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FILED

AUG 18 2008

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
FIRST RATE REALTY INC. and)
 RAPHAEL GREG IRVING,)
 individually and as)
 designated officer of)
 First Rate Realty Inc.,)
)
 Respondents)

No. H-34812 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on July 28, 2008, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent FIRST RATE REALTY INC.'s express admissions; (2) affidavits; and (3) Department Audit Report LA 070070 (4) other evidence.

FACTUAL FINDINGS

1.

On April 9, 2008, Robin Trujillo filed the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, to Respondent's last known mailing addresses on file with the Department on April 9, 2008 and April 22, 2008, by certified mail.

2.

On July 28, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent FIRST RATE REALTY INC.'s ("FRRI") default was entered herein.

LICENSE HISTORY

3.

A. At all times mentioned, FIRST RATE REALTY INC. ("FRRI") was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On November 21, 2005, FRRI was originally licensed as a real estate broker.

B. At all times mentioned, RAPHAEL GREG IRVING ("IRVING") was licensed or had license rights issued by the Department as a real estate broker. On June 8, 1991, IRVING was originally licensed as a real estate salesperson. On January 18, 1995, IRVING was originally licensed as a real estate broker. On June 26, 1999, IRVING was licensed as the designated officer of FRRI.

C. At all times material herein, FRRI was licensed by the Department as a corporate real estate broker by and through IRVING, as the designated officer and broker responsible, pursuant to Section 10159.2 of the Business and Professions Code ("Code") for supervising the activities requiring a real estate license conducted on behalf FRRI of by FRRI's officers, agents and employees, including IRVING.

BROKERAGE

4.

At all times mentioned, in the City of Hawthorne, County of Los Angeles, FRRI and IRVING acted as real estate brokers and conducted licensed activities within the meaning of Code Section 10131(a). FRRI and IRVING operated a residential resale brokerage and engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

AUDIT

5.

On November 27, 2007, the Department attempted to complete an audit examination of the books and records of FRRI pertaining to the mortgage and loan activities described in Finding 4, which require a real estate license. The audit examination covered a period of time beginning on September 1, 2006 to August 31, 2007. The audit examination revealed violations of Title 10, Chapter 6, California Code of Regulations (Regulations") as set forth in the following Findings, and more fully discussed in Audit Report LA 070070 and the exhibits and work papers attached to said audit report.

VIOLATION OF THE REAL ESTATE LAW

6.

In the course of activities described in Finding 4, above, Respondent FRRI acted in violation of the Code and the Regulations in that Respondent abandoned FRRI's office located at 13851 S. Prairie Ave., Ste A, Hawthorne, CA 90250, California, without notification to the Department, in violation of Code Section 10162 and Regulation 2715.

NEGLIGENCE

7.

The overall conduct of Respondent FRRI in abandoning FRRI'S office constitutes negligence. Said conduct is cause for discipline, including suspension or revocation, of FRRI's real estate license and license rights of pursuant to Code Section 10177(g).

DETERMINATION OF ISSUES

1.

The conduct of Respondent FIRST RATE REALTY INC., as described in Finding 6, herein above, is in violation of Business and Professions Code Section 10162 and Section 2715 of Title 10, Chapter 6, California Code of Regulations, and is cause for disciplinary action pursuant to Business and Professions Code Sections 10177(d) and 10177(g).

2.

The conduct of Respondent FIRST RATE REALTY INC., as described in Finding 7, herein above, constitutes negligence or incompetence, in violation of Business and Professions Code Section 10177(g) and is cause for disciplinary action pursuant to Business and Professions Code Section 10177(g).

3.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

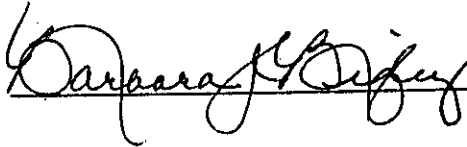
ORDER

The real estate broker license and license rights of Respondent FIRST RATE REALTY INC., under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on September 8, 2008

DATED: 8-12-08, 2008

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105

3 (213) 576-6982

FILED

JUL 28 2008

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-34812 LA

12 FIRST RATE REALTY INC. and)
13 RAPHAEL GREG IRVING,)
14 individually and as)
designated officer of)
15 First Rate Realty Inc.,)

Respondents)

16 DEFAULT ORDER

17 Respondent FIRST RATE REALTY INC., having failed to
18 file a Notice of Defense within the time required by Section
19 11506 of the Government Code, is now in default. It is,
20 therefore, ordered that a default be entered on the record in
21 this matter.

22 IT IS SO ORDERED

July 28, 2008
JEFF DAVI

Real Estate Commissioner

23 *Dolores Weeks*
24 By: DOLORES WEEKS
25 Regional Manager
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27

Saxx

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DEPARTMENT OF REAL ESTATE
BY: Aspy

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-34812 LA
)	
FIRST RATE REALTY INC.)	
and <u>RAPHAEL GREG IRVING,</u>)	
individually and as designated)	
officer of First Rate Realty Inc.,)	
)	
Respondents.)	

DISMISSAL

The Accusation filed against RAPHAEL GREG IRVING on April 9, 2008, is dismissed.

IT IS SO ORDERED this 12th day of August, 2008.

JEFF DAVI
Real Estate Commissioner

Barbara J. Bigby

BY: Barbara J. Bigby
Chief Deputy Commissioner

1 ELLIOTT MAC LENNAN, SBN 66674
 2 Department of Real Estate
 3 320 West 4th Street, Ste. 350
 4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
 6 -or- (213) 576-6982 (office)

FILED

APR - 9 2008

DEPARTMENT OF REAL ESTATE

BY: *Handwritten Signature*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 34812 LA

12 FIRST RATE REALTY INC. and)
 13 RAPHAEL GREG IRVING,)
 14 individually and as)
 15 designated officer of)
 16 First Rate Realty Inc.,)

A C C U S A T I O N

17 Respondents.)
 18)
 19)

20 The Complainant, Robin Trujillo, a Deputy Real Estate
 21 Commissioner of the State of California, for cause of Accusation
 22 against FIRST RATE REALTY INC. and RAPHAEL GREG IRVING,
 23 individually and as designated officer of FIRST RATE REALTY INC.,
 24 alleges as follows:

25 ///

26 ///

27 ///

1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against FIRST RATE REALTY INC.
4 and RAPHAEL GREG IRVING.
5

2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

10 LICENSE HISTORY

3.

11
12 A. At all times mentioned, FIRST RATE REALTY INC.
13 ("FRRI") was licensed or had license rights issued by the
14 Department of Real Estate ("Department") as a real estate broker.
15 On November 21, 2005, FRRI was originally licensed as a real
16 estate broker.
17

18 B. At all times mentioned, RAPHAEL GREG IRVING
19 ("IRVING") was licensed or had license rights issued by the
20 Department as a real estate broker. On June 8, 1991, IRVING was
21 originally licensed as a real estate salesperson. On January 18,
22 1995, IRVING was originally licensed as a real estate broker. On
23 June 26, 1999, IRVING was licensed as the designated officer of
24 FRRI.

25 C. At all times material herein, FRRI was licensed by
26 the Department as a corporate real estate broker by and through
27

1 IRVING, as the designated officer and broker responsible,
2 pursuant to Code Section 10159.2 of the Business and Professions
3 Code for supervising the activities requiring a real estate
4 license conducted on behalf FRII of by FRII's officers, agents
5 and employees, including IRVING.

6 BROKERAGE

7 4.

8 At all times mentioned, in the City of Hawthorne,
9 County of Los Angeles, FRII and IRVING acted as real estate
10 brokers and conducted licensed activities within the meaning of
11 Code Section 10131(a). FRII and IRVING operated a residential
12 resale brokerage and engaged in the business of, acted in the
13 capacity of, advertised or assumed to act as real estate brokers,
14 including the solicitation for listings of and the negotiation of
15 the sale of real property as the agent of others.

17 AUDIT

18 5.

19 On November 27, 2007, the Department attempted to
20 complete an audit examination of the books and records of FRII
21 NATIONS pertaining to the mortgage and loan activities described
22 in Paragraph 4, which require a real estate license. The audit
23 examination covered a period of time beginning on September 1,
24 2006 to August 31, 2007. The audit examination revealed
25 violations of the Code and the Regulations as set forth in the
26 following paragraphs, and more fully discussed in Audit Report LA
27

070070 and the exhibits and work papers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

6.

In the course of activities described in Paragraphs 4 and 5, above, Respondents FRRRI and IRVING, acted in violation of the Code and the Regulations in that they:

(a) Abandoned FRRRI's office located at 13851 S. Prairie Ave., Ste A, Hawthorne, CA 90250, California, without notification to the Department, in violation of Code Section 10162 and Regulation 2715.

7.

The conduct of Respondents FRRRI and IRVING, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

6(a)

Code Section 10162 and Regulation 2715

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of FRRRI and IRVING under the provisions of Code Section 10165, 10177(d) and/or 10177(g).

///

///

///


NEGLIGENCE

10.

1
2
3 The overall conduct of Respondents FRRI and IRVING in
4 abandoning FRRI'S office constitutes negligence. Respondents
5 conduct and violation are cause for discipline, including
6 suspension or revocation, of their real estate license and
7 license rights of pursuant to Code Section 10177(g).

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against the license and license rights of Respondents
12 FIRST RATE REALTY INC. and RAPHAEL GREG IRVING, individually and
13 as designated officer of First Rate Realty Inc. under the Real
14 Estate Law (Part 1 of Division 4 of the Business and Professions
15 Code) and for such other and further relief as may be proper
16 under other applicable provisions of law.

17 Dated at Los Angeles, California

18 this 8 day of April 2008. 
19 Deputy Real Estate Commissioner
20

21
22
23
24 cc: First Rate Realty Inc.
25 c/o Raphael Greg Irving D.O.
26 Robin Trujillo
Sacto
27 Marcus Beltramo