

FILED

JAN 26 2010

DEPARTMENT OF REAL ESTATE

By *L. J. [Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
CFS REALTY & MORTGAGE, INC., and)
ROBERT L. TURNER,)
)
Respondents.)
_____)

NO. H-10581 SF

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 26, 2009, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

I

Respondents CFS REALTY & MORTGAGE, INC., and ROBERT L. TURNER, are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

II

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, made this Accusation against Respondents in his official capacity.

III

At all times herein mentioned, Respondent CFS REALTY & MORTGAGE, INC., (hereafter "Respondent CFS") was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a corporate real estate broker.

IV

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

V

At all times herein mentioned, Respondent TURNER was and is licensed by the Department as the designated broker/officer of Respondent CFS. As said designated broker/officer, Respondent TURNER was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent CFS for which a real estate license is required.

VI

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

VII

Within the three year period prior to the filing of this Accusation, the corporate powers, rights and privileges of Respondent CFS were suspended by the Secretary of State for the State of California on or about November 1, 2007, and continuing to the present time without reinstatement, pursuant to the California Revenue and Taxation Code

VIII

Within the three year period prior to the filing of this Accusation, Respondent CFS abandoned its main office address on or about October 15, 2007, and has failed to maintain on file with the Real Estate Commissioner a new address for its principal place of business for its real estate brokerage activities.

SECOND CAUSE OF ACCUSATION

IX

There is hereby incorporated in this Second, separate and distinct, Cause of Accusation, all of the allegations contained in Paragraphs I through VIII, inclusive, of the First Cause of Accusation with the same force and effect as if herein fully set forth.

X

At all times herein mentioned, Respondent TURNER was responsible, as the designated broker/officer of Respondent CFS, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent TURNER failed to exercise reasonable supervision and control over the corporate status and corporate real estate broker license filing requirements. In particular, Respondent TURNER permitted, ratified and/or caused the conduct described in the First Cause of Accusation, above, to occur, and failed to take reasonable steps, including but not limited, to file a notice with the Department of Real Estate of the main office address change for Respondent CFS, to maintain the active corporate status of Respondent CFS, to file tax returns with the Franchise Tax Board on behalf of Respondent CFS, and to implement policies, rules, procedures, and systems to ensure the compliance of Respondent CFS with the Real Estate Law.

THIRD CAUSE OF ACCUSATION

XI

There is hereby incorporated in this Third, separate and distinct, Cause of Accusation, all of the allegations contained in Paragraphs I through X, inclusive, of the First and Second Causes of Accusation with the same force and effect as if herein fully set forth.

XII

Within the three year period prior to the filing of this Accusation, Respondent TURNER abandoned his main office address on or about October 15, 2007, and has failed to maintain on file with the Real Estate Commissioner a new address for his principal place of business for his real estate brokerage activities.

DETERMINATION OF ISSUES

I

The facts alleged herein above constitute cause for the suspension or revocation of the licenses and license rights of Respondent CFS under the following provisions:

- (a) As to Paragraph VII, under Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations"), Section 2742(c) in conjunction with Section 10177(d) the Code; and,
- (b) As to Paragraph VIII, under Section 2715 of the Regulations in conjunction with Section 10177(d) of the Code and Section 10162 of the Code in conjunction with Section 10165 of the Code.

The acts and/or omissions of Respondent TURNER as set forth in Paragraph X, above, constitute grounds for suspension or revocation of his real estate broker license under the provisions of Section 10177(h) of the Code and/or Section 10159.2(a) of the Code in conjunction with Section 10177(d) of the Code.

The acts and/or omissions of Respondent TURNER as set forth in Paragraph XII, above, constitute grounds for suspension or revocation of his real estate broker license under the provisions of Section 2715 of the Regulations in conjunction with Section 10177(d) of the Code and Section 10162 of the Code in conjunction with Section 10165 of the Code.

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of CFS REALTY & MORTGAGE, INC., and ROBERT L. TURNER, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon on FEB 15 2010.

DATED: 1-21-10

JEFF DAVI
Real Estate Commissioner

1 MICHAEL B. RICH, Counsel
2 State Bar Number 84257
3 DEPARTMENT OF REAL ESTATE
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DEPARTMENT OF REAL ESTATE

By L. Frost

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	
	)	NO.. H-10581 SF
CFS REALTY & MORTGAGE, INC., and	)	
ROBERT L. TURNER,	)	<u>ACCUSATION</u>
	)	
Respondents.	)	
	)	

16 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
17 State of California, as and for an Accusation herein against CFS REALTY & MORTGAGE,
18 INC., and ROBERT L. TURNER, is informed and alleges as follows:

19 FIRST CAUSE OF ACCUSATION

20 I

21 Respondents CFS REALTY & MORTGAGE, INC., and ROBERT L. TURNER,
22 are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4
23 of the California Business and Professions Code (hereafter "the Code").

24 II

25 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
26 State of California, makes this Accusation against Respondents in his official capacity and not
27 otherwise.

1 III

2 At all times herein mentioned, Respondent CFS REALTY & MORTGAGE,
3 INC., (hereafter "Respondent CFS") was and now is licensed by the Department of Real Estate
4 of the State of California (hereinafter "the Department") as a corporate real estate broker.

5 IV

6 At all times herein mentioned, Respondent ROBERT L. TURNER (hereafter
7 "Respondent TURNER") was and now is licensed by the Department of Real Estate of the State
8 of California (hereinafter "the Department") as a real estate broker.

9 V

10 At all times herein mentioned, Respondent TURNER was and is licensed by the
11 Department as the designated broker/officer of Respondent CFS. As said designated
12 broker/officer, Respondent TURNER was at all times mentioned herein responsible pursuant to
13 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real
14 estate licensees and employees of Respondent CFS for which a real estate license is required.

15 VI

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

22 VII

23 Within the three year period prior to the filing of this Accusation, the corporate
24 powers, rights and privileges of Respondent CFS were suspended by the Secretary of State for
25 the State of California on or about November 1, 2007, and continuing to the present time
26 without reinstatement, pursuant to the California Revenue and Taxation Code.

27 ///

VIII

Within the three year period prior to the filing of this Accusation, Respondent CFS abandoned its main office address on or about October 15, 2007, and has failed to maintain on file with the Real Estate Commissioner a new address for its principal place of business for its real estate brokerage activities.

IX

The facts alleged herein above constitute cause for the suspension or revocation of the licenses and license rights of Respondent CFS under the following provisions:

- (a) As to Paragraph VII, under Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations"), Section 2742(c) in conjunction with Section 10177(d) the Code; and,
- (b) As to Paragraph VIII, under Section 2715 of the Regulations in conjunction with Section 10177(d) of the Code and Section 10162 of the Code in conjunction with Section 10165 of the Code.

SECOND CAUSE OF ACCUSATION

X

There is hereby incorporated in this Second, separate and distinct, Cause of Accusation, all of the allegations contained in Paragraphs I through IX, inclusive, of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XI

At all times herein mentioned, Respondent TURNER was responsible, as the designated broker/officer of Respondent CFS, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent TURNER failed to exercise reasonable supervision and control over the corporate status and corporate real estate broker license filing requirements. In particular, Respondent TURNER permitted, ratified and/or caused the conduct described in the First Cause of Accusation, above, to occur, and failed to take reasonable steps, including but not limited, to file a notice with the Department of

1 Real Estate of the main office address change for Respondent CFS, to maintain the active
2 corporate status of Respondent CFS, to file tax returns with the Franchise Tax Board on behalf
3 of Respondent CFS, and to implement policies, rules, procedures, and systems to ensure the
4 compliance of Respondent CFS with the Real Estate Law.

5 XII

6 The above acts and/or omissions of Respondent TURNER constitute grounds for
7 suspension or revocation of his real estate broker license under the provisions of Section
8 10177(h) of the Code and/or Section 10159.2(a) of the Code in conjunction with Section
9 10177(d) of the Code.

10 THIRD CAUSE OF ACCUSATION

11 XIII

12 There is hereby incorporated in this Third, separate and distinct, Cause of
13 Accusation, all of the allegations contained in Paragraphs I through XII, inclusive, of the First
14 and Second Causes of Accusation with the same force and effect as if herein fully set forth.

15 XIV

16 Within the three year period prior to the filing of this Accusation, Respondent
17 TURNER abandoned his main office address on or about October 15, 2007, and has failed to
18 maintain on file with the Real Estate Commissioner a new address for his principal place of
19 business for his real estate brokerage activities.

20 XV

21 The above acts and/or omissions of Respondent TURNER constitute grounds for
22 suspension or revocation of his real estate broker license under the provisions of Section 2715
23 of the Regulations in conjunction with Section 10177(d) of the Code and Section 10162 of the
24 Code in conjunction with Section 10165 of the Code.

25 WHEREFORE, Complainant prays that a hearing be conducted on the
26 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
27 disciplinary action against all licenses and license rights of Respondent under the Real Estate

1 Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further
2 relief as may be proper under other applicable provisions of law.

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6 E. J. HABERER II
Deputy Real Estate Commissioner

7 Dated at Oakland, California,

8 this 8th day of January, 2009.
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