

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

FILED

MAR 09 2016

BUREAU OF REAL ESTATE

By 

In the Matter of the Accusation of)
)
REDLANDS REALTY INC.;)
JEFFREY THOMAS NOVAK; and)
RAMONA KAY NOVAK,)
)
)
Respondents.)
_____)

No. H-39365 LA

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 Orders of Default filed against Respondent RAMONA KAY NOVAK on September 30, 2015, and against Respondent REDLANDS REALTY INC. on October 1, 2015, 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.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

FINDINGS OF FACT

I

On March 11, 2014, Robin Trujillo made the Accusation in her official capacity as a Supervising Special Investigator. The Accusation, Statements to Respondent, and Notices of Defense were mailed, by certified mail, to Respondents' last known mailing addresses on file with the Bureau on March 12, 2014. An additional copy was mailed to Respondent RAMONA KAY NOVAK by regular mail on April 10, 2014.

Both Respondents failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent RAMONA KAY NOVAK's default was entered herein on September 30, 2015. Respondent REDLANDS REALTY INC.'s default was entered herein on October 1, 2015.

II

Respondent REDLANDS REALTY INC. is presently licensed and/or has license rights under the Real Estate Law as a real estate corporation. The license of Respondent REDLANDS REALTY INC. expired on October 22, 2014. Pursuant to Code Section 10201 Respondent retains renewal rights. Pursuant to Section 10103 of the Code the Bureau retains jurisdiction.

Respondent RAMONA KAY NOVAK is presently licensed and/or has license rights under the Real Estate Law as a real estate salesperson. The license of Respondent RAMONA KAY NOVAK expired on November 9, 2015. Pursuant to Code Section 10201 Respondent retains renewal rights. Pursuant to Section 10103 of the Code the Bureau retains jurisdiction.

Respondent RAMONA KAY NOVAK was employed by Respondent REDLANDS REALTY INC. from July 24, 2004 until January 1, 2013. Respondent is non broker affiliated as of January 2, 2013.

At all times mentioned herein, Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK engaged in the business of a mortgage loan, refinance and short sale brokerage requiring a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2.

III

At all times mentioned, in the City of Redland, County of Riverside, Respondent REDLANDS REALTY INC. acted as real estate broker and conducted licensed activities within the meaning of Code Section 10131(d). Respondent engaged in a mortgage and loan and short sale brokerage including conducting activities with the public wherein institutional lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, and wherein such loans were arranged, negotiated, processed, consummated, packaged and serviced on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

Audit

On July 31, 2012, the Bureau completed an audit examination of the books and records of Respondent REDLANDS REALTY INC. pertaining to the mortgage loan brokerage activities described, above, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2011 and

ending on May 31, 2012. The audit examination revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations ("Regulations") set forth in the following paragraphs, and more fully set forth in Audit Report LA110203 and the exhibits and work papers attached thereto.

At all times mentioned, in connection with the activities described, above, Respondent REDLANDS REALTY INC. accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to real estate transactions. Thereafter said Respondent made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by Respondent REDLANDS REALTY INC. in the bank accounts herein set forth into which trust funds were deposited.

Redlands Realty Inc.'s Bank Account (BA1)

Bank: Bank of America
Redlands, CA
Account Name: Redlands Mortgage Bank Account
Account Number: *****06796

Redlands Realty Inc.'s Bank Account (BA2)

Bank: JP Morgan Chase Bank
San Antonio, TX
Account Name: Redlands Realty Inc. dba Redlands Mortgage
Account Number: *****47093

In the course of activities described above, and during the examination period, Respondent REDLANDS REALTY INC. acted in violation of the Code and the Regulations as follows:

A. On November 30, 2011, borrower David K. purchased a property located at 907 Walnut Avenue, Redlands, California (the subject property). The Lender was "Mountain West Financial Inc. for loan number 1011027370. The escrow was performed by "Lois Lauer Escrow" under Lois Lauer Inc. Escrow closed on November 30, 2011.

Respondent REDLANDS REALTY INC.'s loan agent was Respondent RAMONA KAY NOVAK for David K. On David K.'s behalf Respondent RAMONA KAY NOVAK negotiated the purchase loan for the subject property. On October 28, 2011, borrower David K. made a down payment in the amount of \$124,200 made payable to "Redlands Mortgage" as a purchase money deposit to purchase the subject property.

On or about November 29, 2011, Respondent RAMONA KAY NOVAK telephoned the borrower and requested another \$124,200 from David K. in order to

close the escrow advising him that the original \$124,200 David K. has just paid was "stuck in title." Respondent RAMONA KAY NOVAK told David K. that without this second \$124,200, the subject property purchase would not close on time and the lender might back out of its funding commitment. October 28, 2011, borrower David K. issued a second down payment check to "Redlands Mortgage" in the amount of \$124,200, in order to close escrow. Pursuant to Respondent REDLANDS REALTY INC.'s "Disbursement of Closing Funds" dated November 29, 2011 said Respondent was supposed to refund borrower David. K. \$124,200 within seven days of receipt of funds from the closing agent "Ticor Title."

On December 23, 2011, Respondent REDLANDS REALTY INC. issued check no. 1717, for the refund of \$124,200 from Respondent REDLANDS REALTY INC.'s bank BA2, to borrower. However, David K. was informed by Respondent REDLANDS REALTY INC.'s bank that the balance was insufficient to cover the refund check.

David K. was also informed that BA2 was closed on January 19, 2012, due to "Fraud." David K. was informed by Respondent RAMONA KAY NOVAK that the second down payment was deposited into another trust account.

On January 12, 2012, as a result of this situation, Respondent REDLANDS REALTY INC. and David K. entered into a "Confidential Hold Harmless Agreement and Mutual Release," wherein Respondent REDLANDS REALTY INC. agreed to pay David. K. \$124,200 on January 30, 2012. As of February 27, 2012, David K. had not received the \$124,200 from Respondent REDLANDS REALTY INC.

Respondent RAMONA KAY NOVAK informed David K. that Respondent REDLANDS REALTY INC. withdrew David K.'s \$124,200 deposit from BA1 on December 16, 2011 and deposited it into BA2 on December 19, 2011. This withdrawal from BA1 and re-deposit into BA2 reduced the balance in BA1 to an amount that was less than the amount of trust funds deposited into BA1 during the period from November 7, 2011 to December 13, 2011. On March 7, 2012, RRI restored David K.'s deposit of \$124,200 to Lois Lauer Inc. the escrow agent which cleared the bank on March 15, 2012.

The foregoing conduct, acts and omissions of Respondent REDLANDS REALTY INC. constitute violations of Code Sections 10145, 10145(a)(1) and 10176(i) and Sections 2831 and 2832(e) of the Regulations. As to Respondent RAMONA KAY NOVAK the foregoing conduct, acts and omissions constitute a violation of Code Section 10176(i).

B. Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK failed to properly disburse borrower David K.'s down payment of \$124,200 in accordance with his instructions in violation of Code Section 10145(a)(1).

C. Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK converted David K.'s \$124,000 down payment that was deposited into BA1, withdrawn, and re-deposited into BA2, in violation of Code Section 10145 and 10176(i).

Borrower David K.'s down payment of \$124,200 for the purchase of 907 Walnut Avenue, in Redlands, California was deposited into REDLAND REALTY INC.'s bank account BA1 on October 28, 2011. Thereafter, operating expenses and payrolls were disbursed from BA1 during the audit period from October 2011 to December 2011. The balance in BA1 was then reduced to an amount that was less than the amount of trust fund balance of \$124,200 in BA1 during the period from November 2011 to December 2011, constituting conversion in violation of Code Section 10176(i).

There was no evidence that borrower-beneficiary David K., who was the owner of the trust funds, had given Respondents written consent to allow Respondent REDLANDS REALTY INC. to reduce the balance of funds in BA1 to an amount less than the existing aggregate trust fund liability.

D. Respondent REDLANDS REALTY INC. commingled borrower David K.'s second down payment with Respondent REDLANDS REALTY INC.'s general funds in violation of Code Section 10176(e) and Regulation 2832(e) by impermissibly mixing his down payment with Respondent REDLANDS REALTY INC.'s funds in BA until the \$124,200 down payment was withdrawn from BA1 on October 28, 2011 and subsequently deposited into REDLANDS REALTY INC.'s bank account BA2.

E. Respondent REDLANDS REALTY INC. failed to maintain a control record in the form of a columnar record in chronological order for all trusts funds received, deposited and disbursed for BA1 and BA2 in violation of Code Section 10145(a)(1). Specifically, Respondent REDLANDS REALTY INC. did not maintain a columnar record for David K.'s \$124,200 down payment trust funds handled by Respondent REDLANDS REALTY INC.'s bank accounts BA1 and BA2.

F. Respondent REDLANDS REALTY INC. failed to provide and/or maintain an accurate, complete and approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241(c) before borrower Shannon C. became obligated to perform under the terms of her respective loan, as required by and in violation of Code Section 10240 and Sections 2840 and 2840.1 of the Regulations.

G. Respondent REDLANDS REALTY INC. failed to provide accurate and complete salesperson license certificates for salespersons Mary Beyerle, Anthony Duhu, Michelle Hartnett, Respondent RAMONA KAY NOVAK, and Raymond Zuscar, in violation of Code Section 10161.8.

H. Respondent REDLANDS REALTY failed to retain all records of its activity during the audit period requiring a real estate broker license, in violation of Code

Section 10148. Respondent REDLANDS REALTY INC.'s bank statements for BA2 and bank records for BA1 and BA2 for David K' mortgage loan transaction were not provided.

Violations

The facts set forth in Paragraph III, A., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS REALTY INC. as violations of Code Sections 10145, 10145(a)(1) and 10176(i) and Regulations Sections 2831 and 2832(e) of the Regulations. Those same facts constitute cause for the suspension or revocation of all licenses and license rights of Respondent RAMONA KAY NOVAK as a violation of Code Section 10176(i).

The facts set forth in Paragraph III, B., above constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS REALTY INC. in that it failed to properly disburse borrower David K.'s down payment of \$124,200 in accordance with David K.'s instructions, in violation of Code Section 10145(a)(1).

The facts set forth in Paragraph III, C., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK in that the deposit of David K.'s \$124,000 into BA1 where it was then withdrawn and re-deposited into BA2 constitutes conversion in violation of Code Section 10176(i).

The facts set forth in Paragraph III, D., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS REALTY INC. in that it commingled its general funds with David K.'s second down payment in violation of Code Section 10176(e) and Section 2832(e) of the Regulations.

The facts set forth in Paragraph III, E., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS REALTY INC. in that it failed to maintain a control record in violation of Code Section 10145(a)(1).

The facts set forth in Paragraph III, F., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS REALTY INC. in that failed to maintain Mortgage Loan Disclosure Statements containing the information required by Code Section 10241(c) in violation of Code Section 10240 and Sections 2840 and 2840.1 of the Regulations.

The facts set forth in Paragraph III, G., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent in that Respondent REDLANDS REALTY INC. failed to properly maintain license certificates for salespersons in violation of Code Section 10161.8.

The facts set forth in Paragraph III, H., above, constitute cause for the suspension or revocation of all licenses and license rights of Respondent REDLANDS

REALTY INC. in that it failed to maintain all of its records as required by and in violation of Code Section 10148.

The foregoing violations constitute cause for discipline of the of the real estate licenses and license rights of Respondent REDLANDS REALTY INC. pursuant to the provisions of Code Sections 10176(e), 10176(i) and 10177(d).

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondent RAMONA KAY NOVAK pursuant to the provisions of Code Sections 10176(i) and 10177(d).

IV

Lisa T.

On or about September 2011, broker Jeffrey Novak, the designated officer of Respondent REDLANDS REALTY INC., obtained a short-sale listing on property located at 35566 Stockton Street in Beaumont, California which was owned by Lisa T.'s brother Von A. Muse. Lisa T. claims that Respondent RAMONA KAY NOVAK convinced her that she could help Lisa T. and her husband to obtain the property in a short-sale transaction.

On or about August 29, 2011, Lisa T. gave Respondent RAMONA KAY NOVAK a cashier's check for \$50,000 payable to Respondent REDLANDS REALTY INC. On or about March 2012, Respondent RAMONA KAY NOVAK suggested that Lisa T. made a cash offer of \$180,000. On March 12, 2012, Lisa T. gave Respondent RAMONA KAY NOVAK another cashier's check for \$130,000 payable to Respondent REDLANDS REALTY INC.

On or about June 14, 2012, Lisa T. and her husband demanded a full refund of their \$180,000. On 6/14/2012, Respondent RAMONA KAY NOVAK gave Lisa T. two checks in the amounts of \$50,000 and \$130,000. Both checks were returned Non Sufficient Funds. To date, Lisa T. has not received any refund.

Carla C.

On or about December 2010, Carla C. met with Respondent RAMONA KAY NOVAK for the purpose of refinancing the mortgage on her residence located at 606 Cypress Circle, Redlands, California. Respondent RAMONA KAY NOVAK informed Carla C. that her mortgage loan exceeded the equity. Respondent RAMONA KAY NOVAK advised Carla C. that in order to obtain a refinance of her residence she would need to give her a check for \$110,270.35. On December 4, 2010, Carla C. wrote a check for \$110,270.35 payable to Respondent REDLANDS MORTGAGE INC.; cashed by Respondent REDLANDS MORTGAGE INC. on December 6, 2010. During June 2011, Carla C. executed a second set of loan documents. During December 2012, Respondent RAMONA KAY NOVAK falsely informed Carla C. that she had the loan

documents regarding the refinance. To-date, Carla C. has not obtained a refinance and Respondent RAMONA KAY NOVAK has not returned her money. In the interim, Carla C.'s residence was foreclosed.

The facts set forth in Paragraph IV, above, constitute cause under Code Sections 10176(a) and 10176(i) for the suspension or revocation of all licenses and license rights of Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK under the Real Estate Law.

DETERMINATION OF ISSUES

I

The evidence established that Respondent REDLANDS REALTY INC. violated Code Sections 10145, 10145(a)(1), 10161.8, 10176(e) and 10176(i) and Sections 2831, 2832(e), 2840 and 2840.1 of the Regulations which justifies the suspension or revocation of the licenses and license rights of said Respondent pursuant to the provisions of Code Section 10177(d).

The evidence established that Respondent RAMONA KAY NOVAK violated Code Sections 10176(a) and 10176(i) which justifies the suspension or revocation of the licenses and license rights of said Respondent .

II

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


ORDER

The licenses and license rights of Respondents REDLANDS REALTY INC. and RAMONA KAY NOVAK 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 MAR 29 2016

DATED: MARCH 1, 2016

Real Estate Commissioner


By: JEFFREY MASON
Chief Deputy Commissioner

1 Bureau of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013
4 (213) 576-6982

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BUREAU OF REAL ESTATE

By 

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 ***

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11 In the Matter of the Accusation of) NO. *H-39365 LA*
12 REDLANDS REALTY INC ,) DEFAULT ORDER
13 Respondent.)
14 _____)

15 Respondent REDLANDS REALTY INC , having failed to file a Notice of
16 Defense within the time required by Section 11506 of the Government Code, is now in
17 default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED *October 1, 2015.*

19 REAL ESTATE COMMISSIONER

20
21
22 By: 

23 PHILLIP IHDE
24 Regional Manager
25
26
27

1 Bureau of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013
4 (213) 576-6982

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BUREAU OF REAL ESTATE

By: 

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA


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11 In the Matter of the Accusation of) NO. *H-39365 LA*
12)
13 RAMONA KAY NOVAK,) DEFAULT ORDER
14) Respondent.)

15 Respondent RAMONA KAY NOVAK, having failed to file a Notice of
16 Defense within the time required by Section 11506 of the Government Code, is now in
17 default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED SEPTEMBER 29, 2015.

19 REAL ESTATE COMMISSIONER

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22 By: 
23 PHILLIP HYDE
24 Regional Manager
25
26
27