

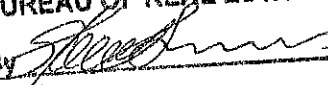
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FILED

MAY 24 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-40263 LA

STATEWIDE PROPERTY
SERVICES, INC.; and DAVID
RUSSELL DANIEL, individually and
as Designated Officer of Statewide
Property Services, Inc.,

Respondents.

ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity for cause of Accusation against STATEWIDE PROPERTY SERVICES, INC., and DAVID RUSSELL DANIEL, individually and as Designated Officer of Statewide Property Services, Inc. ("Respondents"), is informed and alleges as follows:

1.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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2.

Respondent STATEWIDE PROPERTY SERVICES, INC. ("SPSI") is presently licensed or has license rights under the Real Estate Law as a corporate real estate broker. Respondent was originally licensed as a corporate real estate broker by the Bureau of Real Estate ("Bureau") on or about April 24, 1997. Since that date and continuing to the present, Respondent DAVID RUSSELL DANIEL has been the Designated Officer of Respondent SPSI. Respondent SPSI's corporate real estate broker license is due to expire on November 4, 2017.

3.

Respondent DAVID RUSSELL DANIEL ("DANIEL") is presently licensed or has license rights under the Real Estate Law as a real estate broker. DANIEL was originally licensed by the Bureau as a real estate salesperson on March 8, 1988, and as a real estate broker on January 24, 1994. Respondent's real estate broker license is due to expire on January 23, 2018. Respondent owns 100% of SPSI.

4.

At all times herein relevant, in the City of Moreno Valley, County of Riverside, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Code Section 10131(b). Their activities included soliciting listings of places for rent, soliciting for prospective tenants, and/or management of residential rental real property for and on behalf of others for compensation.

5.

On November 18, 2015, the Bureau completed a follow-up audit examination to H-37644 LA, which was based on Audit Report SD 090076, of the books and records of Respondents pertaining to the property management activities described in Paragraph 4, above. The audit examination covered a period of time beginning on February 19, 2013, and ending July 31, 2015. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report SD 150008 and the exhibits and work papers

1 attached to that audit report.

2 6.

3 At all times herein relevant, in connection with the activities described in
4 Paragraph 4, above, Respondents accepted or received funds, and funds in trust (hereinafter
5 "trust funds") including, but not limited to, rental security deposits and rents. Thereafter,
6 Respondents made deposits and or disbursements of such trust funds. From time to time herein
7 mentioned during the audit period, said trust funds were deposited and/or maintained by
8 Respondents in the following trust account:

9
10 Statewide Property Services, Inc.
11 DBA: iehouses.com Property Management
12 Trust Account
13 Account No. XXXXXX33 (Redacted for security)
14 Pacific Western Bank
15 Claremont, California

16 (T/A 1 - Trust account for receipt and disbursal or rents and security deposits)

17 7.

18 With respect to the licensed activities referred to in Paragraph 4, and the audit
19 examination including the exhibits and work papers referenced in Paragraph 5, it is alleged that
20 Respondents:

21 (a) Permitted, allowed or caused the disbursement of trust funds from bank
22 account T/A 1 to an amount which, as of July 31, 2013, was \$55,351.16 less than the existing
23 aggregate trust fund liability to the owners of said funds and, as of July 31, 2015, was \$52,611.93
24 less than the existing aggregate trust fund liability to the owners of said funds without first
25 obtaining the prior written consent of the owners of said funds in violation of Code Section
26 10145 and Regulation 2832.1;

27 (b) Failed to maintain an accurate control record of the receipt and
disbursement of trust funds handled through T/A 1 in violation of Code Section 10145 and

1 Regulation 2831;

2 (c) Failed to maintain an accurate separate record for each beneficiary of trust
3 funds collected, in violation of Code Section 10145 and Regulation 2831.1;

4 (d) Failed to perform a monthly reconciliation of the separate record to the
5 control record in violation of Code Section 10145 and Regulation 2831.2;

6 (e) Failed to notify the Bureau of a salesperson branch manager agreement in
7 violation of Code Section 10164;

8 (f) Engaged in earnings credit relationship to offset bank service charges to
9 T/A 1 in violation of Code Section 10176(g) and Regulation 2830;

10 (g) Used the fictitious business name "Statewide Property Management" to
11 conduct licensed activities including a property management company without obtaining a
12 license from the Bureau to conduct real estate activities under that fictitious business name in
13 violation of Code Section 10159.5 and Regulation 2731; and

14 (h) As to DANIEL, failed to exercise adequate supervision over the activities
15 of the property management company to ensure compliance with the Real Estate Law in
16 violation of Code Sections 10159.2, 10177(h), and Regulation 2725.

17 8.

18 The conduct of Respondents described in Paragraph 7, above, violated the Code
19 and the Regulations as set forth below:

20 PARAGRAPH

PROVISIONS VIOLATED

21 7(a)

Code Section 10145 and
22 Regulation 2832.1

23
24 7(b)

Code Section 10145 and
25 Regulation 2831
26

1 7(c) Code Section 10145 and
2 Regulation 2831.1
3

4 7(d) Code Section 10145 and
5 Regulation 2831.2
6

7 7(e) Code Section 10164
8

9 7(f) Code Section 10176(g) and
10 Regulation 2830
11

12 7(g) Code Section 10159.5 and
13 Regulation 2731
14

15 7(h) (As to DANIEL) Code Sections 10159.2 and 10177(h) and
16 Regulation 2725
17

18 Each of the foregoing violations constitute cause for the suspension or revocation
19 of the real estate license and license rights of Respondents under the provisions of Code Sections
20 10176(g), 10177(d), and/or 10177(g), and as to DANIEL, 10177(h).

21 PRIOR BUREAU ACTION

22 9.

23 On March 27, 2010, in Case No. H-36563 LA, an Accusation was filed against
24 Respondents that resulted in discipline by thirty (30) days' suspension stayed for one (1) year on
25 terms and conditions of DANIEL's real estate broker license, and public reproof of SPSP's
26 corporate real estate broker license for violations of Code Section 10177(g).
27

10.

On November 3, 2011, in Case No. H-37644 LA, an Accusation was filed against Respondents that resulted in discipline against each Respondent by ninety (90) days' suspension with sixty (60) days stayed on terms and conditions for two years and the initial thirty (30) days stayed by payment of a \$1500.00 fine for violations of Code Sections 10145, 10148, and 10177(d).

11.

Code Section 10148(b) provides, in pertinent part, that the Real Estate Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has found in a final decision, following a disciplinary hearing, that the broker has violated Code Section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

12.

California Business and Professions Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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 investigation and enforcement of the case.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the license and license rights of Respondents STATEWIDE PROPERTY
4 SERVICES, INC., and DAVID RUSSELL DANIEL, individually and as Designated Officer of
5 Statewide Property Services, Inc., under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code), for the costs of investigation and enforcement as provided by
7 law, for costs of the audit, and for such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at San Diego, California: May 20, 2016.

11
12 V. Kilpatrick
13 Veronica Kilpatrick
14 Supervising Special Investigator

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24 cc: Statewide Property Management Services, Inc.
25 David Russell Daniel
26 Maria Suarez
27 Sacto
Audits – Zaky Wanis