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JAN 30 2012

Department of Real Estate
BY: [Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	CASE NO. H-11181 SF
VLADISLAV PETER VILTMAN,)	
)	OAH NO. 2011090223
Respondent.)	
_____)	

DECISION

The Proposed Decision dated December 16, 2011, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter with the following correction:

On Page 1 of the Proposed Decision, Case No. should be H-11181 SF.

The Decision suspends or revokes the real estate license and/or license rights; however, the right to a restricted real estate license is granted to Respondent.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on FEB 20 2012.

IT IS SO ORDERED 1/25/12

BARBARA J. BIGBY
Acting Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

VLADISLAV PETER VILTMAN

Respondent.

Case No. H-111181 SF

OAH No. 2011090223

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on November 28, 2011, in Oakland, California.

Richard K. Uno, Real Estate Counsel, represented Complainant E. J. Haberer, II, a Deputy Real Estate Commissioner.

Respondent Vladislav Peter Viltman was present and represented himself.

The record closed on November 28, 2011.

FACTUAL FINDINGS

1. Complainant E. J. Haberer, II, filed the Accusation in his official capacity as a Deputy Real Estate Commissioner for the Department of Real Estate (Department), State of California.

2. The Department initially licensed Vladislav Peter Viltman (Respondent) as a real estate broker on September 23, 2004. The license will expire September 22, 2012, unless renewed. Respondent is also licensed by the Department as a broker/officer of All Homes Financial, Inc. That license was issued January 30, 2008, and will expire on January 29, 2012, unless renewed.

3. Respondent was admitted to the practice of law in California on November 22, 1999. On February 24, 2009, the Supreme Court of California approved a stipulation resolving State Bar Case No. 09-O-13710. Respondent stipulated to violations of Business and Professions Code section 6106 (act involving moral turpitude, dishonesty or corruption)

and rule 4-100(A) of the Rules of Professional Conduct (commingling personal and client funds in a trust account).

The Supreme Court suspended Respondent from the practice of law for two years, stayed; placed him on probation for four years pursuant to certain terms; and imposed a 30-day actual suspension. The probationary terms include successful completion of the Ethics School and The Trust Account Ethics School, and passing the Multistate Professional Responsibility Examination.

4. The discipline imposed upon Respondent's license to practice law constitutes the discipline of a license issued by another state agency for acts which if done by a real estate licensee would be grounds for discipline of a real estate license. Further, the discipline occurred in the context of a hearing process that included due process protections.

5. The State Bar Stipulation Re Facts contains the following pertinent findings and Conclusions of Law:

2. Since at least December 30, 2006, respondent maintained a client trust account at Bank of America (hereinafter "respondent's CTA").
3. On January 5, 2007, respondent deposited \$4,000 into his CTA of earned attorney's fees. Subsequently, he failed to promptly remove the earned fees from his CTA. Respondent intentionally kept those funds in his CTA as a surplus. Those funds were not an insignificant amount and were not used to pay bank fees. Respondent failed to research whether he was entitled to do this. In fact, he was not entitled to maintain \$4,000 of his own funds in respondent's CTA.
4. On May 21, 2007, respondent issued check no. 1125 for \$3,700 from his CTA to attorney Susan Griffin ("Griffin") for legal services for respondent in his own personal matter. This was for personal expenses not related to any client. Respondent used his CTA for personal expenses.
5. At the time he issued check no. 1125, respondent had insufficient funds in his CTA to cover the check. At the time he issued and delivered check no. 1125 to Ms. Griffin, respondent knew there were insufficient funds in his CTA to cover the check. He hoped to place other funds into his CTA before Ms. Griffin deposited the funds into her own account, but failed to do so.

6. On May 31, 2007, check no. 1125 from respondent's CTA was returned as a result of insufficient funds. Ms. Griffin had attempted to deposit check no. 1125 into her account, but there were insufficient funds in respondent's CTA to cover the check.
7. On June 4, 2007, before respondent knew check no. 1125 had been returned for insufficient funds, respondent transferred \$2,000 from his personal checking account to his CTA. However, respondent knew that even with this \$2,000 deposit there were insufficient funds to cover the check to Ms. Griffin.
8. On June 5, 2007, respondent transferred \$2,000 from his CTA to his personal checking account. He did so because he had learned the check to Ms. Griffin had not cleared his account and he now intended to issue a personal check to Ms. Griffin.
9. In June 8, 2007, respondent wrote a \$4,000 check (check no. 1519) from his personal checking account to pay Ms. Griffin.
10. On October 24, 2007, when contacted by the State bar, respondent admitted to the State bar that he paid \$3,700 to Ms. Griffin from his CTA for personal legal services. Ms. Griffin's services were not related to any client work. Further, respondent issued a check when he knew he had insufficient funds in his client trust account.
11. Respondent used his CTA for paying personal or business expenses. Respondent made no effort to determine his responsibilities relating to his CTA and failed to comply with his responsibilities relating to his CTA. He cloaked a check for his personal or business expenses with the aura of a client trust account and the financial soundness of such accounts. He abdicated and violated his responsibilities regarding his CTA.

By failing to withdraw his earned fees promptly, by keeping his own personal funds in his CTA, by issuing a check to Ms. Griffin for his own personal matter and not related to any client expenses, and by transferring funds from his personal checking account into his CTA to pay Ms. Griffin, respondent commingled his personal funds with his client funds and

misused his CTA, in willful violation of Rules of Professional Conduct rule 4-100(A).

By issuing a check from his CTA when he knew there were insufficient funds in his CTA to cover the check, commingling his funds with client funds, by failing to withdraw earned fees, by transferring funds into his CTA and by issuing checks for respondent's personal and business expenses, by making no effort to determine his responsibilities relating to his CTA, by cloaking checks for his personal and business expenses with the aura of a client trust account and the financial soundness of such accounts, and by abdicating and violating his responsibilities regarding his CTA, respondent committed an act or acts involving moral turpitude, dishonesty, or corruption, in willful violation of Business & Professions Code section 6106.

Respondent's evidence

7. Respondent received a J.D. degree in 1999 and an L.L.M degree in 2003 from Golden Gate University School of Law. He conducted a solo practice in San Francisco from 2003 until 2007. It was during this period that he committed the above-described violations. Respondent has been employed as one of four attorneys for the Law Offices of Mattaniah Eytan since 2007. The firm practices business litigation.

8. Regarding the violations, Respondent explained that he deposited fees paid by a client into his trust account by mistake. He then wrote a check to another attorney, Ms. Griffin, for work she had done for him. The State Bar was informed because there were insufficient funds available to pay Ms. Griffin. Respondent knows that this was a "mistake regarding the rules of trust accounting."

9. Respondent has served the 30 days actual suspension. He represents that he has completed the required ethics courses and passed the Multistate exam. He is now "finishing up the second year on probation." He has no restrictions on his license to practice law, but must submit quarterly reports to the State Bar. Respondent points out that he has no other charges pending or violations of professional conduct rules and that he was forthcoming and cooperative with the State Bar since the beginning of their investigation.

10. Respondent also points out that the stipulation includes no aggravating circumstances, but does include the following mitigating circumstances: no harm to the client; candor and cooperation by Respondent; good character attested to by a wide range of references; and no prior record of discipline in nine years of practice.

11. Respondent is the broker-officer for All Homes Financial, Inc. Pursuant to the Safe Act, he disclosed the State Bar discipline when he applied for a licensed mortgage

originator endorsement. His goal in applying for the endorsement was to pursue mortgage origination work. He has no plans to pursue a career in real estate at the present time.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (f), provides that the suspension or revocation of a license issued by another state agency is cause for discipline of a real estate license where the discipline ordered by the other agency was for acts that, if committed by a real estate licensee, would be grounds for discipline of a real estate license, and if the licensee was provided certain due process rights in connection with the other agency's action. Cause for discipline exists pursuant to this section by reason of the matters set forth in Findings 3 through 6.

2. The purpose of the licensing scheme regarding real estate brokers is protection of the public. Real estate brokers, like attorneys, often act as fiduciaries and utilize trust accounts, and it is essential that they be honest, trustworthy, and conscientiously follow the rules regarding the maintenance of those accounts. The State Bar proceedings demonstrated that Respondent, while acting as an attorney, violated the rules regarding the maintenance and use of a client trust account. His misconduct is highly relevant to his licensure as a real estate broker.

3. On the other hand, Respondent correctly contends that the State Bar matter was confined to trust account mistakes that did not result in client harm. Respondent has now completed two ethics courses and passed the ethics portion of the multistate examination. He is currently practicing law. The misconduct occurred in 2007: four and one-half years ago. Respondent's State Bar probation is scheduled to conclude in approximately 14 months and the only remaining affirmative condition is the requirement that he file quarterly reports.

4. Complainant's contention that the circumstances require revocation of Respondent's broker's license is not persuasive. All things considered, it is concluded that the issuance of a restricted broker license for a period of two years is sufficient to protect the public interest.

ORDER

Respondent Vladislav Peter Viltman's real estate broker license is revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to Respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions, and restrictions imposed under authority of section 10156.6 of that Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order

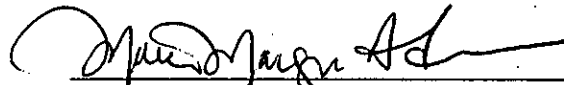
suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for the removal of any of the conditions, limitations, or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

DATED: December 16, 2011



MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

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DEPARTMENT OF REAL ESTATE
By R. Uno

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12 VLADISLAV PETER VILTMAN,) H-11181 SF
13 Respondent.) ACCUSATION
14)

15 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
16 the State of California, for cause of Accusation against VLADISLAV PETER VILTMAN also
17 known as "Vladie Peter Viltman", (Respondent), is informed and alleges as follows:

18 1

19 Complainant makes this Accusation against Respondent in his official capacity.

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21 Respondent is presently licensed and/or has license rights under the Real Estate
22 Law, Part 1 of Division 4 of the Business and Professions Code (the Code) as a real estate
23 broker.

24 3

25 On or about February 24, 2009, in The Supreme Court of the State of California,
26 Case No. S169266, (State Bar Case No. 09-O-12794), the Court ordered that Respondent be

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1 suspended from the practice of law for two years, with a stay of execution, placed him on four
2 years probation with conditions, including actual suspension of thirty days.


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4 4

5 On January 9, 2009, before the State Bar Court of California, Case
6 No. 09-O-12794, the Court approved an order on stipulations regarding facts, conclusions of
7 law and disposition. In the conclusions of law, the Court found that Respondent, in
8 commingling personal funds with trust funds, violated Section 4-100(A) of the Rules of
9 Professional Conduct and that this violation involved moral turpitude and thus violated Business
10 and Professions Code Section 6106.

11 5

12 The facts alleged in Paragraphs 3 and 4, above, constitute cause under Section
13 10177(f) of the Code for suspension or revocation of Respondent's license under the Real Estate
14 Law.

15 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
16 of this Accusation and that upon proof thereof, a Decision be rendered imposing disciplinary
17 action against all licenses and license rights of Respondent under the Code, and for such other
18 and further relief as may be proper under provisions of law.

19
20 
21 E. J. HABERER, II
Deputy Real Estate Commissioner

22 Dated at Oakland, California,
23 this 22nd day of July, 2011.
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26
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