

FILED

MAR 20 2013

DEPARTMENT OF REAL ESTATE

BY: Ca

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-38532 LA
)
DENISE DARCEL FRANCIS-WOODS,)
)
Respondent.)
_____)

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 February 11, 2013, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On November 1, 2012, Robin Trujillo made 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, return receipt requested, to DENISE DARCEL FRANCIS-WOODS' ("Respondent") last known mailing address on file with the Department on November 8, 2012. A second attempt at service was made on January 18, 2013, by regular mail.

On February 11, 2013, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

From January 28, 2008 through the present, Respondent has been licensed by the Department of Real Estate ("Department") as a real estate broker, License ID 01821352.

AUDIT

3.

On April 26, 2012, the Department completed an audit examination of the books and records of Respondent pertaining to Respondent's real estate residential resale activities that require a real estate license. The audit examination covered a period of time beginning on February 1, 2009 to January 31, 2012. The audit examination revealed violations of the Business and Professions Code ("Code") and the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations") as set forth in the following paragraphs, and more fully set forth in Audit Report LA 110180 and the exhibits and workpapers attached thereto.

TRUST ACCOUNT

4.

At all times mentioned, in connection with the activities described in Paragraph 3, above, Respondent accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions including buyers, sellers, lenders and borrowers handled by Respondent and thereafter made deposits and or disbursements of such funds in a general business checking account. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by Respondent in the bank account as follows:

"Denise Francis-Woods dba Century 21 The Firm (business checking account) 20000XXXXXX" Wells Fargo Bank, Portland, Oregon.

VIOLATIONS OF THE REAL ESTATE LAW

5.

In the course of activities described in Paragraphs 3 and 4, above, and during the examination period described in

Paragraph 3, Respondent acted in violation of the Code and the Regulations in that she:

(a) Failed to maintain any trust account during the audit period. Respondent received an earnest money deposit ("EMD") of \$5,000 from a prospective purchaser of real property located at 1471-1477 West Vernon Avenue, Los Angeles, California 90062 ("subject property"). Respondent failed to deposit said funds into escrow or any trust account. The EMD was deposited into Respondent's general business checking account. Respondent failed to return the EMD when the purchase of the subject property fell through, in violation of Code Section 10145.

(b) Collected a \$5,000 EMD in connection with the purchase of the subject property which was deposited into Respondent's general business account and used for Respondent's general expenses. The balance of Respondent's general business account was reduced to an amount that was less than the amount of trust funds deposited, thus, conversion of trust funds, in violation of Code Sections 10145 and 10176(e).

(c) Collected a \$5,000 EMD in connection with the purchase of the subject property which was deposited into Respondent's general business account and thus commingled with Respondent's funds, in violation of Code Section 10176(e) and Regulation 2835.

(d) Failed to maintain a record of trust funds received and disbursed for the \$5,000 EMD, in violation of Code Section 10145 and Regulation 2831.

(e) Failed to maintain a written monthly reconciliation of the receipts and disbursements record and the total balance of separate beneficiary records for bank account used to handle EMD, in violation of Code Section 10145 and Regulation 2831.2.

(f) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds collected, in violation of Code Section 10145 and Regulation 2831.1.

(g) Respondent's agents made misrepresentations in offers to purchase real property on behalf of prospective purchasers that the agents were in possession of EMDs, when in fact they were not, in violation of Code Section 10176(a).

(h) Failed to retain in her main business office the original licenses of the following salespeople under her employ: Luis Daniel Chavez, Tarius Laceila Jennings, and Salvador Ruiz, in violation of Code Section 10160 and Regulation 2753.

(i) Failed to have written broker-salesperson relationship agreements for two of the three salespersons under her employment, in violation of Regulation 2726.

DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondent, as described in Paragraph 5, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
5(a)	Code Section <u>10145</u>
5(b)	Code Sections 10145 and <u>10176(e)</u>
5(c)	Code Section 10176(e) and Regulation <u>2835</u>
5(d)	Code Section 10145 and Regulation <u>2831</u>
5(e)	Code Section 10145 and Regulation <u>2831.2</u>
5(f)	Code Section 10145 and Regulation <u>2831.1</u>
5(g)	Code Section <u>10176(a)</u>
5(h)	Code Section <u>10160</u> and Regulation <u>2753</u>
5(i)	Regulation <u>2726</u>

2.

The foregoing violations constitute cause for the revocation of the real estate license and license rights of Respondent DENISE DARCEL FRANCIS-WOODS under the provisions of Code Sections 10177(d) for violation of the Real Estate Law, 10176(a) for making substantial misrepresentations, 10176(e) for commingling property of others with her own funds, and 10177(g) for negligence.

3.

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

ORDER

The license and license rights of Respondent DENISE DARCEL FRANCIS-WOODS 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 April 9, 2013.

DATED: 3/12/2013

REAL ESTATE COMMISSIONER



A handwritten signature in black ink, appearing to read 'Wayne S. Bell', is written over a horizontal line. The signature is stylized and cursive.

WAYNE S. BELL

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

FILED

FEB 11 2013

DEPARTMENT OF REAL ESTATE
BY: CR

4
5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12 DENISE DARCEL FRANCIS-WOODS,) NO. H-38532 LA
13 Respondent.) DEFAULT ORDER
14)

15 Respondent, DENISE DARCEL FRANCIS-WOODS, having
16 failed to file a Notice of Defense within the time required by
17 Section 11506 of the Government Code, is now in default. It is,
18 therefore, ordered that a default be entered on the record in
19 this matter.

20 IT IS SO ORDERED

February 11, 2013

21
22 Real Estate Commissioner

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