

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

FILED
JUN 11 1998
DEPARTMENT OF REAL ESTATE

By K. Mulvihill

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
)
REGENCY PROPERTY MANAGEMENT,)
INC.; and,)
JOHN DEAN BERGAN, individually)
and as designated officer of)
Regency Property Management,)
Inc.)
)
Respondents.)

NO. H-27166 LA

DECISION AFTER REJECTION

The matter of REGENCY PROPERTY MANAGEMENT, INC., and JOHN DEAN BERGAN individually and as designated officer of Regency Property Management, Inc., came on for hearing before W. F. Byrnes, Administrative Law Judge, of the Office of Administrative hearings, in Los Angeles, California, on November 14, 1997.

Elliott Mac Lennan, Counsel, represented the complainant. REGENCY PROPERTY MANAGEMENT, INC., and JOHN DEAN BERGAN were present and represented themselves.

Evidence was received, the hearing was closed, and the matter was submitted.

1 INC., was essentially a one-man operation, run, owned and operated
2 by Joseph Neglia. As such, Respondent BERGAN knowingly permitted
3 respondent REGENCY PROPERTY MANAGEMENT, INC., to allow Neglia to
4 engage in unlicensed activities which increased the potential
5 risk of loss to the public and resulted in the other violations
6 found as to Respondent REGENCY PROPERTY MANAGEMENT, INC.
7 Therefore, the Order of the Proposed Decision is modified as
8 set forth below.

9 ORDER

10 I

11 1. All licenses and licensing rights of Respondent
12 REGENCY PROPERTY MANAGEMENT, INC., under the Real Estate Law are
13 revoked; provided, however a restricted corporate real estate
14 broker license shall be issued to Respondent REGENCY PROPERTY
15 MANAGEMENT, INC., pursuant to Section 10156.5 of the Business and
16 Professions Code, if Respondent REGENCY PROPERTY MANAGEMENT, INC.,
17 makes application therefor and pays to the Department of Real
18 Estate the appropriate fee for the restricted license within 90
19 days from the effective date of this Decision. The restricted
20 corporate real estate broker license issued to Respondent REGENCY
21 PROPERTY MANAGEMENT, INC., shall be subject to all of the
22 provisions of Section 10156.7 of the Business and Professions Code
23 and to the following limitations, conditions and restrictions
24 imposed under authority of Section 10156.6 of that Code:
25 (a) The restricted license issued to Respondent may be
26 suspended prior to hearing by Order of the Real Estate
27 Commissioner in the event of Respondent's conviction or plea of



1 nolo contendere to a crime which is substantially related to
2 Respondent's fitness or capacity as a real estate licensee.

3 (b) The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner on evidence satisfactory to the Commissioner that
6 Respondent has violated provisions of the California Real Estate
7 Law, the Subdivided Lands Law, Regulations of the Real Estate
8 Commissioner or conditions attached to the restricted license.

9 (c) Respondent shall not be eligible to apply for the
10 issuance of an unrestricted real estate license nor for the
11 removal of any of the conditions, limitations or restrictions of a
12 restricted license until TWO (2) years have elapsed from the
13 effective date of this Decision.

14 (d) The restricted corporate real estate broker license
15 of Respondent REGENCY PROPERTY MANAGEMENT, INC., shall be
16 suspended for a period of SIXTY days (60) from the effective date
17 of this Order; provided, however, that said suspension shall be
18 permanently stayed on the condition that:

19 (1) Respondent pays a monetary penalty pursuant to
20 Section 10175.2 of the Code at the rate of \$83.34 for each
21 day of said suspension stayed, for a total monetary penalty
22 of \$5,000.40;

23 (2) Said payment shall be in the form of a
24 cashier's check or certified check and made payable to the
25 Recovery Account of the Real Estate Fund. Said check must be
26 delivered to the Department prior to the effective date of
27 the Order in this matter; and,



1 (3) If a Respondent fails to pay the monetary
2 penalty in accordance with the terms of this paragraph or
3 this Order, the Commissioner, may, as to such Respondent,
4 without a hearing, order the immediate execution of all or
5 any part of the 60 day stayed suspension, in which event the
6 Respondent shall not be entitled to any repayment nor credit,
7 prorated or otherwise, for money paid to the Department under
8 the terms of this Order.

9 2. Respondent REGENCY PROPERTY MANAGEMENT, INC., shall
10 pay, pursuant to Section 10148 of the Code, the Commissioner's
11 reasonable cost for an audit to determine if Respondent has
12 corrected the trust fund violations found in the "legal basis" of
13 the Proposed Decision. In calculating the amount of the
14 Commissioner's reasonable costs, the Commissioner may use the
15 estimated average hourly salary for all persons performing audits
16 of real estate brokers, and shall include an allocation for travel
17 costs, including mileage, time to and from the auditor's place of
18 work, and per diem in the total amount not to exceed \$2,300.00.

19 (a) Respondent shall pay such cost within 45 days of
20 receipt of an invoice from the Commissioner detailing the
21 activities performed during the audit and the amount of time spent
22 performing those activities;

23 (b) Notwithstanding the provisions of paragraph "1."
24 herein, if Respondent fails to pay, within forty-five (45) days
25 from receipt of the invoice specified above, the Commissioner's
26 reasonable costs for an audit to determine if Respondent has
27 corrected the violations found in the Determination of Issues, the



1 Commissioner may order the indefinite suspension of Respondent's
2 restricted corporate real estate broker license and license
3 rights. The suspension shall remain in effect until payment is
4 made in full, or until Respondent enters into an agreement
5 satisfactory to the Commissioner to provide for such payment. The
6 Commissioner may impose further reasonable disciplinary terms and
7 conditions upon Respondent's restricted corporate real estate
8 license and license rights as part of any such agreement.

9 II

10 1. The restricted real estate broker license and
11 license rights of Respondent JOHN DEAN BERGAN under the Real
12 Estate Law are suspended for a period of ONE HUNDRED AND TWENTY
13 (120) days from the effective date of this Order; provided,
14 however, that SIXTY (60) days of said suspension shall be
15 permanently stayed on the condition that:

16 (a) Respondent pays a monetary penalty pursuant to
17 Section 10175.2 of the Code at the rate of \$83.34 for each day of
18 said suspension stayed, for a total monetary penalty of \$5,000.40;

19 (b) Said payment shall be in the form of a cashier's
20 check or certified check and payable to the Recovery Account of
21 the Real Estate Fund. Said check must be delivered to the
22 Department prior to the effective date of the Order in this
23 matter; and,

24 (c) If a Respondent fails to pay the monetary penalty
25 in accordance with the terms of this paragraph or this Order, the
26 Commissioner, may, as to such Respondent, without a hearing, order
27 the immediate execution of all or any part of the 60 day stayed



1 suspension, in which event the Respondent shall not be entitled to
2 any repayment nor credit, prorated or otherwise, for money paid to
3 the Department under the terms of this Order.

4 2. SIXTY (60) days of the ONE HUNDRED AND TWENTY (120)
5 day suspensions provided in paragraph "1." shall be stayed for
6 two (2) years upon the following terms and conditions:

7 (a) Respondent BERGAN shall obey all laws, rules and
8 regulations governing the rights, duties and responsibilities of a
9 real estate licensee in the State of California;

10 (b) Respondent BERGAN shall pay, if not paid by
11 Respondent REGENCY PROPERTY MANAGEMENT, INC., as set forth herein
12 above, within 45 days from receipt of the invoice referred to in
13 paragraph "3" below, the Commissioner's reasonable costs for an
14 audit of the books, records and accounts of Respondent REGENCY
15 PROPERTY MANAGEMENT, INC.; and,

16 (c) If Respondent BERGAN, within 45 days from receipt
17 of the invoice referred to in paragraph "3.(b)" below, pays the
18 Commissioner's reasonable cost for an audit, and (2) if no further
19 cause for disciplinary action against the real estate license of
20 Respondent BERGAN occurs within two (2) years from the effective
21 date of this Order, the SIXTY (60) day stay granted pursuant to
22 this paragraph shall become permanent.

23 3. If not paid by Respondent REGENCY PROPERTY
24 MANAGEMENT, INC., as provided for herein above, Respondent BERGAN
25 shall pay, pursuant to Section 10148 of the Code, the
26 Commissioner's reasonable cost for an audit to determine if
27 Respondent REGENCY PROPERTY MANAGEMENT, INC., has corrected the

1 trust fund violations found in the "legal basis" of the Proposed
2 Decision. In calculating the amount of the Commissioner's
3 reasonable costs, the Commissioner may use the estimated average
4 hourly salary for all persons performing audits of real estate
5 brokers, and shall include an allocation for travel costs,
6 including mileage, time to and from the auditor's place of work,
7 and per diem in the total amount not to exceed \$2,300.00.

8 (a) Respondent shall, except as provided herein, pay
9 such cost within 45 days of receipt of an invoice from the
10 Commissioner detailing the activities performed during the audit
11 and the amount of time spent performing those activities;

12 (b) Notwithstanding the provisions of paragraph "1."
13 and "2." herein, if Respondent BERGAN and/or Respondent REGENCY
14 PROPERTY MANAGEMENT, INC., jointly or severally, fail to pay,
15 within forty-five (45) days from receipt of the invoice specified
16 above, the Commissioner's reasonable costs for an audit to
17 determine if Respondent REGENCY PROPERTY MANAGEMENT, INC., has
18 corrected the violations found in the Determination of Issues, the
19 Commissioner may order the indefinite suspension of Respondent
20 BERGAN's restricted real estate broker license and license rights.
21 The suspension shall remain in effect until payment is made in
22 full, or until Respondents BERGAN and REGENCY PROPERTY MANAGEMENT,
23 INC., enter into an agreement satisfactory to the Commissioner to
24 provide for such payment. The Commissioner may impose further
25 reasonable disciplinary terms and conditions upon Respondent

26 ///

27 ///



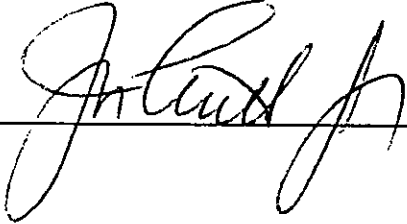
1 BERGAN's restricted real estate broker license and license rights
2 as part of any such agreement.

3 This Decision shall become effective at 12 o'clock noon

4 on July 1
5 _____, 1998.

6 IT IS SO ORDERED 6/3
7 _____, 1998.

8 JIM ANTT, JR.
9 Real Estate Commissioner

10 
11 _____
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27



*Facio
Zlag*

FILED
FEB - 2 1998
DEPARTMENT OF REAL ESTATE

By *K. Kueberholz*

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
REGENCY PROPERTY MANAGEMENT INC.,)
and JOHN DEAN BERGAN,)
individually and as)
designated officer of Regency)
Property Management, Inc.,)
Respondent.)

NO. H-27166 LA
L-1997080262

NOTICE

TO: Respondent REGENCY PROPERTY MANAGEMENT INC., and JOHN DEAN BERGAN, individually and as Designated Officer of Regency Property Management, Inc.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated January 9, 1998, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated January 9, 1998, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will

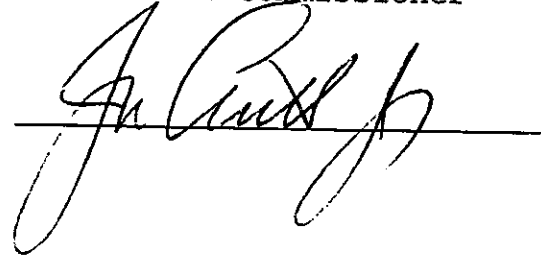
1 be determined by me after consideration of the record herein
2 including the transcript of the proceedings held on November 14,
3 1997, and any written argument hereafter submitted on behalf of
4 Respondent and Complainant.

5 Written argument of Respondent to be considered by me
6 must be submitted within 15 days after receipt of the transcript
7 of the proceedings of November 14, 1997, at the Los Angeles office
8 of the Department of Real Estate unless an extension of the time
9 is granted for good cause shown.

10 Written argument of Complainant to be considered by me
11 must be submitted within 15 days after receipt of the argument of
12 Respondent at the Los Angeles office of the Department of Real
13 Estate unless an extension of the time is granted for good cause
14 shown.

15 DATED: 1/26/98

16 JIM ANTT, JR.
17 Real Estate Commissioner

18 
19
20
21
22
23
24
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. H-27166 LA
Against:)	
)	OAH No. L-1997080262
REGENCY PROPERTY MANAGEMENT)	
INC.; and,)	
JOHN DEAN BERGAN,)	
individually and as)	
designated officer of)	
Regency Property)	
Management, Inc.,)	
)	
Respondents.)	

PROPOSED DECISION

This matter came on regularly for hearing before W.F. Byrnes, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on November 14, 1997. Elliott Mac Lennan, Counsel, represented the complainant. Respondent John Dean Bergan represented himself. Respondent Regency Property Management, Inc., was represented by its owner, Joseph Neglia. Evidence was received, and the record was held open for complainant to submit updated license certifications. Those documents (Ex. 7) were received on December 8, 1997. The matter was then submitted, and the Administrative Law Judge finds the following facts:

I

Thomas McCrady made the Accusation in his official capacity as a Deputy Real Estate Commissioner.

II

REGENCY PROPERTY MANAGEMENT, INC. (RPMI) and JOHN DEAN BERGAN (BERGAN), sometimes collectively referred to as respondents, 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).

III

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

IV

A. At all times herein mentioned, RPMI was licensed by the Department of Real Estate of the State of California as a corporate real estate broker by and through BERGAN as designated officer.

B. Effective October 1, 1997, BERGAN resigned from his position as designated officer of RPMI. On October 2, 1997, he was replaced by George Allen Russell as designated officer of RPMI.

V

At all times herein mentioned, BERGAN was licensed by the Department as a real estate broker, both individually and as designated officer of RPMI to qualify RPMI and to act for RPMI as a real estate broker, and as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of RPMI by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespeople licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

VI

At all times herein mentioned, RPMI and BERGAN were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VII

At all times herein mentioned, in the State of California in the City of Tustin, Orange County, respondent RPMI engaged in the business of a corporate real estate broker within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, for or in expectation of compensation, for another or others, respondents RPMI and BERGAN leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or collected rents from real property, or improvements thereon.

VIII

At all times herein mentioned, in connection with the real estate activities described in Finding VII above, respondents accepted or received funds, including funds intrust (hereinafter "trust funds") from or on behalf of actual or prospective parties to property management transactions handled by respondents and thereafter made deposit or disbursement of those funds, in and from sixteen (16) trust accounts for property management and five (5) savings accounts for individual properties, all as set forth in paragraph VIII of the Accusation.

IX

On or about November 1, 1995, the Department completed an examination of respondent RPMI's books and records pertaining to its activities as a real estate broker for the period beginning October 1, 1994, to September 30, 1995. It was found that respondents RPMI and BERGAN had deposited trust funds into two of the individual property accounts, the Curran Properties Tax Exempt Money Fund and the Duncan Buildings Savings Account, which were not maintained in the name of the broker as trustee nor designated as trust accounts, as required by Section 10145 of the Code and Section 2830 of the Regulations.

X

In the course of their property management activities from October 1, 1994, through September 30, 1995, respondents, with knowledge that Joseph Neglia, owner and president of RPMI and manager of the property management business, was not licensed by the Department, employed and compensated him to perform acts for which a real estate license is required, in violation of Section 10137 of the Code.

XI

The audit examination described in Finding IX above found that BERGAN failed to initial and date at least one management agreement prepared by the unlicensed Joseph Neglia, in violation of Section 2725 of the Regulations and constituting failure to supervise as required by Section 10159.2 of the Code.

XII

Effective November 26, 1990, in Case No. H-1025 SA, an ORDER TO DESIST AND REFRAIN was filed against respondent RPMI under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Section 10130 of the Code.

XIII

Effective January 5, 1987, in Case No. H-591 SA, an ORDER TO DESIST AND REFRAIN was filed against respondent JOHN DEAN BERGAN under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Sections 2831.1 and 2834 of the Regulations.

XIV

On January 15, 1987, in Case No. H-615 SA, an ACCUSATION was filed against respondent JOHN DEAN BERGAN under Section 10145(d)(5) of the Code and Sections 2831.1 and 2834 of the Regulations. A Decision effective February 14, 1990, revoked the broker license of JOHN DEAN BERGAN and granted him a right to a restricted real estate broker license. A restricted real estate broker license was issued to him on February 14, 1990.

XV

A. On or about September 22, 1994, respondent BERGAN petitioned the Department to have the restrictions removed from his broker license. That petition was the occasion for the Department to conduct audits both of BERGAN's individual commercial real estate brokerage and of RPMI. The audit of BERGAN's individual commercial real estate brokerage revealed absolutely no evidence of any non-compliance with the Real Estate Law or the restrictions on his license. The audit of RPMI revealed the violations described above. There was, however, no evidence of any deficit, fraud, commingling, or misappropriation; no member of the public suffered loss from respondents' actions. All violations were corrected immediately. Joseph Neglia now scrupulously avoids activities which require licensure, until he obtains his salesperson's license (he has been delayed in that by health problems and several recent deaths in his family). BERGAN had become the designated officer of RPMI to come to the assistance of his longtime and trusted friend, Joseph Neglia. It is found that John Dean Bergan and Joseph Neglia are persons of honesty and integrity.

* * * * *

Pursuant to the foregoing findings of fact, the following is the legal basis for the decision:

Cause exists for license discipline against respondents pursuant to Sections 10177(d), 10177(g)(negligence), and 10177(h) of the Code, by reason of Findings IX, X, and XI.

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent RPMI under the Real Estate Law are 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 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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 restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to 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 the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license five (5) years have elapsed from the effective date of this Decision.

4. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

//
//
//

5. Pursuant to Section 10148 of the Code, respondent shall pay the Commissioner's reasonable cost up to \$2,300.00 for an audit to determine if respondent has corrected the trust fund violations found herein. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

II

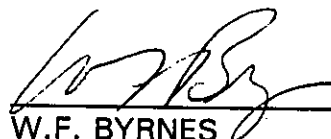
All licenses and licensing rights of respondent BERGAN under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision; provided, however, that if respondent petitions, said suspension shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$50.00 for each day of the suspension for a total monetary penalty of \$1,500.
2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter.
3. No further cause for disciplinary action against the real estate license of respondent occurs within one year from the effective date of the Decision in this matter.
4. If respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

6. If respondent pays the monetary penalty and complies with (5) above, and if no further cause for disciplinary action against the real estate license of respondent occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

Dated: 1-9-98



W.F. BYRNES
Administrative Law Judge
Office of Administrative Hearings

WFB:rfm

Handwritten initials/signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 15 1997
DEPARTMENT OF REAL ESTATE

By *R. Medescho*

In the Matter of the Accusation of

REGENCY PROPERTY MANAGEMENT, INC.,

Case No. H-27166 LA

OAH No. L-1997080262

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles

on November 14, 1997, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: October 15, 1997

By *W. L.* Counsel

cc: Regency Property Management
John Dean Bergan
Sacto
OAH SR

*facts
glug*

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JUL 24 1997

DEPARTMENT OF REAL ESTATE

By *R. Stedeholt*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
REGENCY PROPERTY MANAGEMENT)	No. H-27166 LA
INC.; and,)	
JOHN DEAN BERGAN,)	A C C U S A T I O N
individually and as)	
designated officer of)	
Regency Property)	
Management, Inc.,)	
)	
)	
Respondents,)	
)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against REGENCY PROPERTY MANAGEMENT, INC., and JOHN DEAN BERGAN, individually and as designated officer of Regency Property Management, Inc., is informed and alleges in his official capacity as follows:

I

REGENCY PROPERTY MANAGEMENT, INC. (RPMI) and JOHN DEAN BERGAN (BERGAN), sometimes collectively referred to as respondents, are presently licensed and/or have license rights

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

under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

II

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

III

At all times mentioned, RPMI was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through BERGAN as designated officer.

IV

At all times mentioned, BERGAN was licensed by the Department as a real estate broker, both individually and as designated officer of RPMI to qualify RPMI and to act for RPMI as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of RPMI by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespeople licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

V

Whenever reference is made in an allegation in the Accusation to an act or omission of RPMI, such allegation shall be deemed to mean that the officers, directors, managers, employees,

1 agents and real estate licensees employed by or associated with
2 RPMI, including BERGAN, committed such act or omission while
3 engaged in the furtherance of the business or operation of RPMI
4 and while acting within the course and scope of its corporate
5 authority, agency and employment.

6 VI

7 At all times mentioned, RPMI and BERGAN were acting as
8 the agent or employee of the other and within the course and scope
9 of such agency or employment.

10 VII

11 At all times mentioned, in the State of California in
12 the City of Tustin, Orange County, respondent RPMI engaged in the
13 business of a corporate real estate broker and respondent BERGAN,
14 a real estate broker, within the meaning of Section 10131(b) of
15 the Code, including the operation and conduct of a property
16 management business with the public wherein, for or in expectation
17 of compensation, for another or others, respondents RPMI and
18 BERGAN leased or rented or offered to lease or rent, or placed for
19 rent, or solicited listings of places for rent, or solicited for
20 prospective tenants, or collected rents from real property, or
21 improvements thereon.

22 VIII

23 At all times herein mentioned, in connection with the
24 real estate activities, described in Paragraph VII, above,
25 respondents accepted or received funds, including funds in trust
26 (hereinafter "trust funds") from or on behalf of actual or
27 prospective parties to property management transactions handled by

1 respondents and thereafter made deposit or disbursement of such
2 funds. Respondents deposited and maintained certain of said
3 funds, including trust funds in approximately sixteen (16) trust
4 accounts for property management and approximately five (5)
5 savings accounts for individual properties, at the banks set forth
6 below. From time to time herein mentioned, said trust funds were
7 deposited and/or maintained in bank accounts, including but not
8 necessarily limited to:

9 (1) Regency Property Management, Inc. Trf01-292-811
Parkwood Apt. Pasadena St.

10 (2) Regency Property Management, Inc. Trf01-414-925
11 Duncan Building

12 (3) Regency Property Management, Inc. Trf01-289-381
Curran Property Lincoln

13 (4) Regency Property Management, Inc. Trf01-289-403
14 Curran Property Euclid

15 (5) Regency Property Management, Inc. Trf01-291-912
Ashton Plaza Owner Assn.

16 (6) Regency Property Management, Inc. Trf01-423-800
17 Zinke Properties

18 (7) Regency Property Management, Inc. Trf0799-025523
Westvale Townhomes Assn.

19 (8) Regency Property Management, Inc. Trf0799-022462
20 Shore Crest Apts.

21 (9) Regency Property Management, Inc. Trf0799-022447
Seacliff Apts.

22 (10) Regency Property Management Inc. Trf0799-026935
23 Royal Hawaiian Apartments

24 (11) Regency Property Management, Inc. Trf0799-022546
Pickwick Manor Apartments

25 (12) Regency Property Management, Inc. Trf0799-026539
26 Parkwood Apts 1 St. Street

27 (13) Regency Property Management, Inc. Trf0799-022157
Las Campanas West Apts



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

(14) Regency Property Management, Inc. Trf0799-022165
Las Campanas East Apts

(15) Regency Property Management, Inc. Trf0799-026661
Davis Family Trust

(16) Regency Property Management, Inc. Trf0799-026547
Us Mortgage West Apple N Bristol Ctr.
Trust Accounts (1) through (6) are located at the following bank:
Manufacturers Bank
135 E. Ninth Street
Los Angeles, Ca 90015

Trust Accounts (7) through (16) are located at the following bank:
Wells Fargo Bank
13471 Newport Avenue
Tustin, Ca 92680

Savings Accounts and Account Numbers.

(1) Regency Property Management, Inc. 12500899474
Curran Properties Tax Exempt Money Fund

(2) Regency Property Management, Inc. 6799-667266
Trf Us Mortgage West Apple Development

(3) Regency Property Management, Inc. 196-950921-3
for Duncan Buildings Savings Account

(4) Regency Property Management, Inc. 08403-34518
Westvale Townhomes Ttee for Savings

(5) Regency Property Management, Inc. 08409-34473
Ttee for Bauer Properties

IX

On or about November 1, 1995, the Department completed
an examination of respondent RPMI's books and records pertaining
to its activities as a real estate broker described in Paragraph
VII, above, for the period beginning on October 1, 1994 to
September 30, 1995, which revealed violations of the Code and of
the Regulations as set forth below.

/
/

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

X

With respect to the trust funds referred to in Paragraph VIII, it is alleged that respondents RPMI and BERGAN:

(a) Allowed, permitted and/or caused the deposit of trust funds into two of the individual property accounts, the Curran Properties Tax Exempt Money Fund and the Duncan Buildings Savings Account which accounts were not maintained in the name of the broker as trustee nor designated as trust accounts, as required by Section 10145 of the Code and Section 2830 of the Regulation.

XI

The conduct of respondent RPMI and BERGAN, described in Paragraph X above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

X (a) Section 10145 of the Code and Section 2830 of the Regulations

The foregoing violation constitutes cause for the suspension or revocation of the real estate license and license rights of respondents RPMI and BERGAN under the provisions of Section 10177(d) of the Code.

XII

In course of the property management activities described in Paragraph VII, during the measured period of Paragraph IX, respondents, with full knowledge that Joseph Neglia, sole owner of RPMI, its president and manager of the property management business, was not licensed by the Department as real estate salesperson employed by real estate broker or as real

1 estate broker, employed and compensated him to perform acts for
2 which a real estate license is required, in violation of Section
3 10137 of the Code.

4 XIII

5 The audit examination described in Paragraph IX,
6 revealed that BERGAN failed to review, initial and date each
7 instrument prepared by unlicensed real estate salesperson or real
8 estate broker Joseph Neglia under his supervision which may have a
9 material effect upon the rights or obligations of a party to the
10 transaction including, but not limited to the management
11 agreements negotiated by Joseph Neglia, in violation of Regulation
12 2725. This conduct and violation are cause to suspend or revoke
13 the license and license rights of respondent BERGAN under Sections
14 10177(d) and 10177(h) of the Code.

15 XIV

16 The overall conduct of respondent RPMI and BERGAN in
17 violating Sections 10137 and 10145 of the Code and Regulations
18 Sections 2725 and 2830, as described in Paragraphs VII through
19 XIII above, constitutes negligence or incompetence. This conduct
20 and violation are cause for the suspension or revocation of the
21 real estate license and license rights of respondent RPMI and
22 BERGAN under the provisions of Section 10177(g) of the Code.

23 XV

24 The overall conduct of respondent BERGAN, as described
25 in Paragraphs VII through XIII herein above, during the time that
26 BERGAN was the designated officer of RPMI, including the failure
27 of BERGAN to adequately supervise its unlicensed salesperson, ---

1 Joseph Neglia, constitutes a failure by said respondent to
2 exercise reasonable supervision of the activities of respondent
3 RPMI which require a real estate license, and, constitutes a
4 violation of Section 10159.2 of the Code. This conduct is cause
5 to suspend or revoke the real estate license and license rights
6 respondent BERGAN under Section 10177(h) of the Code.

7 XVI

8 Effective November 26, 1990, in Case No. H-1025 SA, an
9 ORDER TO DESIST AND REFRAIN was filed against respondent RPMI
10 under Section 10086 of the Code (Engaging in Prohibited Activity,
11 Order to Desist and Refrain) for violations of Section 10130 of
12 the Code.

13 XVII

14 Effective January 5, 1987, in Case No. H-591 SA, an
15 ORDER TO DESIST AND REFRAIN was filed against respondent JOHN DEAN
16 BERGAN under Section 10086 of the Code (Engaging in Prohibited
17 Activity, Order to Desist and Refrain) for violations of Sections
18 2831.1 and 2834 of the Regulations.

19 XVIII

20 On January 15, 1987, in Case No. H-615 SA, an ACCUSATION
21 was filed against respondent JOHN DEAN BERGAN under Section
22 10145(d)(5) of the Code and Sections 2831.1 and 2834 of the
23 Regulations. A Decision effective February 14, 1990, revoked the
24 broker license of JOHN DEAN BERGAN and granted him a right to a
25 restricted real estate broker license. A restricted real estate
26 broker license was issued to him on February 14, 1990.

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of respondents REGENCY PROPERTY MANAGEMENT, INC., and JOHN DEAN BERGAN, individually and as designated officer of Regency Property Management, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles California.
this 24th day of July, 1997.

THOMAS MC CRADY

Deputy Real Estate Commissioner

cc: John Dean Bergan
c/o Regency Property Management, Inc.
Sacto.
SR