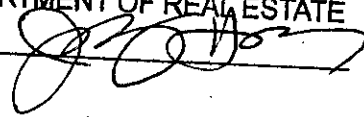


7/21/06

FILED

JUL 21 2006

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
TIMOTHY W. WARD,) No. H-31888 LA
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

TO: TIMOTHY W. WARD;

On November 10, 2005, pursuant to the Decision and Order in the above-referenced matter ("Order"), your license and licensing rights under the Real Estate Law were suspended for a period of sixty (60) days; provided, however, that said suspension was stayed for two (2) years upon certain terms and conditions.

Among those terms and conditions, you were required, within six months of the effective date of the Order, or on or before May 10, 2006, to present evidence satisfactory to the Real Estate Commissioner that you had taken and completed the trust fund accounting and handling course specified in paragraph (3),

1 subdivision (a) of Section 10170.5 of the Business and
2 Professions Code. The Commissioner has determined that as of May
3 10, 2006, you have failed to satisfy this condition, and as such,
4 are in violation of the Order.

5 NOW, THEREFORE, IT IS ORDERED pursuant to paragraph 4
6 of the Order, that the real estate broker license heretofore
7 issued to Respondent TIMOTHY W. WARD and the exercise of any
8 privileges thereunder is hereby suspended until such time as
9 Respondent provides satisfactory proof to the Department of
10 compliance with the condition referred to above, or pending final
11 determination after hearing (see "Hearing Rights" set forth
12 below).

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

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

21 HEARING RIGHTS: Pursuant to the provisions of Section
22 10100 of the Business and Professions Code, you have the right to
23 a hearing to contest the Commissioner's determination that you
24 are in violation of the Order. If you desire a hearing, you must
25 submit a written request. The request may be in any form, as
26 long as it is in writing and indicates that you want a hearing.

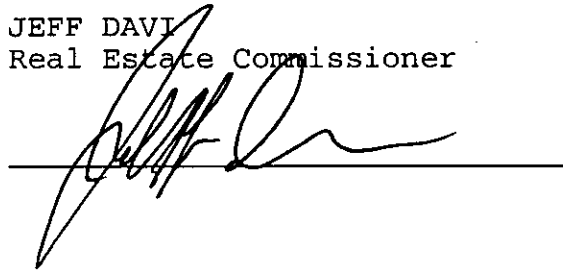
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1 Unless a written request for a hearing, signed by or on behalf of
2 you, is delivered or mailed to the Department at 320 West 4th
3 Street, Suite 350, Los Angeles, California, 90013-1105 within 20
4 days after the date that this Order was mailed to or served on
5 you, the Department will not be obligated or required to provide
6 you with a hearing.

7 This Order shall be effective immediately.

8 DATED: 7/18/86

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10 JEFF DAVIS
Real Estate Commissioner

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25 cc: Lon T. Stephens, Esq.
26 5000 Birch Street, Ste. 410
27 Newport Beach, CA 92660

1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013
4 Telephone: (213) 576-6982

FILED
OCT 21 2005
DEPARTMENT OF REAL ESTATE
[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-31888 LA
12)
13 CASTLEROCK SERVICES, INC.,)
14 and TIMOTHY W. WARD,) STIPULATION AND AGREEMENT
15 individually and as)
16 designated officer of)
17 Castlerock Services, Inc.,)
18)
19)
20 Respondents.)

18 It is hereby stipulated by and between CASTLEROCK
19 SERVICES, INC., and TIMOTHY W. WARD (sometimes referred to as
20 Respondents), and their attorney Lon T. Stephens, and the
21 Complainant, acting by and through James R. Peel, Counsel for
22 the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on May 4, 2005,
24 in this matter.

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and

1 Respondents at a formal hearing on the Accusation, which hearing
2 was to be held in accordance with the provisions of the
3 Administrative Procedure Act ("APA"), shall instead and in place
4 thereof be submitted solely on the basis of the provisions of
5 this Stipulation and Agreement ("Stipulation").

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the
8 Administrative Procedure Act ("APA") and the Accusation filed by
9 the Department of Real Estate in this proceeding.

10 3. On May 16, 2005, Respondents filed a Notice of
11 Defense pursuant to Section 11506 of the Government Code for the
12 purpose of requesting a hearing on the allegations in the
13 Accusation. Respondents hereby freely and voluntarily withdraw
14 said Notice of Defense. Respondents acknowledge that they
15 understand that by withdrawing said Notice of Defense they will
16 thereby waive their right to require the Commissioner to prove
17 the allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will
19 waive other rights afforded to them in connection with the
20 hearing, such as the right to present evidence in defense of the
21 allegations in the Accusation and the right to cross-examine
22 witnesses.

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation filed in this
25 proceeding. In the interest of expedience and economy,
26 Respondents choose not to contest these factual allegations, but
27

1 to remain silent and understand that, as a result thereof, these
2 factual statements, will serve as a prima facie basis for the
3 disciplinary action stipulated to herein. The Real Estate
4 Commissioner shall not be required to provide further evidence
5 to prove such allegations.

6 5. This Stipulation and Respondents' decision not to
7 contest the Accusation is made for the purpose of reaching an
8 agreed disposition of this proceeding and is expressly limited
9 to this proceeding and any other proceeding or case in which the
10 Department of Real Estate ("Department"), the state or federal
11 government, or an agency of this state, another state or the
12 federal government is involved.

13 6. It is understood by the parties that the Real
14 Estate Commissioner may adopt the Stipulation as his decision
15 in this matter thereby imposing the penalty and sanctions on
16 Respondents' real estate licenses and license rights as set
17 forth in the below "Order". In the event that the Commissioner
18 in his discretion does not adopt the Stipulation, the
19 Stipulation shall be void and of no effect, and Respondents
20 shall retain the right to a hearing on the Accusation under all
21 the provisions of the APA and shall not be bound by any
22 stipulation or waiver made herein.

24 7. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation shall not
26 constitute an estoppel, merger or bar to any further
27 administrative or civil proceedings by the Department of Real

1 Estate with respect to any conduct which was not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers
5 and solely for the purpose of settlement of the pending
6 Accusation without a hearing, it is stipulated and agreed that
7 the following determination of issues shall be made:

8 The conduct, acts and/or omissions of Respondents
9 CASTLEROCK SERVICES, INC., and TIMOTHY W. WARD, as set forth in
10 the Accusation, constitute cause for the suspension or
11 revocation of all of the real estate licenses and license rights
12 of Respondents under the provisions of Section 10177(d) of the
13 Business and Professions Code ("Code") for violations of Code
14 Sections 10240 and 10145(a) and Regulations 2831.1 and 2831.2,
15 Title 10, Chapter 6, California Code of Regulations.
16

17 ORDER

18 All licenses and licensing rights of Respondents
19 CASTLEROCK SERVICES, INC., and TIMOTHY W. WARD under the Real
20 Estate Law are suspended for a period of sixty (60) days from
21 the effective date of this Decision; provided, however, that
22 thirty (30) days of said suspension shall be stayed for two (2)
23 years upon the following terms and conditions:

24 1. Respondents shall obey all laws, rules and
25 regulations governing the rights, duties and responsibilities of
26 a real estate licensee in the State of California; and
27

1 2. That no final subsequent determination be made,
2 after hearing or upon stipulation that cause for disciplinary
3 action occurred within two (2) years of the effective date of
4 this Decision. Should such a determination be made, the
5 Commissioner may, in his discretion, vacate and set aside the
6 stay order and reimpose all or a portion of the stayed
7 suspension. Should no such determination be made, the stay
8 imposed herein shall become permanent.

9 3. Provided, however, that if Respondents petition,
10 the remaining thirty (30) days of said sixty (60) day suspension
11 shall be stayed upon condition that:

12 a. Respondents pay a monetary penalty pursuant to
13 Section 10175.2 of the Business and Professions Code at the rate
14 of \$40 for each day of the suspension for a total monetary
15 penalty of \$1,200 (\$2,400 for both Respondents).

16 b. Said payment shall be in the form of a
17 cashier's check or certified check made payable to the Recovery
18 Account of the Real Estate Fund. Said check must be received by
19 the Department prior to the effective date of the Decision in
20 this matter.

21 c. No further cause for disciplinary action
22 against the real estate licenses of Respondent occurs within two
23 (2) years from the effective date of the Decision in this
24 matter.
25

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1
2 d. If Respondents fail to pay the monetary
3 penalty in accordance with the terms and conditions of the
4 Decision, the Commissioner may, without a hearing, order the
5 immediate execution of all or any part of the stayed suspension
6 in which event the Respondents shall not be entitled to any
7 repayment nor credit, prorated or otherwise, for money paid to
8 the Department under the terms of this Decision.
9

10 e. If Respondents pay the monetary penalty and if
11 no further cause for disciplinary action against the real estate
12 license of Respondent occurs within two (2) years from the
13 effective date of the Decision, the stay hereby granted shall
14 become permanent.

15 4. Respondent TIMOTHY W. WARD shall, within six
16 months from the effective date of this Decision, present
17 evidence satisfactory to the Real Estate Commissioner that
18 Respondent has taken and completed the trust fund accounting and
19 handling course specified in paragraph (3), subdivision (a) of
20 Section 10170.5 of the Business and Professions Code. If
21 Respondent fails to satisfy this condition, the Commissioner may
22 order the suspension of Respondent's license until Respondent
23 presents such evidence. Proof of satisfaction of this condition
24 includes evidence that Respondent has successfully completed the
25 trust fund account and handling continuing education course
26 within 120 days prior to the effective date of the Decision in
27

1 this matter. The Commissioner shall afford Respondent the
2 opportunity for a hearing pursuant to the Administrative
3 Procedure Act to present such evidence.

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

11 6. Pursuant to Section 10148 of the Business and
12 Professions Code, Respondents CASTLEROCK SERVICES, INC. and
13 TIMOTHY W. WARD shall pay the Commissioner's reasonable cost for
14 the audit which led to this disciplinary action and Respondent
15 CASTLEROCK SERVICES, INC. shall pay the Commissioner's
16 reasonable cost for a subsequent audit to determine if
17 Respondent CASTLEROCK SERVICES, INC. has corrected the
18 violations found in the Determination of Issues. In calculating
19 the amount of the Commissioner's reasonable cost, the
20 Commissioner may use the estimated average hourly salary for all
21 persons performing audits of real estate brokers, and shall
22 include an allocation for travel costs, including mileage, time
23 to and from the auditor's place of work and per diem.
24 Respondents shall pay such cost within 45 days of receiving an
25 invoice from the Commissioner detailing the activities performed
26 during the audit and the amount of time spent performing those
27

1 activities. The Commissioner may, in his discretion, vacate and
2 set aside the stay order, if payment is not timely made as
3 provided for herein, or as provided for in a subsequent
4 agreement between the Respondents and the Commissioner. The
5 vacation and the set aside of the stay shall remain in effect
6 until payment is made in full, or until Respondents enter into
7 an agreement satisfactory to the Commissioner to provide for
8 payment. Should no order vacating the stay be issued, either in
9 accordance with this condition or condition "2", the stay
10 imposed herein shall become permanent.

11
12 DATED: _____

13 JAMES R. PEEL, Counsel for the
Department of Real Estate

14 * * *

15 We have read the Stipulation and Agreement, have
16 discussed it with our counsel, and its terms are understood by
17 us and are agreeable and acceptable to us. We understand that
18 we are waiving rights given to us by the California
19 Administrative Procedure Act (including but not limited to
20 Sections 11506, 11508, 11509 and 11513 of the Government Code),
21 and we willingly, intelligently and voluntarily waive those
22 rights, including the right of requiring the Commissioner to
23 prove the allegations in the Accusation at a hearing at which we
24 would have the right to cross-examine witnesses against us and
25 to present evidence in defense and mitigation of the charges.

26 Respondents can signify acceptance and approval of the
27 terms and conditions of this Stipulation and Agreement by faxing

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2 set aside the stay order, if payment is not timely made as
3 provided for herein, or as provided for in a subsequent
4 agreement between the Respondents and the Commissioner. The
5 vacation and the set aside of the stay shall remain in effect
6 until payment is made in full, or until Respondents enter into
7 an agreement satisfactory to the Commissioner to provide for
8 payment. Should no order vacating the stay be issued, either in
9 accordance with this condition or condition "2", the stay
10 imposed herein shall become permanent.

11
12 DATED: Sept. 6, 2005

James R. Peel
13 JAMES R. PEEL, Counsel for the
Department of Real Estate

14 * * *

15 We have read the Stipulation and Agreement, have
16 discussed it with our counsel, and its terms are understood by
17 us and are agreeable and acceptable to us. We understand that
18 we are waiving rights given to us by the California
19 Administrative Procedure Act (including but not limited to
20 Sections 11506, 11508, 11509 and 11513 of the Government Code),
21 and we willingly, intelligently and voluntarily waive those
22 rights, including the right of requiring the Commissioner to
23 prove the allegations in the Accusation at a hearing at which we
24 would have the right to cross-examine witnesses against us and
25 to present evidence in defense and mitigation of the charges.

26 Respondents can signify acceptance and approval of the
27 terms and conditions of this Stipulation and Agreement by faxing

1 a copy of the signature page, as actually signed by Respondents,
2 to the Department at the following telephone/fax number:
3 (213) 576-6917. Respondents agree, acknowledge and understand
4 that by electronically sending to the Department a fax copy of
5 his or her actual signature as it appears on the Stipulation and
6 Agreement, that receipt of the faxed copy by the Department
7 shall be as binding on Respondents as if the Department had
8 received the original signed Stipulation and Agreement.

9 Further, if the Respondents are represented, the
10 Respondents' counsel can signify his or her agreement to the
11 terms and conditions of the Stipulation and Agreement by
12 submitting that signature via fax.

13
14 DATED: _____ CASTLEROCK SERVICES, INC.,
15 Respondent

16
17 DATED: _____ TIMOTHY W. WARD
18 Respondent

19 DATED: _____ LON T. STEPHENS
20 Counsel for Respondents

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2 to the Department at the following telephone/fax number:
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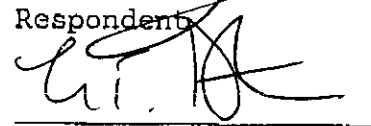
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14 DATED: 8-12-05


CASTLEROCK SERVICES, INC.,
Respondent

15
16
17 DATED: 8-18-05


TIMOTHY W. WARD
Respondent

18
19 DATED: 8-10-05


LON T. STEPHENS
Counsel for Respondents

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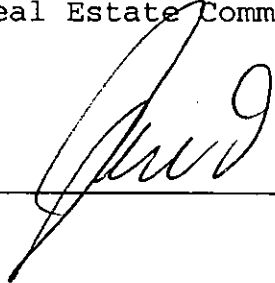
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order in this matter, and shall
become effective at 12 o'clock noon on November 10, 2005.

IT IS SO ORDERED 9-14-05

JEFF DAVI
Real Estate Commissioner



*SBN
Flag*

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)

FILED
MAY - 4 2005
DEPARTMENT OF REAL ESTATE
[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-31888 LA
)	
12 CASTLEROCK SERVICES, INC.,)	<u>A C C U S A T I O N</u>
13 and TIMOTHY W. WARD,)	
14 individually and as)	
15 designated officer of)	
16 Castlerock Services, Inc.,)	
)	
17 Respondents.)	

17 The Complainant, Janice A. Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against CASTLEROCK SERVICES, INC., and TIMOTHY W. WARD,
20 individually and as designated officer of Castlerock Services,
21 Inc., alleges as follows:

22 I

23 The Complainant, Janice A. Waddell, acting in her
24 official capacity as a Deputy Real Estate Commissioner of the
25 State of California, makes this Accusation against CASTLEROCK
26 SERVICES, INC., and TIMOTHY W. WARD

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II

CASTLEROCK SERVICES, INC. and TIMOTHY W. WARD, individually and as designated officer of said corporation (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

Respondent CASTLEROCK SERVICES, INC. was licensed as a real estate broker from November 1, 2001 to October 31, 2005 with Respondent TIMOTHY W. WARD as its designated broker-officer.

IV

At all times material herein, Respondents 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(d) of the Code, including negotiating loans on real property.

V

On or about March 10, 2004, the Department completed an examination of Respondent's books and records, pertaining to the activities described in Paragraph IV above, covering a period from January 1, 2003, through January 31, 2004, which examination revealed violations of the Code and of the Regulations as set forth below.

1 VI

2 The examination described in Paragraph V above,
3 determined that, in connection with the activities described in
4 Paragraph IV above, Respondent accepted or received funds,
5 including funds in trust (hereinafter "trust funds") from or on
6 behalf of principals, and thereafter made deposit or disbursement
7 of such funds.

8 VII

9 In the course of activities described in Paragraphs IV
10 through VI and during the examination period described in
11 Paragraph V, Respondent acted in violation of the Code and the
12 Regulations as follows, and as more specifically set forth in
13 Audit Report No. LA 030311 and related exhibits.

14 1. Violated Regulation 2831 in that the control record
15 was not complete and accurate. Credit report fees and appraisal
16 fees were not always recorded in a proper manner.

17 2. Violated Regulation 2831.1 in that separate records
18 were not always maintained for each beneficiary or transaction.

19 3. Violated Regulation 2831.2 in that a monthly
20 reconciliation of trust funds received and disbursed with
21 separate beneficiary records was not maintained.

22 4. Violated Sections 10176(e) and 10145(a)/Regulation
23 2832 in that credit report fees and appraisal fees were were not
24 always deposited into a real estate broker trust account but were
25 deposited into a bank account which was not a trust account.

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
4 action against all licenses and license rights of Respondents
5 CASTLEROCK SERVICES, INC., and TIMOTHY W. WARD, individually and
6 as designated officer of Castlerock Services, Inc., 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 may be
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 8 day of April, 2005.

12
13
14 
15 JANICE A. WADDELL
16 Deputy Real Estate Commissioner
17
18
19

20 cc: Castlerock Services, Inc.
21 Timothy W. Ward
22 Janice A. Waddell
23 Auditor Kitlin Chan
24 L.A. Audit Section
25 Sacto.
26 RLJ
27