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FILED
JAN 29 2004

DEPARTMENT OF REAL ESTATE

By *Samuel D. Sina*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28274 LA
DANA JOHN TWOHIG,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 24, 2000, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on or about May 18, 2000 and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On or about January 9, 2002, Respondent petitioned for reinstatement of his real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

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1
2 I have considered the petition of Respondent and
3 the evidence and arguments in support thereof. Respondent
4 has demonstrated to my satisfaction that Respondent meets
5 the requirements of law for the issuance to Respondent of
6 an unrestricted real estate broker license and that it would
7 not be against the public interest to issue said license to
8 Respondent DANA JOHN TWOHIG.

9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 broker license be issued to Respondent if Respondent satisfies
12 the following conditions within nine (9) months from the date
13 of this Order:

14 1. Submittal of a completed application and payment
15 of the fee for a real estate broker license.

16 2. Submittal of evidence of having, since the most
17 recent issuance of an original or renewal real estate license,
18 taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
20 for renewal of a real estate license.

21 This Order shall become effective immediately.

22 DATED: January 23, 2004.

23 JOHN R. LIBERATOR
24 Chief Deputy Commissioner

25 
26

27 cc: Dana John Twohig
2377 Orchard Lane
Corona, CA 92882-5782

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

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

FILED
APR 28 2000
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

) NO. H-28274 LA

12 DANA JOHN TWOHIG, individually)
13 and dba Big West Homes,)
14 Big West Mortgage Company,)
15 and Big West Realty,)

) L-1999110237

) STIPULATION AND AGREEMENT

16 Respondent.)
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18)
19)
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16 It is hereby stipulated by and between DANA JOHN
17 TWOHIG, individually and dba Big West Homes, Big West Mortgage
18 Company, and Big West Realty (hereinafter "Respondent"), and his
19 attorney of record, N. Thomas McCartney, and the Complainant,
20 acting by and through Chris Leong, Counsel for the Department of
21 Real Estate, as follows for the purpose of settling and
22 disposing of the Accusation filed on October 15, 1999.

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

1 solely on the basis of the provisions of this Stipulation and
2 Agreement.

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

7 3. On November 4, 1999, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that he
12 understands that by withdrawing said Notice of Defense he will
13 thereby waive his right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the Administrative Procedure
16 Act and that Respondent will waive other rights afforded to him
17 in connection with the hearing, such as the right to present
18 evidence in defense of the allegations in the Accusation and the
19 right to cross-examine witnesses.

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



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

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

19 7. Respondent was cooperative with the Department in
20 the audit.

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations, admissions
23 and waivers and solely for the purpose of settlement of the
24 pending Accusation without a hearing, it is stipulated and
25 agreed that the following Determination of Issues shall be made:

26 The acts and omissions of Respondent, described in
27 Paragraphs I through VIII the Accusation, are cause for the



1 suspension or revocation of all real estate licenses and license
2 rights of Respondent under the provisions of Section 10137 of
3 the Business and Professions.

4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 All licenses and licensing rights of Respondent DANA
7 JOHN TWOHIG, individually and dba Big West Homes, Big West
8 Mortgage Company, and Big West Realty, under the Real Estate Law
9 are revoked; provided, however, a restricted real estate broker
10 license shall be issued to Respondent pursuant to Section
11 10156.5 of the Business and Professions Code if Respondent makes
12 application therefor and pays to the Department of Real Estate
13 the appropriate fee for the restricted license within 90 days
14 from the effective date of this Decision. The restricted
15 license issued to Respondent shall be subject to all of the
16 provisions of Section 10156.7 of the Business and Professions
17 Code and to the following limitations, conditions, and
18 restrictions imposed under authority of Section 10156.6 of that
19 Code:

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

25 2. The restricted license issued to Respondent may be
26 suspended after a hearing by Order of the Real Estate
27 Commissioner on evidence satisfactory to the Commissioner that

1 Respondent has violated provisions of the California Real Estate
2 Law, the Subdivided Lands Law, Regulations of the Real Estate
3 Commissioner or conditions attaching to the restricted license.

4 3. Respondent shall not be eligible to petition for
5 the issuance of an unrestricted real estate license nor for the
6 removal of any of the conditions, limitations or restrictions of
7 a restricted license until at least one year has elapsed from
8 the effective date of this Decision.

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

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



1
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3 DATED:

4/10/00

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

* * *

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

17
18 DATED:

April 5, 2000.

DANA JOHN TWOHIG
Respondent

20
21 DATED:

April 5, 2000

N. THOMAS MCCARTNEY, ESQ.
Counsel for Respondent

23 /////

24 /////

25 /////

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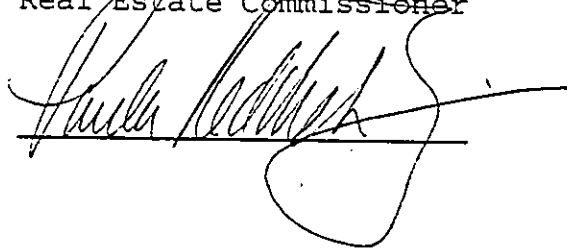
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on May 18, 2000

IT IS SO ORDERED

April 27, 2000.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
DANA JOHN TWOHIG,)
_____)
Respondent(s)

Case No. H-28274 LA

OAH No. L-1999110237

FILED
MAR 13 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

By CB

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, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on MONDAY, MARCH 27, 2000, 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: March 13, 2000

By

CHAS WONG
CHRIS LEONG, Counsel

cc: Dana John Twohig
N. Thomas McCartney, Esq.
Sacto.
OAH

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
DANA JOHN TWOHIG,)
Respondent(s))

Case No. H-28274 LA

OAH No. L-1999110237

FILED
DEC 15 1999
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

By Chris Leong

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, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, FEBRUARY 16, 2000, 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.

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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: December 15, 1999

By

CHRIS LEONG

CHRIS LEONG, Counsel

cc: Dana John Twohig
Tom McCartney, Esq.
Sacto.

OAH

RE 501 (Rev. 8/97)

576

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
DANA JOHN TWOHIG,)
_____)
Respondent(s)

Case No. H-28274 LA
OAH No. L-1999110237

FILED
NOV 23 1999

NOTICE OF HEARING ON ACCUSATION DEPARTMENT OF REAL ESTATE

To the above-named Respondent(s):

By Chris Leong

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 TUESDAY, DECEMBER 21, 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: November 23, 1999

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: Dana John Twohig
Sacto.
OAH

5AC

CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

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

FILED
OCT 15 1999
DEPARTMENT OF REAL ESTATE

By C. B.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DANA JOHN TWOHIG, individually)
and dba Big West Homes,)
Big West Mortgage Company, and)
and Big West Realty,)
Respondent.)

NO. H-28274 LA

A C C U S A T I O N

The Complainant, Daniel M. Hatt, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DANA JOHN TWOHIG, individually and dba Big West Homes, Big West Mortgage Company, and Big West Realty (hereinafter "Respondent"), is informed and alleges as follows:

I

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

II

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

III

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 Big West Homes, Big West Mortgage Company, and Big West Realty.

IV

At all times herein mentioned, Troy Junkin (hereinafter "Junkin") was not licensed nor had license rights under the Real Estate Law as a real estate salesperson or real estate broker.

V

At all times mentioned herein, in Los Angeles County, California, Respondent acted as a real estate broker in the State of California, within the meaning of Code Section 10131(a), wherein he arranged, negotiated, processed and consummated, on behalf of others, sales and purchases of real property for others for compensation or in expectation of compensation.

VI

Respondent employed and compensated Junkin, while he was not licensed by the Department, as his agent to perform acts requiring a license as defined in Section 10131(a), including soliciting for and negotiating sales and purchases of real property for others including, but not limited to, Harold

1 Workman, Jr., Michael & Ruth Carrillo, Tim & Karen Burns,
2 Raymond & Louis McGee, Latanya Bailey, Kullamandri Shukla,
3 Upiano Carrillo, Jr., Hratok Mike Mankerian, Angela Today, and
4 Michael Baring.

5 VII

6 On or about September 9, 1999, the Department
7 completed an audit, LA 980708, of the activities of Respondent
8 for the period from January 1, 1998 through July 31, 1999. The
9 results of that audit are set forth in Paragraph 7.

10 VIII

11 Respondent employed and compensated Junkin, a person
12 without a real estate license, 50% of the earned profit in each
13 sales transaction, in violation of Code Section 10137.

14 WHEREFORE, Complainant prays that a hearing be
15 conducted on the allegations of this Accusation and that upon
16 proof thereof, a decision be rendered imposing disciplinary
17 action against all licenses and license rights of Respondent,
18 DANA JOHN TWOHIG, individually and dba Big West Homes, Big
19 West Mortgage Company, and Big West Realty, under the Real
20 Estate Law (Part 1 of Division 4 of the Business and
21 Professions Code).

22 Dated at Los Angeles, California
23 this 15th day of October, 1999.

24 DANIEL M. HATT

Deputy Real Estate Commissioner

25 cc: Dana John Twohig
26 Daniel M. Hatt
27 Sacto.
LA Audit Section/Kwong
AS

