

FILED

FEB. 16, 2012

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DEPARTMENT OF REAL ESTATE
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-37886 LA
)	
THOMAS H. MURRIN,)	<u>A C C U S A T I O N</u>
EDMILL ENTERPRISES, INC., and)	
EDWARD U. SOHN, individually and)	
as designated officer of)	
Edmill Enterprises, Inc.,)	
)	
Respondents.)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against THOMAS H. MURRIN, EDMILL ENTERPRISES, INC., and EDWARD U. SOHN, individually and as officer of Edmill Enterprises, Inc. ("Respondents"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

1 2.

2 From January 5, 1994, through the present, Respondent
3 THOMAS H. MURRIN ("MURRIN") has been licensed by the Department
4 of Real Estate ("Department") as a real estate salesperson,
5 Department License No. 01173645.

6 3.

7 From April 16, 1997, through the present, Respondent
8 EDMILL ENTERPRISES, INC. ("EDMILL") has been licensed by the
9 Department as a corporate real estate broker, Department License
10 No. 01209953. Respondent EDMILL is licensed to do business as
11 Team Spirit Realty, Inc. At all times herein mentioned EDMILL
12 was acting by and through Respondent EDWARD U. SOHN as its
13 designated officer pursuant to Code Section 10159.2 to be
14 responsible for ensuring compliance with the Real Estate Law.
15

16 4.

17 From November 10, 1993, through the present,
18 Respondent EDWARD U. SOHN ("SOHN") has been licensed by the
19 Department as a real estate broker, Department License No.
20 01034188.

21 FIRST CAUSE OF ACCUSATION
(UNLICENSED ACTIVITY/ADVANCE FEE VIOLATIONS)

22 5.

23 Business and Professions Code ("Code") Section 10132
24 defines a real estate salesperson as a person who, for
25 compensation or in expectation of compensation, is employed by a
26 licensed real estate broker to do one or more of the acts set
27 forth in Code Sections 10131, 10131.1, 10131.2, 10131.3,
28 10131.4, and 10131.6.

1 6.

2 Under Code Section 10131, a real estate broker is
3 defined as a person who: (a) sells or offers to sell, buys or
4 offers to buy, solicits prospective sellers or purchasers of,
5 solicits or obtains listing of, or negotiates the purchase, sale
6 or exchange of real property or a business opportunity; or (b)
7 leases or rents or offers to lease or rent, or places for rent,
8 or solicits listings of places for rent, or solicits for
9 prospective tenants, or negotiates the sale, purchase or
10 exchanges of leases on real property, or on a business
11 opportunity, or collects rents from real property, or
12 improvements thereon, or from business opportunities.

13 7.

14 Code Section 10131.2 defines a real estate broker as a
15 person who engages in the business of claiming, demanding,
16 charging, receiving, collecting or contracting for the
17 collection of an advance fee in connection with any employment
18 undertaken to promote the sale or lease of real property or of a
19 business opportunity by advance fee listing, advertisement or
20 other offering to sell, lease, exchange or rent property or a
21 business opportunity, or to obtain a loan or loans thereon.

22 8.

23 Code Section 10026, in pertinent part, defines an
24 advance fee as a fee that is claimed, demanded, charged,
25 received, or collected by a licensee for services requiring a
26 license. A person who proposes to collect an advance fee as
27 defined in Code Section 10026 must submit to the Commissioner
28 not less than ten calendar days before publication or other use,

1 all materials to be used in advertising, promoting, soliciting
2 and negotiating an agreement calling for the payment of an
3 advance fee including the form of advance fee agreement proposed
4 for use, pursuant to Section 2970, Regulations of the Real
5 Estate Commissioner, Title 10, Chapter 6, California Code of
6 Regulations. Code Section 10085 also allows the Commissioner to
7 require that any all materials used in obtaining advance fee
8 agreements, including contract forms, be submitted at least 10
9 calendar days before they are used.

10 9.

11 Retail Licensing Services, Inc. ("RLS") has never been
12 licensed in any capacity by the Department. Respondent MURRIN
13 is the owner and president of RLS.

14 10.

15 Sang W. Kim ("Kim") was licensed by the Department as
16 a real estate salesperson from December 23, 2003, through
17 December 23, 2007, License No. 01403735. Kim was licensed under
18 the employment of EDMILL. Kim's license expired on December 24,
19 2007.

20 11.

21 On or about June 1, 2009, Jackie Yoon ("Yoon") read an
22 advertisement placed in a Korean newspaper by Kim. The
23 advertisement was for the lease of a retail space located in the
24 Los Cerritos Mall, Cerritos, California. Yoon contacted Kim and
25 informed him that she was interested in leasing the space for a
26 Seattle's Best Coffee franchise location. Kim instructed Yoon
27 to sign a contract with Retail Licensing Services, Inc. to
28 secure the retail space at the Los Cerritos Mall.

1 12.

2 Yoon met with Respondent MURRIN and paid Respondent
3 MURRIN a \$10,000 advance fee for RLS's services. The advance
4 fee agreement stated that Yoon would receive a full refund if
5 the retail space was not secured.

6 13.

7 Kim negotiated with Seattle's Best Coffee to secure
8 the licensing and franchise for Yoon at the Los Cerritos Mall.
9 Kim represented himself as an agent for Team Spirit Realty
10 throughout his negotiations with Seattle's Best Coffee.

11 14.

12 Yoon asked for a refund of her \$10,000 advance fee
13 when RLS and Kim were unable to secure the retail space at Los
14 Cerritos Mall. On July 25, 2009, Respondent MURRIN wrote a
15 promissory note to Yoon stating that he would return the advance
16 fees paid by Yoon. Respondent MURRIN gave Yoon two post-dated
17 checks for \$2,500 each. When Yoon tried to cash the checks, she
18 discovered the bank account had insufficient funds. Respondent
19 MURRIN stopped communicating with Yoon and never refunded the
20 advance fees paid by Yoon.

21 15.

22 On September 25, 2009, Kim gave Yoon a check for
23 \$2,500 as part of her refund. The check was drawn from a bank
24 account with insufficient funds. Kim also gave Yoon a
25 promissory note for \$5,000. Yoon never received the funds from
26 Kim.
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16.

As set forth above, Respondent MURRIN used the unlicensed fictitious business name, Retail Licensing Services, Inc., to engage in activities that require a real estate broker license. The facts alleged above constitute a violation of Code Section 10130 (unlicensed activity) and are grounds for the suspension or revocation of Respondent MURRIN's real estate salesperson license and license rights under Code Sections 10139 and 10177(d).

17.

Sang W. Kim engaged in activities that require a real estate license while working for Team Spirit Realty, a fictitious business name of Respondent EDMILL, as set forth in Paragraphs 10 through 15 above. The facts alleged above constitute a violation of Code Section 10137 (unlawful compensation for unlicensed activity) and are grounds for the suspension or revocation of Respondent EDMILLS's real estate salesperson license and license rights under Code Section 10177(d).

18.

Respondent SOHN's failure to supervise the activities of Respondent EDMILL and its employees to ensure compliance with the Real Estate Law is in violation of Code Section 10159.2 and Regulation 2725 which constitutes grounds to suspend or revoke Respondent SOHN's license and license rights pursuant to Code Sections 10177(h), 10177(d) or 10177(g).

19.

Respondent MURRIN's conduct, acts and/or omissions as set forth above constitute a violation of Code Section 10176(b) (making any false promises of a character likely to influence, persuade or induce), 10176(i) (conduct... which constitutes fraud or dishonest dealing) or 10177(j) (conduct which constitutes fraud or dishonest dealing) and are grounds for the suspension or revocation of Respondent's real estate salesperson license and license rights.

SECOND CAUSE OF ACCUSATION
(UNLICENSED ACTIVITY/ADVANCE FEE VIOLATIONS)

20.

There is hereby incorporated in this Second, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 19 above, with the same force and effect as if herein fully set forth.

21.

On or about March 16, 2009, Yoon Kim entered into a contract agreement with RLS to secure a retail location at the Mission Viejo Mall for purposes of opening a McDonald's franchise restaurant. Yoon Kim paid Respondent MURRIN a \$10,000 advance fee. The contract agreement stated that Yoon Kim would receive a full refund of his advance fee if the location was not secured.

1 22.

2 Yoon Kim asked for a refund of his \$10,000 advance fee
3 when RLS was unable to secure the retail space for him. On
4 September 11, 2009, Respondent MURRIN gave Yoon Kim two checks
5 for \$5,000 each. When Yoon Kim tried to cash the checks, he
6 discovered the bank account had insufficient funds. Respondent
7 MURRIN stopped communicating with Yoon Kim and never refunded
8 the advance fees paid by Yoon Kim.

9 23.

10 As set forth above, Respondent MURRIN used the
11 unlicensed fictitious business name, Retail Licensing Services,
12 Inc., to engage in activities that require a real estate broker
13 license. The facts alleged above constitute a violation of Code
14 Section 10130 (unlicensed activity) and are grounds for the
15 suspension or revocation of Respondent MURRIN's real estate
16 salesperson license and license rights under Code Sections 10139
17 and 10177(d).

18 24.

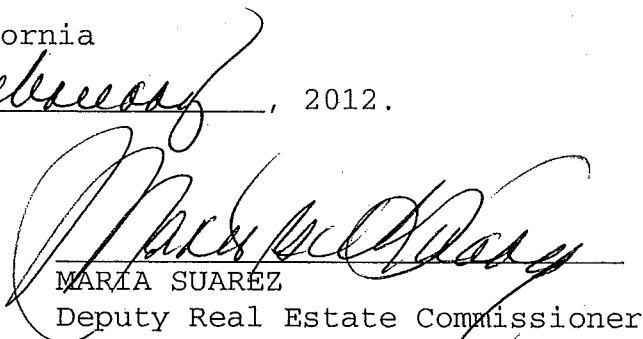
19 Respondent MURRIN's conduct, acts and/or omissions as
20 set forth above constitute a violation of Code Section 10176(b)
21 (making any false promises of a character likely to influence,
22 persuade or induce), 10176(i) (conduct... which constitutes fraud
23 or dishonest dealing) or 10177(j) (conduct which constitutes
24 fraud or dishonest dealing) and are grounds for the suspension
25 or revocation of Respondent's real estate salesperson license
26 and license rights.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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 Respondents THOMAS H. MURRIN, EDMILL ENTERPRISES, INC., and EDWARD U. SOHN, individually and as officer of Edmill Enterprises, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California

this 14th day of February, 2012.


MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Thomas H. Murrin
Edmill Enterprises, Inc.
Edward U. Sohn
Maria Suarez
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