

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of:)	H-28445 LA
)	
ROBERT WOODROW JONES,)	L-2000030554
)	
Respondent.)	
)	
)	

PROPOSED DECISION

This case was tried before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on May 22, 2000.

James R. Peel, Counsel, represented complainant. Robert Woodrow Jones, respondent appeared personally without legal counsel.

The parties presented oral and documentary evidence and submitted the matter for decision. The Administrative Law Judge proposes:

Factual Findings

1. Thomas McCrady, complainant, caused the Accusation herein to be filed and served while acting solely in his capacity as a California Deputy Real Estate Commissioner.
2. Robert Woodrow Jones, respondent, is licensed to act as a real estate broker in the State of California pursuant to a license issued by the Department, which, together with its incidental license rights, is in full force and effect. Mr. Jones has been licensed in various capacities by the Department for 51 years.
3. Mr. Jones customarily deals only with unimproved real property, and only with listing agreements with sellers of such property. He therefore does not maintain a trust funds bank account, but deposits funds generated by real estate transactions with licensed escrow companies.

4. In late January, 1999, he deviated from his custom. A buyer handed him a check for a lease-option on improved property, payable to him, personally, for \$17,600. The buyer had no additional check forms to write a check for the proper payee, so respondent deposited it in his general business account, in his own name, and simultaneously wrote a check for the same sum payable to the seller, which he delivered. A levy intervened, and respondent was required to borrow enough money from his brother to make his personal check to the seller good. This was accomplished in a single day, the next business day after an intervening weekend.

5. The check incident triggered an audit in which the following irregularities were found, each constituting a violation of the Commissioner's Regulations, as follows:

- a. He used unlicensed branch officers.
- b. He failed to set up a system to insure supervision of his agents.
- c. He failed to keep on file agreements with each of his agents.
- d. He used unlicensed fictitious business names.
- e. He did not possess the license certificate of each of the agents working for him.

6. Respondent has corrected some of the deficiencies noted in Finding 5, and is working to correct the balance of them.

7. There is no other record of any adverse civil, criminal or administrative actions against respondent.

Legal Conclusions

The facts described in Finding 4 constitute a violation of Section 10145(a) of the Business and Professions Code.

The facts described in Findings 5a, b, c, d, and e constitute violations of the Commissioner's Regulations 2715, 2725, 2726, 2731 and 2753 respectively (Title 10, Chapter 6, California Code of Regulations).

By reason of the foregoing determinations, it has been established that respondent's license and license rights are subject to discipline pursuant to Sections 10177(d) and 10177(g) of the Business and Professions Code. However, in light of the whole record, it is

apparent that the public interest will not be adversely affected if a restricted license pursuant to Section 10156.5 of said Code were to issue upon terms and conditions as set forth in the following order.

Order

All licenses and licensing rights of respondent Robert Woodward Jones under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to him pursuant to Section 10156.5 of the Business and Professions Code if he 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 shall be subject to all the provisions of Section 10156.7 of said Code, and to the following conditions imposed under authority of Section 10156.6 thereof:

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California;
2. The restricted license may be suspended prior to hearing by Order of the Commissioner in the event of respondent's conviction of a crime which is substantially related to respondent's fitness or capacity to act as a real estate licensee, or, 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 of the restricted license until three years have elapsed from the effective date of this decision.
4. Respondent shall, within 9 months of the effective date hereof supply evidence that he has, since his license was last issued or renewed, taken and successfully completed the continuing education requirement of Article 2.5 of chapter 3 of the Real Estate Law for renewal of a real estate license.
5. Respondent shall, within six months of the effective date hereof, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee.
6. Pursuant to Section 10148 of the Business and Professions Code, respondent shall pay the Commissioner' reasonable costs for the audit performed which gave rise to this proceeding, and for one audit to be performed to determine respondent's corrections of the deficiencies described in Finding 5 above. 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 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

May 30, 2000



PAUL M. HOGAN
Administrative Law Judge
Office of Administrative Hearings

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FILED
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DEPARTMENT OF REAL ESTATE

By C3

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * *

12 In the Matter of the Accusation of) NO. H-28445 LA
13 ROBERT WOODROW JONES,)
14 Respondent(s).)
_____)
A C C U S A T I O N

15 The Complainant, Thomas McCrady, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against ROBERT WOODROW JONES (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

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

23 II

24 At all times herein mentioned, Respondent is
25 presently licensed and/or has license rights under the Real
26 Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (hereinafter "Code").

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III

At all times herein mentioned, Respondent was licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

At all times herein mentioned, Respondent, on behalf of others, in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(b) of the Code, including soliciting owners and renters of real property.

V

During 1998 and 1999, in connection with the aforesaid real estate brokerage activities, Respondent accepted or received funds from renters of real property and thereafter made disbursements of such funds.

VI

In connection with Respondent's activities as a real estate broker, as described above, Respondent acted in violation of the Real Estate Law, Business and Professions Code, and California Code of Regulations, Title 10, Chapter 6, (hereinafter "Regulations"), as follows:

1. Violated Section 10145(a) of the Code by accepting trust funds from William and Debbie Dobschutz and depositing the funds into an account which was not a trust account.



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2. Violated Regulation 2715 by using unlicensed branch offices in the conduct of his real estate brokerage business.

3. Violated Regulation 2725 by failing to establish policies, rules, procedures, and systems to insure adequate supervision of his salespersons.

4. Violated Regulation 2726 by failing to maintain salesperson relationship agreements with each of his salespersons.

5. Violated Regulation 2731 by employing the unlicensed fictitious business name Preferred Southland Properties in his real estate brokerage business.

6. Violated Regulation 2753 by failing to maintain in his possession the license certificate for each of his salespersons.

VII

The conduct of Respondent, as alleged above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d) and 10177(g) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent, ROBERT WOODROW JONES, 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 15th day of March, 2000.

THOMAS MCCRADY
Deputy Real Estate Commissioner

cc: Robert Woodrow Jones
Thomas McCrady
Ken Breeding/Audit Section
Sacto.
PM