rights we have to require the Commissioner to
18 prove the allegations contained in the Accusation filed in this
19 matter at a hearing held in accordance with the provisions of the
20 Administrative Procedure Act (Government Code Sections 11400 et
21 seq.), and that I and GABR also waive other rights afforded in
22 connection with the hearing such as the right to discovery, the
23 right to present evidence in defense of the allegations in the
24 Accusation and the right to cross-examine witnesses.

25 3. I and GABR further agree that upon acceptance by
26 the Commissioner, as evidenced by an appropriate order, all
27 affidavits and all relevant evidence obtained by the Department



1 in this matter prior to the Commissioner's acceptance, and all
2 allegations contained in the Accusation filed in the Department,
3 Case No. H-10316 SF, may be considered by the Department to be
4 true and correct for the purpose of deciding whether to grant
5 relicensure or reinstatement pursuant to Government Code Section
6 11522.

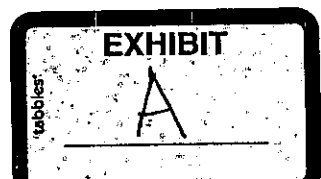
7 4. GABR and I freely and voluntarily surrender all
8 licenses and license rights under the Real Estate Law.

9 I declare under penalty of perjury under the laws of
10 the State of California that the above is true and correct and
11 that this declaration was executed April 18, 2008, at
12 Willows, California.

13
14 GINTER AND BROWN REALTY
15 Respondent

16 By William Bettencourt Lino
17 WILLIAM BETTENCOURT LINO
18 Designated Officer - Broker

19 William Bettencourt Lino
20 WILLIAM BETTENCOURT LINO
21 Respondent
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Department of Real Estate
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FILED

FEB 28 2008

DEPARTMENT OF REAL ESTATE

By K. Contreas

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
GINTER AND BROWN REALTY,)
a Corporation, and)
WILLIAM BETTENCOURT LINO,)
Respondents.)

NO. H-10316 SF

ACCUSATION

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against GINTER AND BROWN REALTY, a Corporation (herein "GBR"), and WILLIAM BETTENCOURT LINO (herein "LINO"), is informed and alleges as follows:

I

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

At all times herein mentioned, Respondents GBR and LINO (herein "Respondents") were and now are licensed and/or have

1 license rights under the Real Estate Law (Part 1 of Division 4
2 of the Business and Professions Code) (herein "the Code").

3 III

4 At all times herein mentioned GBR was and now is
5 licensed by the Department of Real Estate of the State of
6 California (herein "the Department") as a corporate real estate
7 broker by and through LINO as designated officer-broker of GBR
8 to qualify said corporation and to act for said corporation as a
9 real estate broker.

10 IV

11 At all times herein mentioned, LINO was and now is
12 licensed by the Department as a real estate broker, individually
13 and as designated officer-broker of GBR. As said designated
14 officer-broker, LINO was at all times mentioned herein
15 responsible pursuant to Section 10159.2 of the Code for the
16 supervision of the activities of the officers, agents, real
17 estate licensees, and employees of GBR for which a license is
18 required.

19 V

20 Whenever reference is made in an allegation in this
21 Accusation to an act or omission of GBR, such allegation shall be
22 deemed to mean that the officers, directors, employees, agents
23 and/or real estate licensees employed by or associated with GBR
24 committed such act or omission while engaged in the furtherance
25 of the business or operations of such corporate Respondent and
26 while acting within the course and scope of their authority and
27 employment.

1 VI

2 At all times herein mentioned Respondent GBR engaged in
3 the business of, acted in the capacity of, advertised, or assumed
4 to act as a real estate broker within the State of California
5 within the meaning of Section 10131(b) of the Code, including
6 the operation and conduct of a property management business with
7 the public wherein, on behalf of others, for compensation or in
8 expectation of compensation, Respondent leased or rented and
9 offered to lease or rent, and placed for rent, and solicited
10 listings of places for rent, and solicited for prospective
11 tenants of real property or improvements thereon, and collected
12 rents from real property or improvements thereon.

13 VII

14 In so acting as a real estate broker, as described in
15 Paragraph VI above, Respondent GBR accepted or received funds
16 in trust (herein "trust funds") from or on behalf of owners,
17 tenants, and others in connection with the leasing, renting, and
18 collection of rents on real property or improvements thereon,
19 and thereafter from time to time made disbursements of said
20 funds.

21 VIII

22 The aforesaid trust funds accepted or received by
23 Respondent GBR were deposited or caused to be deposited by
24 Respondent GBR into one or more bank accounts (herein "trust
25 fund accounts") maintained by Respondent GBR for the handling of
26 trust funds at the Willows, California, branch of Tri Counties
27 Bank, including but not necessarily limited to:

1 (a) "Ginter & Brown Realty, Inc., DBA G & B Mortgage",
2 account number 77016818 (herein "Account #1");

3 (b) "Ginter and Brown Realty Trust Account, DBA G & B
4 Mortgage", account number 77015619 (herein "Trust #1"); and,

5 (c) "Ginter and Brown Realty Property Management",
6 account number 77015723 (herein "PM Account #2").

7 IX

8 On or about between July 1, 2006 and on or about
9 July 31, 2007, in connection with the collection and disbursement
10 of said trust funds, Respondent GBR:

11 (a) failed to keep a columnar record in chronological
12 sequence of all trust funds received and disbursed from Account
13 #1, Trust #1, and PM Account #2 containing all the information
14 required by Section 2831 of Chapter 6, Title 10, California Code
15 of Regulations (herein "the Regulations");

16 (b) failed to keep a separate record for each
17 beneficiary or transaction for Account #1, Trust #1, and PM
18 Account #2 containing all the information required by Section
19 2831.1 of the Regulations;

20 (c) failed to reconcile at least once a month, the
21 balance of all separate beneficiary or transaction records with
22 Account #1, Trust #1, and PM Account #2, as required by Section
23 2831.2 of the Regulations;

24 (d) caused, suffered or permitted the balance of funds
25 in PM Account #2 to be reduced to an amount which as of July 31,
26 2007, was approximately \$915.00 less than the aggregate liability
27 of Respondent GBR to all owners of such funds, without the prior

1 written consent of the owners of such funds, in violation of
2 Section 2832.1 of the Regulations; and,

3 (e) failed to retain for three years originals or
4 copies of deposit receipts, canceled checks, trust records, and
5 other documents in connection with transactions for which a real
6 estate license is required in violation of Section 10148 of the
7 Code.

8 X

9 At all times mentioned herein, Respondent LINO failed
10 to exercise reasonable supervision over the acts of Respondent
11 GBR and its agents and employees in such a manner as to allow
12 the acts and omissions on the part of GBR, described above, to
13 occur.

14 XI

15 The facts alleged above are grounds for the suspension
16 or revocation of the licenses and license rights of Respondents
17 under the following provisions of the Code and/or the
18 Regulations:

19 (a) as to Paragraph IX(a) and GBR under Section 10145
20 of the Code and Section 2831 of the Regulations in conjunction
21 with Section 10177(d) of the Code;

22 (b) as to Paragraph IX(b) and GBR under Section 10145
23 of the Code and Section 2831.1 of the Regulations in conjunction
24 with Section 10177(d) of the Code;

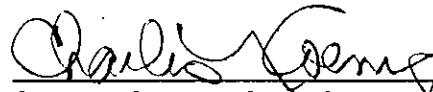
25 (c) as to Paragraph IX(c) and GBR under Section 10145
26 of the Code and Section 2831.2 of the Regulations in conjunction
27 with Section 10177(d) of the Code;

1 (d) as to Paragraph IX(d) and GBR under Section 10145
2 of the Code and Section 2832.1 of the Regulations in conjunction
3 with Section 10177(d) of the Code;

4 (e) as to subparagraph IX(e) and Respondent GBR under
5 Section 10148 of the Code in conjunction with Section 10177(d) of
6 the Code; and,

7 (f) as to Paragraph X and Respondent LINO under
8 Sections 10159.2, 10177(g), and 10177(h) of the Code in
9 conjunction with Section 10177(d) of the Code.

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Accusation and that upon
12 proof thereof a decision be rendered imposing disciplinary action
13 against all licenses and license rights of Respondents under the
14 Real Estate Law (Part 1 of Division 4 of the Business and
15 Professions Code) and for such other and further relief as may be
16 proper under other applicable provisions of law.

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19 
20 CHARLES W. KOENIG
21 Deputy Real Estate Commissioner
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24 Dated at Sacramento, California
25 this 25th day of February, 2008.
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