

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 19 1996
DEPARTMENT OF REAL ESTATE

* * * * *

By C. Bay

In the Matter of the Accusation of)
)
) RONALD CLEVELAND EDISON, indivi-)
) dually and dba Tower Realty &)
) Investment and formerly dba Century)
) 21 Cal-West Realty, and DOROTHY)
) ANGELINA SEARD, individually and)
) dba ABC Professionals, and Century,)
) 21 Cal-West Realty and formerly dba)
) Greystone Capital,)
)
) Respondent(s).)
)

No. H-26167 LA
L-960378

DECISION

The Proposed Decision dated November 15, 1996, 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 exception:

Condition 4 of the Proposed Decision as to DOROTHY ANGELINA SEARD is not adopted and shall not be a part of the Decision.

This Decision shall become effective at 12 o'clock noon on January 8, 1997.

IT IS SO ORDERED 12/16/96

JIM ANTT, JR.
Real Estate Commissioner

J. Antt, Jr.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)
)
) Agency No. H-26167 LA
RONALD CLEVELAND EDISON, indivi-)
dually and dba Tower Realty &) OAH No. L-9603178
Investment and formerly dba Century)
21 Cal-West Realty, and DOROTHY)
ANGELINA SEARD, individually and)
dba ABC Professionals, and Century)
21 Cal-West Realty and formerly dba)
Greystone Capital,)
)
Respondents.)
_____)

PROPOSED DECISION

This matter came on regularly for hearing before Carolyn D. Magnuson, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on September 25, 1996.

The complainant was represented by Christopher Leong, Staff Counsel.

Ronald C. Edison appeared personally and was represented by Harry E. Hicks, attorney-at-law.

Dorothy A. Seard appeared personally and was represented by George Williamson, owner of Century 21 Cal-West.

Oral and documentary evidence was received and the matter submitted. The Administrative Law Judge finds the following facts:

I

Peter F. Hurst made and filed the accusation in his official capacity as a Deputy Real Estate Commissioner.

II

At all relevant times herein, Ronald C. Edison (hereinafter "Edison") was licensed and/or had licensing rights as a real estate broker under the Real Estate Law.

III

At all relevant times herein, Dorothy C. Seard (hereinafter "Seard") was licensed and/or had licensing rights as a real estate broker under the Real Estate Law.

IV

From at least July, 1991, George Williamson (hereinafter "Williamson") has been the owner of Century 21 Cal-West Realty (hereinafter "Cal-West").

Williamson also operated a real estate escrow company which handled the escrows for the properties purchased and sold through Cal-West.

The sales and escrow activities were conducted at two separate locations. Duplicate files were maintained at each location for each of the transactions.

V

Century 21 Cal-West was a full service company which arranged, negotiated, processed and consummated on behalf of others sales and purchases of real property for compensation, activities which require a real estate broker's license to engage in.

Although Williamson is a licensed real estate salesperson, he is not thereby qualified to conduct the company's business and must retain the services of a licensed real estate broker as a designated officer to oversee the company's activities.

Thus, over the years, Williamson has engaged the services of a number of real estate brokers in that position.

Prior to October 1988, the company's broker was Winfred Roberson (hereinafter "Roberson"). From November 1988 through July 1991, the designated officer was Ralph Clark (hereinafter "Clark"); from July 1991 through May 1992, the designated officer was Edison; and from June 1992 through October 1993, Seard was the designated officer.

During their tenures as designated officers, Edison and Seard were sequentially licensed by the Department of Real Estate (hereinafter "DRE") under the name Century 21 Cal-West Realty.

VII

Sometime in mid 1991, Williamson discovered that there was a shortage in the trust accounts. He notified the department, and Cal-West's accounts were audited by DRE in August 1991.

The audits determined that, although Roberson had not been active in the business since October 1988, his name had not been removed as a signatory on the trust accounts.

Roberson admitted that in November 1990, he took \$41,817.44 from one of the trust accounts without the right or permission to do so.

Largely as a result of this theft, Cal-West's trust accounts were found to have a shortage of \$44,046.02 as of June 1991, which was the end of Clark's tenure as broker, of which the theft accounted for \$41,817.44 and bank fees accounted for \$2,228.58.

VIII

At that time, Williamson and Edison spoke with DRE personnel about how to proceed with the business and how to comply with applicable rules and regulations.

At no time did the departmental representatives suggest that it would be improper for Edison to continue to act as the designated broker for the agency and at no time was it indicated that it was inappropriate for the agency and Edison to continue in business if the deficit were not cured.

IX

On February 4, 1994, an audit ("audit #1") was performed by a department auditor on the books and records of Cal-West and Cal-West Escrow for the period July 8, 1991 through May 29, 1992 - the period of Edison's tenure as designated officer for Cal-West.

At the time the audit was conducted, Edison was no longer associated with Cal-West and did not have access to the books and records.

The required documentation was provided by Williamson and his staff, who were entirely cooperative with the auditor.

X

While Edison was broker, Cal-West maintained three trust accounts. However, only one of them had any substantial activity during the relevant period.

That account was located at the National Bank of Long Beach and was in the name of Cal West Realty, Escrow Division - Trust Account.

The signatories on the account were George Williamson, Laura Williams and Phyllis Klatt. Edison was not a signatory.

As of May 29, 1992, the trust account was out of balance by \$52,539.11. Of that amount, \$46,535.80 resulted from overdrawn escrows, \$5,000.00 from a transfer to Capital Bank, \$1,000.30 from accumulated bank fees and \$3.01 was unidentified.

Edison had not been given written permission by the owners of the trust funds to reduce the balance in the trust account to an amount less than the existing aggregate trust fund liabilities of all beneficiaries.

While most of the deficiency was the result of the uncured theft, at least \$8,493.09 of the shortage was assignable to activities which occurred under Edison's supervision and for which he was responsible.

XI

In one escrow, Cal-West was responsible for making a payment to the California Franchise Tax Board on behalf of one of the principles. Although the check for the payment was drawn at the close of escrow, it was put in the file, and payment was not sent to the tax board for eleven months.

No one at Cal-West was aware that the check had not been sent. When they learned of the error, they corrected it, including paying the accrued interest on the taxes.¹

XII

Audit #1 states that Edison received compensation for performing third party sale and loan escrows. However, the direct evidence did not support this contention, and it was denied by the respondent.

XIII

Since duplicate sales and escrow files were kept for each transaction at the sales and escrow offices, before one could determine that the responsible broker had failed to properly review sales and escrow documents, it would be necessary to examine the files at each office.

Since the auditor did not examine both files, her conclusion that Edison had failed to properly review documents is unjustified.

¹ Although Edison did not have actual knowledge of the failure to send the check, because the error occurred on his watch, he was responsible.

XIV

The audit report states that Edison handled escrow transactions under the unlicensed dba's "Cal West Escrow Division" and "Broker Escrow Services Cal West."

In support of this conclusion, complainant introduced escrow instructions with the letterhead "Cal-West Realty - Escrow Division." Complainant also introduced copies of various checks and receipts which reflected the two names.

Of the documents introduced, the two which reflect the name "Broker Escrow Services Cal West" were generated by Financial Processing Systems, which provided accounting services for Cal-West, and reflect an internal name-style which was used only for accounting purposes.

A copy of a cashier's check made out for \$1,500 and payable to Cal West Escrow reflects the name style chosen by the check's maker, which is not necessarily that used by the licensee.²

Thus, the only document which might support the conclusion that Edison had used an unlicensed name is the escrow instructions. Since the top of the page is cut off, the complete name style cannot be determined.³

Certainly, even if a shortened version of the broker's licensed name had been used on occasion, it was simply a matter of convenience. There was no intent to confuse or deceive the public. Even if one were to conclude that an unlicensed name had been used, the violation is technical and the potential for harm minimal.

XV

The auditor concluded that Edison had failed to maintain complete separate records for some of the escrow transactions. However, the document introduced into evidence in support of that conclusion was an informal, internal reconciliation sheet and not an official record of the agency. Thus, the evidence did not support the auditor's conclusion.

² The fourth receipt is illegible.

³ The use of the designation "escrow division" to indicate the type of document or activity involved in a particular transaction, does not constitute a name change.

XVI

On January 27, 1994, an audit ("audit #2") was performed on Cal-West's books and records for the period June 1, 1992 to October 29, 1993 - the period of Dorothy Seard's tenure as designated officer for Cal-West.

XVII

There were two Cal-West bank accounts open during the period, but only one of them was in active use. The active account was at the Bank of Long Beach and was opened under the name Cal West Realty, Escrow Division - Trust Account.⁴ Seard was not a signatory on the account.

Audit #2 determined that, on October 29, 1993, the trust account was out of balance by a deficit of \$35,419.52.

\$31,003.31 of the deficiency was caused by the uncured shortage from the earlier theft,⁵ \$1,067.60 in accumulated bank charges, and an unidentified shortage of \$3,348.61.

Seard had not been given written permission by the owners of the trust funds to reduce the balance in the trust account to an amount less than the existing aggregate trust fund liabilities of all beneficiaries.

Although the vast majority of the shortage can be ascribed to the prior theft, the greater than \$3,000 unidentified shortage is Seard's responsibility.

XVIII

The agency's failure to pay a tax obligation from escrow, which was discussed in paragraph XI, continued into Seard's tenure. However, there was no evidence that Seard knew or should have known of the failure. From all evidence available to her, the transaction had been concluded long before she associated with the office.

She had no reason to question that conclusion, and she bears no responsibility for the failure.

⁴ This account was the same one used during Edison's tenure.

⁵ Williamson had reduced the amount of the shortage by contributions he had made to the account.

XIX

The auditor concluded that Seard had performed sales and loan escrow services and received compensation for escrow transactions that were handled by other real estate and mortgage loan companies. This conclusion was not supported by direct evidence of specific occurrences.

XX

It was not established that Seard failed to maintain a record of trust funds received and not placed in the trust account.

XXI

The auditor concluded that Seard had failed to maintain complete separate records for some of the escrow transactions. However, the document which was introduced to support that conclusion was an informal, internal reconciliation sheet and not an official transaction record. Thus the auditor's conclusion was unjustified.

XXII

Since duplicate sales and escrow records were kept for each transaction at both the sales and escrow offices, before one could determine that the responsible broker had failed to properly review sales and escrow documents, it would be necessary to examine the files at each office.

Since the auditor did not review both files for the questioned transactions, her conclusion that Seard had failed to properly review documents is unsubstantiated.

XXIII

Seard acknowledged that she had changed her branch office address without notifying the department in a timely manner of the change.

XXIV

The auditor concluded that Seard handled escrow transactions under the unlicensed dba's of "Cal West Escrow Division" and "Broker Escrow Services Cal West."

In support of the contention that respondent used the name "Cal West Realty," complainant introduced a copy of escrow instructions. However, the heading of the document was cut off, and it is not possible to determine the name style which had been used on the document.

The complainant also introduced a copy of a check in the amount of \$34,790.58 made payable to Cal West Escrow. However, that document merely showed the name by which the maker thought of the business and did not establish that respondent was doing business under that name.

In support of the claim that respondent used the name "Brokers Escrow Services," complainant introduced a receipt for the \$34,790.58 check which reflected that name. However, the receipt had been made out by Financial Processing Systems, a company which provided accounting services for Cal West, and reflected an internal accounting designation only.

XXV

Seard did not always notify DRE in a timely manner when salespersons entered or terminated her employ.

XXVI

While there were some problems with the manner in which each of the respondent's carried out his or her responsibilities. There were no major irregularities and no evidence to suggest that any client of the business was harmed in any way by any of the violations.

The only significant problem was the continuing deficit in the trust account resulting from the theft, which was carried over from one broker to another.

The alternative to that procedure was to close the business.

By continuing to operate, Cal-West has been able to meet all of its obligations, and at the time of trial, the deficit had been reduced to just over \$12,000.

Williamson intended to cure the problem much sooner, but his assets were tied up in an IRS procedure, and he has only recently been in a position to liquidate assets to completely pay off the deficit.

The parties were entitled to rely on the fact that DRE was completely aware of the deficit situation, and did not instruct them to discontinue business unless and until the deficit had been cured.

///

///

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

With regard to respondent Ronald Edison:

1. Cause exists to discipline respondent's license under the provisions of Business and Professions Code section 10145 and 10 CCR section 2832.1 for improper disbursement of funds from the trust account.

2. Cause exists to discipline respondent's license under the provisions of Business and Professions Code section 10145 for failure to remit funds out of escrow in a timely manner.

3. Cause exists to discipline respondent's license under the provisions of 10 CCR section 2830 for failure to maintain the escrow trust account under the broker's licensed name.

4. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2725 for failure to review sales and escrow documents.

5. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2731 for using an unlicensed business name.

6. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2831.1 for failing to maintain adequate separate records of escrow transactions.

7. Cause exists to discipline respondent's license under the provisions of Business and Professions Code sections 10145 and 10177(d) and 10 CCR sections 2725, 2731, 2831.1 and 2832.1 for violations of other statutes and rules regulating licensees.

8. Cause exists to discipline respondent's license under the provisions of Business and Professions Code sections 10145 and 10177(g) and 10 CCR sections 2725, 2731, 2831.1 and 2832.1 for negligence.

II

With regard to respondent Dorothy Seard:

1. Cause exists to discipline respondent's license under the provisions of Business and Professions Code section 10145 and 10 CCR section 2832.1 for improper disbursement of trust funds.

2. Cause does not exist to discipline respondent's license under the provisions of Business and Professions Code section 10145 for failure to remit escrow funds in a timely manner.

3. Cause exists to discipline respondent's license under the provisions of 10 CCR section 2830 for failure to maintain the trust account in the broker's licensed name.

4. Cause exists to discipline respondent's license under the provisions of 10 CCR section 2834 for failure to be a signatory on the trust account.

5. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2731 for failure to maintain a record of all trust funds received.

6. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2831.1 for failure to maintain separate records for some escrow transactions.

7. Cause does not exist to discipline respondent's license under the provisions of 10 CCR section 2725 for failure to review sales and escrow documents.

8. Cause exists to discipline respondent's license under the provisions of Business and Professions Code sections 10145 and 10177(d) and 10 CCR sections 2725, 2732, 2831.1, 2832.1 for violations of other statutes and rules regulating licensees.

9. Cause exists to discipline respondent's license under the provisions of Business and Professions Code sections 10145 and 10177(g) and 10 CCR sections 2725, 2732, 2831.1, 2832.1 for negligence.

III

However, giving due consideration to the evidence of mitigation and rehabilitation, the public interest will not be adversely affected by the issuance to respondents of properly conditioned restricted licenses.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

For each of the respondents, all licenses and licensing rights previously issued to him or her respectively under the Real Estate Law are revoked; provided, however, a restricted real estate broker's license shall be issued to either or both respondents pursuant to Section 10156.6 of the Business and Professions Code, if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within 90 days

from the effective date of the decision herein. The restricted license issued to either 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 said Code:

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

2. The restricted license issued to either respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the date of issuance of the restricted license to respondent.

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

*Not adopted
for
Dorothy
Seward
only*

Dated: November 15, 1996



CAROLYN D. MAGNUSON
Administrative Law Judge
Office of Administrative Hearings

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
RONALD CLEVEN EDISON, individually,)
and dba Tower Realty & Investment and)
formerly dba Century 21 Cal-West Realty;)
and DOROTHY ANGELINA SEARD, formerly)
known as Dorothy Darby Seard,)
individually and dba ABC Professionals,)
and Century 21 Cal-West Realty and)
fomerly dba Greystone Capital,)

Case No. H-26167 LA
OAH No. L-9603178

FILED
MAY 16 1996
DEPARTMENT OF REAL ESTATE

Respondent(s)

By C. Seay

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on SEPTEMBER 25 and 26, 1996, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: May 16, 1996

By Chris Leong
CHRIS LEONG, Counsel

cc: Ronald Cleven Edison
Harry E. Hicks, Esq.
Dorothy Angelina Seard
Sacto.
OAH

CEB

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
RONALD CLEVEN EDISON, individually,)
and dba Tower Realty & Investment and)
formerly dba Century 21 Cal-West Realty;)
and DOROTHY ANGELINA SEARD, formerly)
known as Dorothy Darby Seard,)
individually and dba ABC Professionals,)
and Century 21 Cal-West Realty and)
fomerly dba Greystone Capital,)

Case No. H-26167 LA

OAH No. L-9603178

FILED
APR - 2 1996
DEPARTMENT OF REAL ESTATE

Respondent(s)

By C. Bay

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on JULY 18 and 19, 1996, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: April 2, 1996

By Chris Leong
CHRIS LEONG, Counsel

cc: Ronald Cleven Edison
Dorothy Angelina Seard
✓ Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

SAC

1 CHRISTOPHER K. D. LEONG, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937

FILED
JUL 13 1995
DEPARTMENT OF REAL ESTATE

By C. Bay

4
5
6
7
8
9
10
11
12
13
14
15
16
17

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of) NO. H-26167 LA
12)
13 RONALD CLEVEN EDISON, individually and) AMENDMENT TO
14 dba Tower Realty & Investment and) ACCUSATION
15 formerly dba Century 21 Cal-West Realty;)
16 and DOROTHY ANGELINA SEARD, formerly)
17 known as Dorothy Darby Seard,)
individually and dba ABC Professionals,)
and Century 21 Cal-West Realty and)
formerly dba Greystone Capital,)
Respondent(s).)

18 The Accusation heretofore filed on May 10, 1995, in the
19 above-mentioned matter is hereby amended as follows:

20 Complainant incorporates by reference Paragraphs 1 to
21 22 of the Accusation filed on May 10, 1995.

22 New Paragraphs, as follows, are added to the
23 aforementioned Accusation.

24 23.

25 All further references herein to "Respondents" includes
26 the parties identified in Paragraphs 3, 4 and 5, above, and also
27 includes the employees, agents and real estate licensees employed

1 by or associated with said parties and who at all times herein
2 mentioned were engaged in the furtherance of the business or
3 operations of said parties and who were acting within the course
4 and scope of their authority and employment.

5 24.

6 At all times herein mentioned, Respondents engaged in
7 the business of, acted in the capacity of, advertised or assumed
8 to act as real estate brokers for others in the State of
9 California within the meaning of Section 10131(d) of the Code,
10 including the operation and conduct of mortgage loan activities
11 with the public wherein, on behalf of others and for compensation
12 or in expectation of compensation. Respondents solicited lenders
13 and borrowers for loans secured directly or collaterally by a
14 lien on real property and arranged, negotiated, processed, and
15 consummated said loans. In addition, while not licensed under
16 the Escrow Law, Respondents acted in the capacity of an escrow
17 holder in loan transactions in which Respondents performed acts
18 for which a real estate license is required.

19 25.

20 In connection with the aforesaid real estate broker
21 activities, Respondent SEARD accepted or received funds in trust
22 (hereinafter "trust funds") from or on behalf of borrowers and
23 lenders and note owners and thereafter made disbursements of such
24 funds. Respondent SEARD deposited certain of said funds into the
25 following account (herein "said account") No. 32-005817, the
26 "Pacific Alliance Funding Trust Account", at the Capital Bank of
27 California.

1 FIFTH CAUSE OF ACCUSATION

2 26.

3 On January 27, 1994, the Department concluded its
4 examination of Respondent SEARD's books and records pertaining to
5 the real estate broker activities described in Paragraph 24,
6 above, for the seventeen-month period ending October 29, 1993,
7 which examination revealed violations of the Code and of the
8 Regulations as set forth in the following Paragraphs.

9 27.

10 In connection with the trust funds referred to in
11 Paragraph 25, above, Respondent acted in violation of the Code
12 and the Regulations in that Respondent SEARD:

13 (a) violated Section 2832.1 of the Regulations and
14 10145 of the Code by disbursing or causing or allowing the
15 disbursement of trust funds from the Trust Account, wherein the
16 disbursement of said funds reduced the funds in the said account
17 to an amount which, on October 29, 1993, was approximately
18 \$35,419.52 less than the existing aggregate trust fund liability
19 to all owners of said funds, without first obtaining the prior
20 written consent of every principal who was an owner of said
21 funds;

22 (b) was specifically given written instructions by a
23 trust fund beneficiary to pay the California Franchise Board on
24 his behalf. Respondent SEARD failed to timely make payment on
25 behalf of the trust fund beneficiary, resulting in a seizure of
26 trust funds by the State of California. Respondent SEARD
27 violated Section 10145 of the Code and Section 2830 of the

1 Regulations by failing to make timely tax payments as instructed
2 by the trust fund beneficiary;

3 (c) violated Section 10145 of the Code and Section
4 2830 of the Regulations by depositing certain funds received in
5 trust into accounts maintained by Cal West Realty Escrow
6 Division, rather than into a trust account in broker's name as
7 broker and as trustee;

8 (d) was not a signatory on the trust account, in
9 violation of Section 2834 of the Code;

10 (e) failed to maintain an adequate formal trust
11 fund receipt journal and a formal trust fund disbursements
12 journal for the account identified in Paragraph 25, above, or
13 other records of the receipt and disposition of trust funds
14 received, conforming to the requirements of Section 2831 of the
15 Regulations;

16 (f) failed to maintain adequate separate records for
17 each beneficiary or transaction, accounting therein for said
18 account trust funds received, deposited, and disbursed,
19 conforming to the requirements of Sections 2831.1 and 2951 of the
20 Regulations;

21 (g) failed to review and initial instruments
22 prepared or signed by real estate salespersons employed by
23 Respondent in connection with transactions for which a real
24 estate license is required, which instruments may have a material
25 effect upon the rights or obligations of a party to the
26 transaction, in violation Section 2725 of the Regulations;

27

1 (h) conducted activities requiring a license,
 2 including broker controlled escrows, at her branch office located
 3 at 638 E. Del Amo Blvd., but failed notify the Department, in
 4 violation of Code Section 10163 and Regulation Section 2715;

5 (i) failed to first obtain a license from the
 6 Department before using the fictitious name Cal West Escrow
 7 Division and Broker Escrow Services Cal West, in violation of
 8 Section 10159.5 of the Code in conjunction with Section 2731 of
 9 the Regulations;

10 (j) failed to notify the Department when licensees
 11 entered or left the employ of Respondent, in violation of Section
 12 2752 of the Regulations.

13 28.

14 The acts and omissions of Respondent SEARD described in
 15 Paragraph 27, above, violated the Code and the Regulations as set
 16 forth below:

17	<u>PARAGRAPH</u>	<u>PROVISIONS</u>	<u>VIOLATIONS</u>
17	9(a)	Sec. 10145 Sec. 2832.1	of the Code and of the Regulations;
18	9(b), (c)	Sec. 10145 Sec. 2830	of the Code; of the Regulations;
19	9(d)	Sec. 2834	of the Regulations.
	9(e)	Sec. 2831	of the Code;
20	9(f)	Sec. 2831.1, 2951	of the Regulations;
	9(g)	Sec. 2725	of the Regulations;
21	9(h)	Sec. 10163 Sec. 2715	of the Code; of the Regulations;
22	9(i)	Sec. 10159.5 Sec. 2731	of the Code; of the Code;
23	9(j)	Sec. 2752	of the Regulations.

24 Each of the foregoing violations separately constitutes
 25 cause for the suspension or revocation of all licenses and
 26 license rights of Respondent SEARD pursuant to the provisions of
 27 Section 10177(d) of the Code.

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 action
4 against all licenses and license rights of Respondents RONALD
5 CLEVEN EDISON, individually and dba Tower Realty & Investment and
6 formerly dba Century 21 Cal-West Realty and DOROTHY ANGELINA
7 SEARD, formerly known as Dorothy Darby Seard, individually and
8 dba ABC Professionals, and Century 21 Cal-West Realty and
9 formerly dba Greystone Capital, under the Real Estate Law (Part 1
10 of Division 4 of the Business and Professions Code), and for such
11 other and further relief as may be proper under other applicable
12 provisions of law.

13 Dated at Los Angeles, California
14 this 13th day of July, 1995.

15
16
17 PETER F. HURST
18 _____
19 Deputy Real Estate Commissioner
20
21
22
23
24

25 cc: Dorothy Angelina Seard
26 Ronald Cleven Edison
27 Sacto.
 CRC
 Los Angeles Audit Section

SAC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CHRISTOPHER K.D. LEONG, Counsel
Department of Real Estate
107 South Broadway, Room -8107
Los Angeles, CA 90012

(213) 897-3937

FILED
MAY 10 1995
DEPARTMENT OF REAL ESTATE

By C. [Signature]

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26167 LA
)	
RONALD CLEVEN EDISON, individually and)	
dba Tower Realty & Investment and)	<u>ACCUSATION</u>
formerly dba Century 21 Cal-West Realty;)	
and DOROTHY ANGELINA SEARD, formerly)	
known as Dorothy Darby Seard,)	
individually and dba ABC Professionals,)	
and Century 21 Cal-West Realty and)	
formerly dba Greystone Capital,)	
)	
Respondent(s).)	

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against RONALD CLEVEN EDISON, individually and dba Tower Realty & Investment and formerly dba Century 21 Cal-West Realty (hereinafter "EDISON"); and DOROTHY ANGELINA SEARD, formerly known as Dorothy Darby Seard, individually and dba ABC Professionals, and Century 21 Cal-West Realty and formerly dba Greystone Capital (hereinafter "SEARD") (hereinafter sometimes referred to as "Respondents"), is informed and alleges as follows.

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1.

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

2.

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

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

4.

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

5.

From on or about July 8, 1991 to June 5, 1992, EDISON did business as Century 21 Cal-West Realty. From August 10, 1992 to present, Respondent has been doing business as Tower Realty & Investment. From on or about July 14, 1992 to present, SEARD has been doing business as Century 21 Cal-West Realty.

6.

At all times mentioned herein, in Los Angeles County, California, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) of the Code, wherein they arranged, negotiated, processed, and

1 consummated on behalf of others, sales and purchases of real
2 property for compensation or in expectation of compensation.

3 7.

4 On or about February 14, 1994, the Department completed
5 an audit of the activities of EDISON, for the period from July 8,
6 1991 through May 29, 1992. The results of that audit are set
7 forth in Paragraphs 8 through 10.

8 8.

9 During 1991 and 1992, in connection with his real estate
10 business activities, Respondent EDISON accepted or received funds
11 in trust (hereinafter "trust funds") from or on behalf of
12 borrowers and thereafter made disbursements of such funds. These
13 trust funds were maintained by Respondent in three (3) bank
14 accounts at two (2) banks. One (1) of the bank accounts mentioned
15 above was maintained at National Bank of Long Beach, 2909 Pacific
16 Commerce Dr., Rancho Dominguez, CA, Account No. 75412932, known as
17 Cal West Realty Escrow Division (hereinafter TA#1). The other two
18 (2) bank accounts were maintained at Capital Bank of California,
19 3424 Carson Street, Torrance, CA, Account No. 32-005817, known as
20 Century 21 Escrow Division Trust Account (hereinafter TA#2);
21 and Account No. 32-023019, known as C-21 Cal-West Realty Escrow
22 Division Trust Account (hereinafter TA#3).

23 9.

24 In connection with those trust funds described in
25 Paragraph 8, Respondent EDISON:

26 //

27 //

1 (a) failed to remit funds timely to the Franchise Tax
2 Board per the instructions of Robert Hood, in violation of Section
3 10145 of the Code;

4 (b) failed to maintain the escrow trust account TA#1,
5 in the name of the broker as trustee and failed to designate the
6 account as a trust account, in violation of Section 2830 of the
7 Regulations;

8 (c) failed to review, initial and date sales and escrow
9 documents that were prepared and signed by employees, in violation
10 of Section 2725 of the Regulations;

11 (d) used an unlicensed dba entitled: "Cal West Escrow
12 Division" and "Broker Escrow Services Cal West", in violation of
13 Section 2731 of the Regulations;

14 (e) failed to maintain an adequate separate record for
15 some of the escrow transactions, in violation of Section 2831.1 of
16 the Regulations.

17 10.

18 EDISON violated Section 10145 of the Code and Regulation
19 2832.1 by disbursing or allowing the disbursement of funds from
20 TA#1, TA#2 and TA#3, combined, without prior written consent of
21 every principal who then was an owner of trust funds in said
22 accounts wherein the disbursement reduced the balance of funds in
23 the combined accounts, as of April 30, 1992 and May 29, 1992, to
24 amounts which were approximately \$36,826.90 and \$52,539.11,
25 respectively, less than the existing aggregate trust fund
26 liability to all owners of said trust funds.

27 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

11.

On or about January 27, 1994, the Department completed an audit of the activities of SEARD, for the period from June 1, 1992 through October 29, 1993. The results of that audit are set forth in Paragraphs 12 through 16.

12.

During 1991 and 1992, in connection with her real estate business activities, Respondent SEARD accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and thereafter made disbursements of such funds. These trust funds were maintained by Respondent in two (2) bank accounts at two (2) banks. One of the bank account was TA#1 the other bank accounts was TA#2:

13.

In connection with those trust funds described in Paragraph 12, Respondent SEARD:

(a) failed to remit funds timely to the Franchise Tax Board per the instructions of Robert Hood, in violation of Section 10145 of the Code;

(b) failed to maintain the escrow trust account TA#2, in the name of the broker as trustee and failed to designate the account as a trust account, in violation of Section 2830 of the Regulations;

(c) failed to be a signatory on the broker escrow trust account (TA#2), in violation of Section 2834 of the Regulations;

(d) failed to maintain a record of all trust funds received and not placed in brokers trust account, for trust funds

1 received for sales transactions, in violation of Section 2731 of
2 the Regulations;

3 (e) failed to maintain an adequate separate record for
4 some of the escrow transactions, in violation of Section 2831.1 of
5 the Regulations;

6 (f) failed to review, initial and date sales and escrow
7 documents that were prepared and signed by employees, in violation
8 of Section 2725 of the Regulations.

9 14.

10 SEARD violated Section 10145 of the Code and Regulation
11 2832.1 by disbursing or allowing the disbursement of funds from
12 TA#1 and TA#2, combined, without prior written consent of every
13 principal who then was an owner of trust funds in said accounts
14 wherein the disbursement reduced the balance of funds in the
15 combined accounts, as of September 30, 1993 and October 29, 1993,
16 to an amount which was approximately \$35,718.60 and \$35,419.52,
17 respectively, less than the existing aggregate trust fund
18 liability to all owners of said trust funds.

19 FIRST CAUSE OF ACCUSATION

20 (Violation by Respondent EDISON of Section 10145 of the Code and
21 Sections 2725, 2731, 2830, 2831.1 and 2832.1 of the Regulations)

22 15.

23 As a First Cause of Accusation, Complainant incorporates
24 herein by this reference the Preamble and each of the allegations
25 in Paragraphs 1 through 14, herein above.

26 //

27 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

16.

The conduct of Respondent EDISON in handling trust funds, as alleged in Paragraphs 6 through 9, constitutes violations under Section 10145 of the Code and Sections 2725, 2731, 2830, 2831.1 and 2832.1 of the Regulations. Said conduct is cause pursuant to Section 10177(d) of the Code for the suspension or revocation of all licenses and license rights of Respondent under Real Estate Law.

SECOND CAUSE OF ACCUSATION

(Violation by Respondent EDISON of Section 10177(g) of the Code)

17.

As a Second Cause of Accusation, Complainant incorporates herein by this reference the Preamble and each of the allegations in Paragraphs 1 through 9, herein above.

18.

The conduct of Respondent EDISON in violating Section 10145 of the Code and Sections 2725, 2731, 2830, 2831.1 and 2832.1 of the Regulations, as described herein above, constitutes a negligence. Said conduct is cause for the suspension or revocation of all licenses and license rights of Respondent under Real Estate Law, pursuant to Section 10177(g) of the Code.

//
//
//
//
//
//
//

1 THIRD CAUSE OF ACCUSATION

2 (Violation by Respondent SEARD of Section 10145 of the Code and
3 Sections 2725, 2731, 2830, 2831, 2831.1, 2832.1 and 2834 of the
4 Regulations)

5 19.

6 As a Third Cause of Accusation, Complainant incorporates
7 herein by this reference the Preamble and each of the allegations
8 in Paragraphs 1 through 14, herein above.

9 20.

10 The conduct of Respondent SEARD, in handling trust funds
11 as alleged in Paragraphs 10 through 14, constitutes violations
12 under Section 10145 of the Code and Sections 2725, 2731, 2830,
13 2831, 2831.1, 2832.1 and 2834 of the Regulations. Said conduct is
14 cause pursuant to Section 10177(d) of the Code for the suspension
15 or revocation of all licenses and license rights of Respondent
16 under Real Estate Law.

17 FOURTH CAUSE OF ACCUSATION

18 (Violation by Respondent SEARD of Section 10177(g) of the Code)

19 21.

20 As a Fourth Cause of Accusation, Complainant
21 incorporates herein by this reference the Preamble and each of the
22 allegations in Paragraphs 1 through 14, herein above.

23 22.

24 The conduct of Respondent SEARD in violating Section
25 10145 of the Code and Sections 2725, 2731, 2830, 2831, 2831.1,
26 2832.1 and 2834 of the Regulations, as described herein above,
27 constitutes a negligence. Said conduct is cause for the

1 suspension or revocation of all licenses and license rights of
2 Respondent under Real Estate Law, pursuant to Section 10177(g) of
3 the Code.

4 WHEREFORE, Complainant prays that a hearing be conducted
5 on the allegations of this Accusation and that upon proof thereof,
6 a decision be rendered imposing disciplinary action against all
7 licenses and license rights of Respondent, RONALD CLEVEN EDISON,
8 individually and dba Tower Realty & Investment and formerly dba
9 Century 21 Cal-West Realty; and DOROTHY ANGELINA SEARD, formerly
10 known as Dorothy Darby Seard, individually and dba ABC
11 Professionals, and Century 21 Cal-West Realty and formerly dba
12 Greystone Capital, under the Real Estate Law (Part 1 of Division 4
13 of the Business and Professions Code) and for such other and
14 further relief as may be proper under other applicable provisions
15 of law.

16 Dated at Los Angeles, California
17 this 10th day of May, 1995.

18
19 PETER F. HURST
20 Deputy Real Estate Commissioner.

21
22
23
24
25 cc: Ronald Cleven Edison
26 Dorothy Angelina Seard
27 Sacto.
CR-C
Audit Section