

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

FILED

4 Telephone: (213) 576-6982

DEC 9 2009

DEPARTMENT OF REAL ESTATE
BY: [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

No. H-35830 LA
L-2009040870

13 DANIELLE H. PURCELL, doing)
14 business as onlyinlaguna.com,)
15 Team Laguna and the Rental Queen,)

STIPULATION
AND
AGREEMENT

16 Respondent.)

17 It is hereby stipulated by and between Respondent
18 DANIELLE H. PURCELL (sometimes referred to as (Respondent),
19 represented by Eugene C. Gratz, Esq. and the Complainant, acting
20 by and through Elliott Mac Lennan, Counsel for the Department of
21 Real Estate, as follows for the purpose of settling and disposing
22 of the Accusation (Accusation) filed on April 3, 2009, in this
23 matter:
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- 25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondent
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondent timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondent hereby freely and voluntarily withdraws said Notice of
13 Defense. Respondent acknowledges that she understands that by
14 withdrawing said Notice of Defense she thereby waives her right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that she will waive other rights
18 afforded to her in connection with the hearing such as the right
19 to present evidence in her defense the right to cross-examine
20 witnesses.
21

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understands that, as a
26 result thereof, these factual allegations, without being admitted
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1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or any agency of this state, another
10 state or federal government is involved, and otherwise shall not
11 be admissible in any other criminal or civil proceedings.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
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1 Estate with respect to any matters which were not specifically
2 alleged to be causes for Accusation in this proceeding but do
3 constitute a bar, estoppel and merger as to any allegations
4 actually contained in the Accusations against Respondent herein.

5 8. Respondent understands that by agreeing to this
6 Stipulation, Respondent agrees to pay, pursuant to Business and
7 Professions Code Section 10148, the cost of audit. The total
8 amount of said cost is \$5,804.55.

9 9. Respondent has received, read, and understands the
10 "Notice Concerning Costs of Subsequent Audit". Respondent
11 further understands that by agreeing to this Stipulation, the
12 findings set forth below in the Determination of Issues become
13 final, and the Commissioner may charge Respondent for the cost of
14 any subsequent audit conducted pursuant to Business and
15 Professions Code Section 10148 to determine if the violations
16 have been corrected. The maximum cost of the subsequent audit
17 will not exceed \$5,804.55.
18

19 DETERMINATION OF ISSUES

20 By reason of the foregoing, it is stipulated and agreed
21 that the following determination of issues shall be made:

22 The conduct of DANIELLE H. PURCELL, as described in
23 Paragraph 4, above, is in violation of Business and Professions
24 Code Section 10145 and Sections 2831, 2831.1 and 2831.2 of Title
25 10, Chapter 6 of the California Code of Regulations and is a
26 basis for discipline of Respondent's license and license rights
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1 as violations of the Real Estate Law pursuant to Code Sections
2 10177(d) for violation of the Real Estate Law.

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 I. All licenses and licensing rights of Respondent
6 DANIELLE H. PURCELL under the Real Estate Law are suspended for a
7 period of sixty (60) days from the effective date of this
8 Decision.

9 A. Provided, however, that if Respondent requests, the
10 initial thirty (30) days of said suspension (or a portion
11 thereof) shall be stayed for two (2) years upon condition that:

12 1. Respondent pays a monetary penalty pursuant to
13 Section 10175.2 of the Business and Professions Code at the rate
14 of \$33.33 per day for each day of the suspension for a total
15 monetary penalty of \$1,000.

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

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

24 4. If Respondent fails to pay the monetary penalty in
25 accordance with the terms of the Decision, the Commissioner may,
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1 without a hearing, order the immediate execution of all or any
2 part of the stayed suspension, in which event the Respondent
3 shall not be entitled to any repayment nor credit, prorated or
4 otherwise, for money paid to the Department under the terms of
5 this Decision.

6 5. If Respondent pays the monetary penalty and if no
7 further cause for disciplinary action against the real estate
8 license of Respondent occurs within two (2) years from the
9 effective date of the Decision, the stay hereby granted shall
10 become permanent.

11 B. The remaining thirty (30) days of the sixty (60)
12 day suspension shall be stayed for two (2) years upon the
13 following terms and conditions:

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

17 2. That no final subsequent determination be made
18 after hearing or upon stipulation that cause for disciplinary
19 action occurred within two (2) years from the effective date of
20 this Decision. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside the
22 stay order and reimpose all or a portion of the stayed
23 suspension. Should no such determination be made, the stay
24 imposed herein shall become permanent.
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11. II. Pursuant to Section 10148 of the Business and

1 Professions Code, Respondent DANIELLE H. PURCELL shall pay the
2 Commissioner's reasonable cost for (a) the underlying audit (b) a
3 subsequent audit to determine if Respondent is now in compliance
4 with the Real Estate Law. The cost of the audit which led to
5 this disciplinary action is \$5,804.55. In calculating the amount
6 of the Commissioner's reasonable cost, the Commissioner may use
7 the estimated average hourly salary for all persons performing
8 audits of real estate brokers, and shall include an allocation
9 for travel time to and from the auditor's place of work. Said
10 amount for the prior and subsequent audits shall not exceed
11 \$11,609.10.
12

13 Respondent shall pay such cost within 60 days of
14 receiving an invoice from the Commissioner detailing the
15 activities performed during the audit and the amount of time
16 spent performing those activities.

17 The Commissioner may suspend the license of Respondent
18 pending a hearing held in accordance with Section 11500, et seq.,
19 of the Government Code, if payment is not timely made as provided
20 for herein, or as provided for in a subsequent agreement between
21 the Respondent and the Commissioner. The suspension shall remain
22 in effect until payment is made in full or until Respondent
23 enters into an agreement satisfactory to the Commissioner to
24 provide for payment, or until a decision providing otherwise is
25 adopted following a hearing held pursuant to this condition.
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1 III. All licenses and licensing rights of Respondent
2 DANIELLE H. PURCELL are indefinitely suspended unless or until
3 Respondent provides proof satisfactory to the Commissioner, of
4 having taken and successfully completed the continuing education
5 course on trust fund accounting and handling specified in
6 paragraph (3) of subdivision (a) of Section 10170.5 of the
7 Business and Professions Code. Proof of satisfaction of this
8 requirement includes evidence that respondent has successfully
9 completed the trust fund account and handling continuing
10 education course within 120 days prior to the effective date of
11 the Decision in this matter.

12
13 DATED: _____

10-19-09

ELM

ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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15 * * *

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17 EXECUTION OF THE STIPULATION

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

3 MAILING AND FACSIMILE

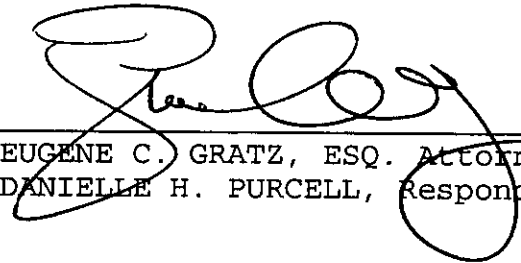
4 Respondent (1) shall mail the original signed signature
5 page of the stipulation herein to Elliott Mac Lennan: Attention:
6 Legal Section, Department of Real Estate, 320 W. Fourth St.,
7 Suite 350, Los Angeles, California 90013-1105. Additionally,
8 Respondent shall also (2) facsimile a copy of signed signature
9 page, to the Department at the following telephone/fax number:
10 (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile
11 constitutes acceptance and approval of the terms and conditions
12 of this stipulation.

13 Respondent agrees, acknowledges and understands that by
14 electronically sending to the Department a facsimile copy of
15 Respondent's actual signature as it appears on the stipulation
16 that receipt of the facsimile copy by the Department shall be as
17 binding on Respondent as if the Department had received the
18 original signed stipulation.
19

20
21 DATED: 10/23/2009

22 
23 _____
24 DANIELLE H. PURCELL, Respondent

25 DATED: 10/23/2009

26 
27 _____
EUGENE C. GRATZ, ESQ. Attorney for
DANIELLE H. PURCELL, Respondent

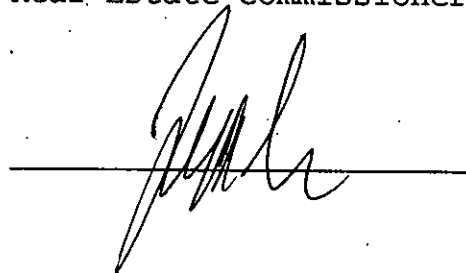
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent DANIELLE H. PURCELL and
shall become effective at 12 o'clock noon on
January 8, 2010

IT IS SO ORDERED 11-24, 2009.

JEFF DAVI
Real Estate Commissioner



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

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

FILED

APR - 3 2009

DEPARTMENT OF REAL ESTATE
BY: *Renee*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35830 LA
)	
DANIELLE H. PURCELL, doing)	<u>A C C U S A T I O N</u>
business as onlyinlaguna.com,)	
Team Laguna and The Rental Queen,)	
)	
)	
Respondent.)	

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity, for cause of Accusation against DANIELLE H. PURCELL dba onlyinlaguna.com, Team Laguna and The Rental Queen, is informed and alleges as follows:

1.

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

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1 2.

2 At all times mentioned, DANIELLE H. PURCELL
3 ("PURCELL"), was licensed or had license rights issued by the
4 Department of Real Estate ("Department") as a real estate broker.
5 On September 27, 2004, PURCELL was originally licensed as a real
6 estate broker.

7 3.

8 At all times mentioned, in the City of Laguna Beach,
9 County of Orange, PURCELL engaged in the business of a property
10 management brokerage dba onlylaguna.com, Team Laguna and The
11 Rental Queen.

12 4.

13 On February 23, 2009, the Department completed an audit
14 examination of the books and records of PURCELL, pertaining to
15 the residential resale activities described in Paragraph 3, that
16 require a real estate license. The audit examination covered a
17 period of time beginning on January 1, 2007 to October 31, 2008.
18 The audit examination revealed violations of the Code and the
19 Regulations as set forth below, and more fully discussed in Audit
20 Report LA 080144 and the exhibits and work papers attached.
21

22 5.

23 At all times mentioned, in connection with the
24 activities described in Paragraph 4, above, PURCELL accepted or
25 received funds including funds in trust (hereinafter "trust
26 funds") from or on behalf of actual or prospective parties to
27

1 transactions handled by PURCELL including property owners and
2 tenants. PURCELL maintained the following bank account into
3 which she deposited trust funds:

4 "Danielle H. Purcell dba Only in Laguna.com; dba Team Laguna
5 31041244"
6 Citizens Business Bank
Laguna Beach, CA

(B/A #1)

7
8 6.

9 With respect to the licensed activities referred to in
10 Paragraph 3, and the audit examination including the exhibits and
11 work papers referenced in Paragraph 4, it is alleged that

12 PURCELL:

13 (a) Permitted, allowed or caused the disbursement of
14 trust funds from B/A #1 where the disbursement of funds reduced
15 the total of aggregate funds in B/A #1, to an amount which, on
16 October 31, 2008, was \$4,195.97 less than the existing aggregate
17 trust fund liability of PURCELL to every principal who was an
18 owner of said funds, without first obtaining the prior written
19 consent of the owners of said funds, in violation of Code Section
20 10145 and Regulation 2832.1. The shortage was restored on
21 December 10, 2008.

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1 (b) Failed to maintain an accurate and complete control
2 record in the form of a columnar record in chronological order of
3 all trust funds received for B/A #1, in violation of Code Section
4 10145 and Regulation 2831.

5 (c) Failed to maintain an accurate and complete
6 separate record for all trust funds received for B/A #1, in
7 violation of Code Section 10145 and Regulation 2831.1.

8 (d) Failed to perform a monthly reconciliation of the
9 balance of all separate beneficiary or transaction records
10 maintained pursuant to Regulation 2831.1 with the record of all
11 trust funds received and disbursed by B/A #1, in violation of
12 Code Section 10145 and Regulation 2831.2.

13 (e) Failed to place trust funds, including security
14 deposits and tenant rents, into the hands of the owner of the
15 funds, a neutral escrow depository or into a trust fund account
16 in the name of the trustee at a bank or other financial
17 institution, in violation of Code Section 10145 and Regulation
18 2832(a); and

19 (f) Failed to disclose on the Property Management
20 Agreement the exact amount of monthly commissions and fees for
21 managed properties, in violation of Code Sections 10145 and
22 10176(g), with respect to rentals for 1924 S. Coast Hi-Way and
23 763 S. Coast Hi-Way, Laguna Beach, California.

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The conduct of Respondent PURCELL described in Paragraph 6, above, violated the Code and the Regulations as set forth:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6(a)	Code Section 10145 and Regulation 2832.1
6(b)	Code Section 10145 and Regulation 2831
6(c)	Code Section 10145 and Regulation 2831.1
6(d)	Code Section 10145 and Regulation 2831.2
6(e)	Code Section 10145 and Regulation 2832(a)
6(f)	Code Sections 10145 and 10176(g)

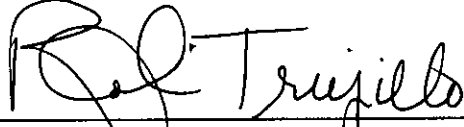
Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondent PURCELL under the provisions of Code Sections 10176(g), 10177(d) and/or 10177(g).

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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 the license and license rights of Respondent
5 DANIELLE H. PURCELL, under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

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10 Dated at Los Angeles, California

11 this 2 day of April 2009.

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14 Deputy Real Estate Commissioner

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24 cc: Danielle H. Purcell
25 Robin Trujillo
26 Sacto
27 Audits - Chona Picayo