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FILED

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

APR 24 2014

BUREAU OF REAL ESTATE

By *[Signature]*

In the Matter of the Accusation of)	CalBRE No. H-36738 LA
)	
)	OAH No. 2013070663
GOOD NEWS, INC., doing business as)	
1 st Class Realty; and)	
<u>TYRONE RICHARD HORN, JR.</u> ,)	
individually, and as designated officer of)	
Good News, Inc.,)	
Respondent.)	

DECISION

The Proposed Decision dated March 20, 2014, of the Administrative Law Judge, Howard Posner, of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on
MAY 15 2014.

IT IS SO ORDERED APR 23 2014.

REAL ESTATE COMMISSIONER



JEFFREY MASON
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

GOOD NEWS INC. doing business as 1st
Class Realty, and TYRONE RICHARD
HORN JR., as designated officer of Good
News Realty Inc.

Respondents

Case No. H-36738 LA

OAH No. 2013070663

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 20, 2014.

Lissete Garcia, Staff Counsel, represented Complainant Wayne Bell, Real Estate Commissioner in the Bureau of Real Estate (Bureau).

Respondent Tyrone Horn represented himself.

Oral and documentary evidence was received and the matter was submitted February 20, 2014.

On March 28, 2013, Complainant issued an Order Suspending Real Estate License, effective that date, which suspended Respondents' license indefinitely effective, and Respondent requested a hearing. For the reasons stated below, Order Suspending Real Estate License is upheld.

FACTUAL FINDINGS

1. Complainant is acting solely in his official capacity.
2. Respondent Tyrone Horn obtained a conditional real estate salesperson license on August 6, 2004. He obtained a real estate broker license as officer of Good News, Inc. on May 21, 2007, and is licensed by the Bureau solely in that capacity. The broker license expired May 20, 2011. Under Business and Professions Code section 10103, the Bureau retains jurisdiction over Respondent's expired license.

"Stipulation and Agreement"

3. On July 28, 2010, Complainant brought an accusation against Respondent,¹ alleging that he had allowed the balance of the Good News Inc. trust account to drop below its aggregate liability to trust fund owners, allowed Respondent's wife to be a signatory on a trust account despite her not being licensed or bonded, failed to keep proper trust fund records, and employed salespersons without having signed agreements with them or retaining their licenses.

4. On March 5, 2012, Respondent and the Bureau² entered into a Stipulation and Agreement in which they agreed, among other things, that the Accusation's allegations would be used as a basis for imposing license discipline, Respondent would pay the \$4,895.20 cost of the audit Complainant had performed on their trust account, Respondent would restore the trust fund deficit of \$1,000, and Respondent would complete the continuing education course on trust fund accounting and handling specified in Business and Professions Code section 10170.5 within 120 days of the Stipulation and Agreement's effective date, complete the 45 hours of broker's continuing education within nine months, and pass the professional responsibility examination within six months. It also provided that Respondent's license would be suspended indefinitely until the trust fund deficit was restored and Respondent completed the trust fund accounting and handling course and passed the professional responsibility examination.

5. On March 28, 2013, Complainant issued an Order Suspending Real Estate License, which alleged that Respondent had failed to meet conditions of the Stipulation and Agreement and ordered Respondent's license suspended until he provided proof that he had met the all conditions of the Stipulation and Agreement. Respondent timely requested a hearing.³

Failure to Meet Conditions of the Stipulation and Agreement

6. On August 28, 2012, the Bureau sent a letter to Respondent notifying him that he had not yet satisfied the condition that he pass the Professional Responsibility Examination within six months after April 25, 2012, and that his license would be suspended pending an administrative hearing if he did not pass the examination by October 25, 2012. On November 26, 2012, the Bureau sent another warning letter, telling Respondent that he was required to complete 45 hours of continuing education by January 25, 2013, or his license would be suspended pending an administrative hearing.

¹ The Accusation and the Stipulation and Agreement refer to both the corporation, Good News, Inc., and Tyrone Horn as "Respondent" or "Respondents." The Order Suspending Real Estate License refers to Horn as the sole Respondent. This Proposed Decision will follow the Order Suspending Real Estate License in this regard.

² Before July 1, 2013, the Bureau was known as the Department of Real Estate.

³ Respondent's license has been suspended at all times since April 25, 2012.

7. Respondent has met none of the conditions in the Stipulation and Agreement. He has not paid the audit costs, restored the trust account deficit, completed the required continuing education for brokers or the course in trust fund accounting and handling, or passed the professional responsibility examination. At hearing, Respondent introduced no evidence that he had attempted to meet any of the conditions, and showed a lack of understanding about them. He testified that he came to the hearing to find out what he could do to get his license back, and that he remembered little about the Stipulation and Agreement (which is the document that set out what he needed to do to have his license rights restored).

LEGAL CONCLUSIONS

1. The Stipulation and Agreement is based on conduct that is grounds for license discipline. Business and Professions Code Section 10145⁴ requires a broker to place funds in a trust account. Respondent violated CCR section 2832.1 by allowing the trust account balance to fall below his aggregate liability to the owners of the trust funds. Failure to have written agreements with salespersons violated CCR section 2726. Failure to retain salesperson licenses at his main business office violated CCR section 2753. Failure to keep proper trust account records violated CCR sections 2831, 2831.1, 2831.2 and 2950, subdivision (d). Giving Respondent's unlicensed, unbonded wife power to withdraw funds from the trust account violated CCR section 2834, which limits the persons who can withdraw funds from a broker's trust account to a real estate salesperson licensed to the broker, a second real estate broker who has a written agreement with the account-holding broker covering the subject of withdrawals, or "an unlicensed employee of the broker with fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time."

2. Respondent's violations of statutes and regulations created cause to discipline his license under section 10177, subdivision (d) (which allows suspension or revocation if the licensee willfully disregarded or violated statutes governing broker conduct or regulations for the administration and enforcement of those statutes), section 10177, subdivision (g) (which allows suspension or revocation if the licensee has demonstrated "negligence or incompetence in performing an act for which he or she is required to hold a license") and section 10177, subdivision (h) (which provides for suspension or revocation if a broker "as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required").

3. The Stipulation and Agreement provided that Respondent's license would remain suspended until he met the conditions it imposed. He has met none of those conditions.

⁴ Further references to "section" or "§" will denote the Business and Professions Code, unless preceded by "CCR," which will denote Title 10 of the California Code of Regulations.

ORDER

The Order Suspending Real Estate License is upheld.

DATED: March 20, 2014

Howard Posner

HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings