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Jury

FILED
MAR 22 2001
DEPARTMENT OF REAL ESTATE

By Laura B. Iron

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
LEE SAYLOR,) NO. H-28088 LA
Respondent)

ORDER SUSPENDING REAL ESTATE BROKER LICENSE

TO: LEE SAYLOR
16956 Deserita Ave.
North Edwards, California 93523

On August 18, 1999, Respondent's real estate broker license was suspended for sixty days by the Department of Real Estate pursuant to the Real Estate Commissioner's Order of July 26, 1999, in case No. H-28088 LA. That Order, effective August 18, 1999, granted Respondent a two year stay of the suspension conditioned upon several terms, including that Respondent pay the reasonable cost of an audit to determine compliance with the Real Estate Laws, pursuant to Section 10148 of the Business and Professions Code.

On or about January 11, 2000, the Department of Real Estate performed a chargeable audit of Respondent's books and

1 records pursuant to the Order in case No. H-28088 LA. On or
2 about May 15, 2000, Respondent was sent a request for payment
3 of \$ 1,510.17. The Commissioner has determined that as of
4 February 1, 2001, Respondent has failed to satisfy this
5 condition.

6 NOW, THEREFORE, IT IS ORDERED THAT, pursuant to the
7 Order in case No. H-28088 LA, Respondent's license and license
8 rights under the Real Estate Laws are hereby suspended until
9 such time as Respondent provides proof satisfactory to the
10 Department of compliance with the "condition(s)" referred to
11 above, or until Respondent enters into an agreement
12 satisfactory to the Commissioner to provide for such payment.

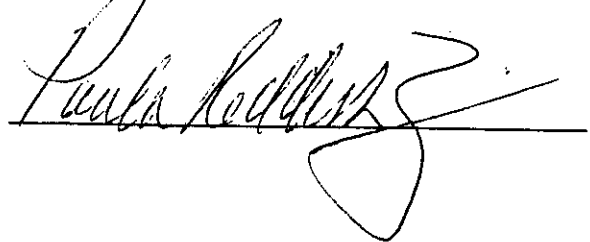
13 IT IS FURTHER ORDERED that all license certificates
14 and identification cards issued by Department which are in the
15 possession of Respondent be immediately surrendered by personal
16 delivery or by mailing in the enclosed, self-addressed envelope
17 to:

18 Department of Real Estate
19 Attn: Flag Section
20 P. O. Box 187000
Sacramento, CA 95818-7000

21 This Order shall be effective immediately.

22 DATED: March 8, 2001

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 
26
27

SAC
1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, California 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)

FILED
JUL 29 1999
DEPARTMENT OF REAL ESTATE

By C. 37

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 LEE SAYLOR, individually and) NO. H-28088 LA
13 dba Action 1 Realty,) L-1999050474
14 Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between LEE SAYLOR,
16 individually and dba Action 1 Realty (hereinafter "Respondent"),
17 representing himself, and the Complainant, acting by and through
18 Chris Leong, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing of the
20 Accusation filed on April 9, 1999.

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act, shall instead and in place thereof be submitted
26 solely on the basis of the provisions of this Stipulation and
27 Agreement.

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the
3 Administrative Procedure Act and the Accusation, filed by the
4 Department of Real Estate in this proceeding.

5 3. On April 21, 1999, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the Administrative Procedure
14 Act and that Respondent will waive other rights afforded to him
15 in connection with the hearing, such as the right to present
16 evidence in defense of the allegations in the Accusation and the
17 right to cross-examine witnesses.

18 4. In the interest of expedience and economy,
19 Respondent chooses not to contest the factual allegations in
20 Paragraphs 1 through 9 of the Accusation, but to remain silent,
21 and understands that, as a result thereof, these factual
22 statements, without being admitted or denied, will serve as a
23 prima facie basis for the disciplinary action stipulated to
24 herein. The Real Estate Commissioner shall not be required to
25 provide further evidence to prove such allegations.

26 5. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation and Agreement as



1 his Decision in this matter, thereby imposing the penalty and
2 sanctions on Respondent's real estate license and license rights
3 as set forth in the "Order" below. In the event that the
4 Commissioner in his discretion does not adopt the Stipulation
5 and Agreement, it shall be void and of no effect, and Respondent
6 shall retain the right to a hearing and proceeding on the
7 Accusation under all the provisions of the Administrative
8 Procedure Act and shall not be bound by any admission or waiver
9 made herein.

10 6. The Order or any subsequent Order of the Real
11 Estate Commissioner made pursuant to this Stipulation and
12 Agreement shall not constitute an estoppel, merger or bar to any
13 further administrative or civil proceeding by the Department of
14 Real Estate with respect to any matters which were not
15 specifically alleged to be causes for accusation in this
16 proceeding.

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations, admissions
19 and waivers and solely for the purpose of settlement of the
20 pending Accusation without a hearing, it is stipulated and
21 agreed that the following Determination of Issues shall be made:

22 The acts and omissions of Respondent, described in
23 Paragraphs 1 through 9 the Accusation, are cause for the
24 suspension or revocation of all real estate licenses and license
25 rights of Respondent under the provisions of Sections 2831,
26 2831.1 and 2831.2 of Title 10, Chapter 6, California Code of
27 Regulations and Section 10177(d) of the Business and Professions

1 Code.

2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 All licenses and licensing rights of Respondent under
5 the Real Estate Law are suspended for a period of sixty (60)
6 days from the effective date of this Decision; provided,
7 however, that all of said suspension shall be stayed for two (2)
8 years upon the following terms and conditions:

9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities of
11 a real estate licensee in the State of California; and

12 2. That no final subsequent determination be made
13 after hearing or upon stipulation, that cause for disciplinary
14 action occurred within two (2) years of the effective date of
15 this Decision. Should such a determination be made, the
16 Commissioner may, in his discretion, vacate and set aside the
17 stay order and reimpose all or a portion of the stayed
18 suspension.

19 3. Pursuant to Section 10148 of the Business and
20 Professions Code, Respondent shall pay the Commissioner's
21 reasonable cost for an audit to determine if Respondent is in
22 compliance with Real Estate Law. In calculating the amount of
23 the Commissioner's reasonable cost, the Commissioner may use the
24 estimated average hourly salary for all persons performing
25 audits of real estate brokers, and shall include an allocation
26 for travel costs, including mileage, time to and from the
27



1 auditor's place of work, and per diem. The Commissioner's
2 reasonable costs shall in no event exceed \$2,500.00.

3 (a) Respondent shall pay such cost within 45 days of
4 receipt of an invoice from the Commissioner detailing the
5 activities performed during the audit and the amount of time
6 spent performing those activities.

7 (b) Notwithstanding the provisions of any other
8 paragraph herein, if Respondent fails to pay, within 45 days
9 from receipt of the invoice specified above, the Commissioner's
10 reasonable cost for an audit to determine if Respondent is in
11 compliance with Real Estate Law, the Commissioner may order the
12 indefinite suspension of Respondent's real estate license and
13 license rights. The suspension shall remain in effect until
14 payment is made in full, or until Respondent enters into an
15 agreement satisfactory to the Commissioner to provide for such
16 payment. The Commissioner may impose further reasonable
17 disciplinary terms and conditions upon Respondent's real estate
18 license and license rights as part of any such agreement.

19 If Respondent pays for the chargeable audit and if no
20 further cause for disciplinary action against the real estate
21 license of Respondent occurs within two (2) years from the
22 effective date of this Decision, the sixty (60) day stay hereby
23 granted shall become permanent.

24
25 DATED: 7/8/99

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

1 * * *

2 I have read the Stipulation and Agreement and its
3 terms are understood by me and are agreeable and acceptable to
4 me. I understand that I am waiving rights given to me by the
5 California Administrative Procedure Act (including but not
6 limited to Sections 11506, 11508, 11509 and 11513 of the
7 Government Code), and I willingly, intelligently and voluntarily
8 waive those rights, including the right of requiring the
9 Commissioner to prove the allegations in the Accusation at a
10 hearing at which I would have the right to cross-examine
11 witnesses against me and to present evidence in defense and
12 mitigation of the charges.

13
14 DATED: 6 July 99

LEE SAYLOR
LEE SAYLOR, individually
and dba Action 1 Realty

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision in this matter and shall become effective
19 at 12 o'clock noon on August 18, 1999.

20 IT IS SO ORDERED

July 26, 1999

21 JOHN R. LIBERATOR
22 Acting Real Estate Commissioner

23 John R. Liberator
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

Case No. H-28088 LA

LEE SAYLOR, individually
and dba Action 1 Realty,

OAH No. L-1999050474

Respondent(s)

FILED
JUN 16 1999
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By C. J.

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, AUGUST 18, 1999, 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: June 16, 1999

By

Chris Leong
CHRIS LEONG, Counsel

cc: Lee Saylor

✓ Sacto.

OAH

Fajardo/Bernyk

5AC
CHRIS LEONG, Counsel
State Bar Number 141079
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105
(213) 576-6910
(213) 576-6982

FILED
APR - 9 1990
DEPARTMENT OF REAL ESTATE

By C. B.

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
LEE SAYLOR, individually and) NO. H-28088 LA
dba Action 1 Realty,) A C C U S A T I O N
Respondent.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LEE SAYLOR, individually and dba Action 1 Realty (hereinafter "Respondent"), is informed and alleges as follows:

1.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

2.

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

At all times herein mentioned, Respondent was and still is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code"), and was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a real estate broker, individually and dba Action 1 Realty.

4.

At all times herein mentioned, in Los Angeles County, California, Respondent, for compensation or in expectation of compensation, engaged in the real estate property management business with the public, wherein owners and tenants of real property were solicited and negotiated on behalf of owners and tenants.

5.

On or about December 30, 1998, the Department completed an audit of the activities of Respondent, for the period from December 1, 1997 through September 30, 1998. The results of that audit are set forth in Paragraphs 6 and 7.

6.

During 1997 and 1998, in connection with his real estate business activities, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners and tenants and thereafter made disbursements of such funds. These trust funds were maintained by them in three bank accounts. The first two accounts were at NWC Community Federal

1 Credit Union P.O. Box 1209, Ridgecrest, CA 93556. The first
2 account was known as Action 1 Realty, Account No. 125524
3 (hereinafter "TA#1"). The second account was known as Saylor
4 Realty, Account No. 103602 (hereinafter "TA#2"). The third
5 account was at Mojave Desert Bank, 15773 K St., Mojave, CA
6 93501, and was known as Action 1 Realty, Account No. 041-004110
7 (hereinafter "TA#3").

8 7.

9 In connection with those trust funds described in
10 Paragraph 6, Respondent:

11 (a) maintained a combined unidentified overage in
12 TA#1, TA#2 and TA#3 as of September 30, 1998, of \$186.44, in
13 violation of Code Section 10145 and Section 2832 of the
14 Regulations;

15 (b) maintained TA#1 and TA#2, not in the name of the
16 broker as trustee, in violation of Section 2832 of the
17 Regulations;

18 (c) maintained TA#1 and TA#2 in interest bearing
19 accounts for deposit of multiple beneficiary trust funds, in
20 violation of Code Section 10145 and Section 2832(b) of the
21 Regulations;

22 (d) failed to maintain adequate columnar records for
23 TA#1, TA#2 and TA#3, in violation of Section 2831 of the
24 Regulations;

25 (e) failed to maintain adequate separate records for
26 TA#2, in violation of Section 2831.1 of the Regulations;
27

1 failed to maintain separate reconciliation
2 records for TA#1, TA#2 and TA#3, in violation of Section 2831.2
3 of the Regulations;

4 FIRST CAUSE OF ACCUSATION

5 (Violation by Respondent of Code Sections 10145 and 10177(d),
6 and Sections 2831, 2831.1 2831.2, 2832 and 2832(b) of the
7 Regulations)

8 8.

9 As a First Cause of Accusation, Complainant
10 incorporates herein by this reference the Preamble and each of
11 the allegations in Paragraphs 1 through 7, herein above.

12 9.

13 The conduct of Respondent, in handling trust funds, as
14 alleged in Paragraphs 5 through 7, constitutes violation under
15 Code Section 10145, and Sections 2831, 2831.1 2831.2, 2832 and
16 2832(b) of the Regulations. Said conduct is cause pursuant to
17 Code Section 10177(d) for the suspension or revocation of all
18 licenses and license rights of Respondent under the Real Estate
19 Law.

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1
2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and license rights of Respondent,
6 LEE SAYLOR, individually and dba Action 1 Realty, under the
7 Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code), and for such other and further relief as
9 may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California
11 this 9th day of April, 1999.

12
13 THOMAS McCRADY
14 Deputy Real Estate Commissioner
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25 cc: Lee Saylor
26 Thomas McCrady
27 Sacto.
LA Audit Section/Bernyk
JL

