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DEPARTMENT OF REAL ESTATE
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8

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

No. H-38516 LA

13 THE ST JAMES REAL ESTATE SERVICES)
14 CORPORATION and WILLIAM ARTHUR)
15 ROSSWORN, individually, as)
16 designated officer of The St)
17 James Real Estate Services)
18 Corporation and STEPHEN MARK)
19 POWELL and ROBERT LEWIS FIRTH,)
20 individually, and as former)
21 designated officers of The St)
22 James Real Estate Services)
23 Corporation,)

A C C U S A T I O N

24 Respondents.)

25 The Complainant, Veronica Kilpatrick, a Deputy Real
26 Estate Commissioner of the State of California, for cause of
27 Accusation against THE ST JAMES REAL ESTATE SERVICES CORPORATION,
WILLIAM ARTHUR ROSSWORN, individually, as designated officer of
The St James Real Estate Services Corporation and STEPHEN MARK
POWELL and ROBERT LEWIS FIRTH, individually, and as former

1 designated officers of The St James Real Estate Services
2 Corporation, alleges as follows:

3 1.

4 The Complainant, Veronica Kilpatrick, acting in her
5 official capacity as a Deputy Real Estate Commissioner of the
6 State of California, makes this Accusation against THE ST JAMES
7 REAL ESTATE SERVICES CORPORATION, WILLIAM ARTHUR ROSSWORN,
8 STEPHEN MARK POWELL and ROBERT LEWIS FIRTH.

9 2.

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

13 LICENSE HISTORY

14 3.

15 A. THE ST JAMES REAL ESTATE SERVICES CORPORATION
16 ("ST JAMES") presently has license rights issued by the
17 Department of Real Estate ("Department") as a corporate real
18 estate broker.

19 B. At all times mentioned, WILLIAM ARTHUR ROSSWORN
20 ("ROSSWORN") was licensed and/or had license rights issued by the
21 Department as a real estate broker. ROSSWORN was originally
22 licensed as a real estate broker on November 19, 1969.

23 C. At all times mentioned, STEPHEN MARK POWELL
24 ("POWELL") was licensed and/or had license rights issued by the
25 Department as a real estate broker. POWELL was originally
26 licensed as a real estate broker on February 22, 2010.

1 D. At all times mentioned, ROBERT LEWIS FIRTH
2 ("FIRTH") was licensed and/or had license rights issued by the
3 Department as a real estate broker. FIRTH was originally
4 licensed as a real estate broker on March 8, 2004.

5 E. From November 19, 2010, through the present, ST
6 JAMES has been licensed by the Department as a corporate real
7 estate broker by and through ROSSWORN, as the designated officer
8 and broker responsible, pursuant to Code Section 10159.2 for
9 supervising the activities requiring a real estate license
10 conducted on behalf of ST JAMES, or by ST JAMES's officers,
11 agents and employees.

12 F. From March 25, 2010, through November 19, 2010, ST
13 JAMES was licensed by the Department as a corporate real estate
14 broker by and through POWELL, as the designated officer and
15 broker responsible, pursuant to Code Section 10159.2 for
16 supervising the activities requiring a real estate license
17 conducted on behalf of ST JAMES, or by ST JAMES's officers,
18 agents and employees.

19 G. From October 27, 2008, through March 25, 2010, ST
20 JAMES was licensed by the Department as a corporate real estate
21 broker by and through FIRTH, as the designated officer and broker
22 responsible, pursuant to Code Section 10159.2 for supervising the
23 activities requiring a real estate license conducted on behalf of
24 ST JAMES, or by ST JAMES's officers, agents and employees.

25 BROKERAGE

26 THE ST JAMES REAL ESTATE SERVICES CORPORATION

1 At all times mentioned, in the City of Cathedral City,
2 County of Riverside, ST JAMES, ROSSWORN, POWELL and FIRTH acted
3 as real estate brokers conducting licensed activities within the
4 meaning of Code Sections 10131(a) and 10131(d): selling or
5 offering to sell the real property of another and collecting
6 payment or performing services for borrowers in connection with
7 loan secured by liens on real property.

8 FIRST CAUSE OF ACCUSATION

9 (AUDIT)

10 THE ST JAMES REAL ESTATE SERVICES CORPORATION

11 5.

12 On February 8, 2012, the Department completed an audit
13 examination of the books and records of ST JAMES pertaining to
14 the activities described in Paragraph 4 which require a real
15 estate license. The audit examination covered a period of time
16 from July 1, 2009 to November 30, 2011. The audit examination
17 revealed violations of the Code and the Regulations as set forth
18 in the following paragraphs, and as more fully discussed in Audit
19 Reports SD110023 and SD110032 and the exhibits and workpapers
20 attached to said audit reports.

21 VIOLATIONS OF THE REAL ESTATE LAW

22 6.

23 In the course of activities described in Paragraph 4
24 above and during the examination period described in Paragraph 5,
25 Respondents ST JAMES, ROSSWORN, POWELL and FIRTH acted in
26 violation of the Code and the Regulations in that:
27

1 (a) There was a shortage of \$20,518,00 in trust funds
2 in ST JAMES's bank account as of November 30, 2011. The shortage
3 consisted of negative balances in escrow accounts totaling
4 \$9,901, bank service charges totaling \$3,889, conversion of trust
5 funds totaling \$6,545.57 and an unidentified shortage totaling
6 \$182.43. There was no evidence that ST JAMES had written consent
7 from the owners of the trust funds to reduce the balance of trust
8 funds to an amount less than the aggregate trust fund
9 liabilities, in violation of Code Section 10145 and Regulations
10 2832.1, 2950(d) and 2951.

11 (b) ST JAMES did not maintain control records for the
12 periods of July 2009 to December 2009 and July 2011 to November
13 2011. The columnar record of trust funds received was
14 inaccurate and incomplete. Earnest Money Deposits were not
15 recorded. In some instances the record missed the date when
16 trust funds were received. The record for 2011 was not a
17 chronological sequence, in violation of Code Section 10145 and
18 Regulations 2831, 2950(d) and 2951.

19 (c) The separate records for each beneficiary or
20 transaction were inaccurate and incomplete, in violation of Code
21 Section 10145 and Regulations 2831.1, 2950(d) and 2951.

22 (d) ST JAMES did not maintain a monthly reconciliation
23 of all the separate records to the control record of all trust
24 funds received and disbursed during the audit period, in
25 violation of Code Section 10145 and Regulation 2831.2.

26 (e) The bank account used for trust funds received and
27 disbursed was not designated as a trust account on the bank

1 signature card, in violation of Code Section 10145 and
2 Regulations 2832, 2950(d) and 2951.

3 (f) An unlicensed employee without fidelity bond
4 insurance was a signer on the bank account that was used for
5 trust accounts. POWELL was not a signer on the account between
6 July 21, 2010 and November 19, 2010. ROSSWORN was not a signer
7 on the account between November 19, 2010 and December 21, 2011,
8 in violation of Code Section 10145 and Regulations 2834, 2950(d)
9 and 2951.

10 (g) In all of the escrow files examined, ST JAMES
11 failed to advise all parties in writing of its ownership interest
12 in the escrow division, in violation of Regulation 2950(h).

13 (h) ST JAMES used the fictitious business names "St
14 James Escrow" and "California Short Sale Negotiators" during the
15 audit period without first obtaining licenses from the Department
16 bearing those fictitious business names, in violation of Code
17 Section 10159.5 and Regulation 2731.

18 (i) ST JAMES failed to retain the license certificates
19 of eleven (11) salespersons at its main business address, in
20 violation of Code Section 10160 and Regulation 2753.

21 (j) ST JAMES failed to retain records of some escrow
22 files, in violation of Code Section 10148 and Regulation 2950(e).

23 (k) ROSSWORN, POWELL and FIRTH did not exercise
24 adequate supervision over the activities of ST JAMES to ensure
25 compliance with the Real Estate Law and Regulations, in violation
26 of Code Sections 10159.2, 10177(h) and Regulation 2725.

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1 7.

2 The conduct of Respondents ST JAMES, ROSSWORN, POWELL
3 and FIRTH described in Paragraph 6, above, violated the Code and
4 the Regulations as set forth below:

5	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6		
7	6 (a)	Code Section 10145 and Regulations
8		2832.1, 2950(d) and 2951
9	6 (b)	Code Section 10145 and Regulations
10		2831, 2950(d) and 2951
11	6 (c)	Code Section 10145 and Regulations
12		2831.1, 2950(d) and 2951
13	6 (d)	Code Section 10145 and Regulation
14		2831.2
15	6 (e)	Code Section 10145 and Regulations
16		2832, 2950(d) and 2951
17	6 (f)	Code Section 10145 and Regulations
18		2834, 2950(d) and 2951
19	6 (g)	Regulation 2950(h)
20	6 (h)	Code Section 10159.5 and Regulation
21		2731
22	6 (i)	Code Section 10160 and Regulation
23		2753
24	6 (j)	Code Section 10148 and Regulation
25		2950(e)
26	6 (k)	Code Sections 10159.2, 10177(h) and
27		Regulation 2725

1
2 The foregoing violations constitute cause for the
3 suspension or revocation of the real estate licenses and license
4 rights of ST JAMES, ROSSWORN, POWELL and FIRTH under the
5 provisions of Code Sections 10165, 10177(d) and/or 10177(g) and
6 ROSSWORN, POWELL and FIRTH under the provisions of Code Section
7 10177(h).

8 SECOND CAUSE OF ACCUSATION

9 (COMPENSATION TO UNLICENSED ENTITY)

10 8.

11 "California Short Sale Negotiators" is not now, nor has
12 it ever been, licensed by the Department in any capacity. ST
13 JAMES compensated California Short Sale Negotiators for activity
14 requiring a real estate license as follows:

15

16 Transaction Address	Closing Date	Compensation
17 82137 Sierra Avenue, Indio, CA	7/13/10	\$995
18 69849 Wakefield Road, Cathedral 19 City, CA	7/21/10	\$795
52210 Avenida Cortez, La Quinta, CA	9/16/10	\$1,095

20
21 9.

22 The conduct, acts and/or omissions of Respondent
23 ST JAMES, as alleged in paragraph 9 above, are in violation of
24 Code Sections 10137 and/or 10159.5 and provide cause for the

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1 suspension or revocation of the licenses and license right of ST
2 JAMES pursuant to Code Sections 10137 and 10177(d) and/ or
3 10177(g).

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and license rights of Respondents THE
8 ST JAMES REAL ESTATE SERVICES CORPORATION and WILLIAM ARTHUR
9 ROSSWORN, individually, and as designated office of The St James
10 Real Estate Services Corporation, and STEPHEN MARK POWELL and
11 ROBERT LEWIS FIRTH individually, and as former designated
12 officers of The St James Real Estate Services Corporation, under
13 the Real Estate Law, that Complainant be awarded its costs of
14 investigation and prosecution of this case pursuant to Code
15 Section 10106, and for such other and further relief as may be
16 proper under the provisions of law.

17 Dated at San Diego, California,

18
19 this 21 day of August, 2012

20
21 
22 Veronica Kilpatrick
23 Deputy Real Estate Commissioner

24 cc: THE ST JAMES REAL ESTATE SERVICES CORPORATION
25 WILLIAM ARTHUR ROSSWORN
26 STEPHEN MARK POWELL
27 ROBERT LEWIS FIRTH
Veronica Kilpatrick
Sacto
Audits