


FILED

OCT 22 2019

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:)	DRE No. H-41471 LA
)	
WESTERN SANDS MANAGEMENT, INC.,)	
and JEFF BURGESS, individually and as)	
designated officer of Western Sands)	
Management, Inc.,)	
Respondents.)	

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 October 1, 2019, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondents, WESTERN SANDS MANAGEMENT, INC. and JEFF A BURGESS, individually and as designated officer of Western Sands Management, Inc. ("Respondents"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code ("Code") and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("Regulations").

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondents.

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FINDINGS OF FACT

1.

On August 9, 2019, Veronica Kilpatrick made the Accusation in official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondents, and Notices of Defense were mailed, by certified mail, return receipt requested, to Respondents' last known mailing address on file with the Department on August 20, 2019.

2.

On October 1, 2019, no Notices of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' defaults were entered herein.

LICENSE HISTORY

3.

Respondent WESTERN SANDS MANAGEMENT, INC. ("WESTERN SANDS") presently has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a corporate real estate broker. On August 5, 2019, WESTERN SANDS' license expired. Pursuant to Code section 10201, WESTERN SANDS retains renewal rights for two years. The Department of Real Estate ("Department") holds jurisdiction over the lapsed license, pursuant to Code section 10103.

4.

Respondent JEFF A BURGESS ("BURGESS") presently has license rights as a real estate broker.

5.

Respondent WESTERN SANDS was licensed by the Department as a corporate real estate broker by and through Respondent BURGESS, as the designated officer and broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a real estate license conducted on behalf of WESTERN SANDS, or by WESTERN SANDS' officers, agents and employees.

BROKERAGE WESTERN SANDS MANAGEMENT, INC.

6.

At all times mentioned, in the City of Yucca Valley, County of San Bernardino, Respondent WESTERN SANDS acted as a real estate broker, conducting licensed activities within the meaning of Code section 10131(b) (leases or rents real property for others).

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4.

To date, the Department has incurred investigation costs totaling \$6,621.90.

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on August 20, 2019, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

Respondent WESTERN SANDS acted in violation of the Code and the Regulations in that a subpoena was served to WESTERN SANDS for the production of books and records related to the property management activities conducted by WESTERN SANDS. WESTERN SANDS failed to retain and make available for examination, copying, and inspection the books, accounts, and records related to WESTERN SANDS' property management activities, in violation of Code section 10148, which constitutes cause for the suspension or revocation of all the real estate licenses, license endorsements, and license rights of WESTERN SANDS pursuant to Code sections 10177(d) and 10177(g).

2.

The conduct, acts, or omissions of Respondent BURGESS, as described in Paragraph 7 of the Accusation, in failing to ensure compliance of the Real Estate Law by Respondent WESTERN SANDS, is in violation of Code section 10159.2 and Regulations section 2725, and subjects all the real estate licenses, license endorsements, and license rights of BURGESS to suspension or revocation pursuant to Code sections 10177(d), 10177(g), and/or 10177(h).

3.

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

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ORDER

All licenses and licensing rights of Respondents WESTERN SANDS MANAGEMENT, INC. and JEFF A BURGESS, individually and as designated officer of Western Sands Management, Inc., 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 on November 5, 2019.

DATED: October 16, 2019.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER



1 Department of Real Estate
320 West Fourth St, Ste 350
2 Los Angeles, CA, 90013

FILED

OCT 01 2019

DEPT. OF REAL ESTATE

By *P. Astell*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. *H-41471 LA*
12 WESTERN SANDS MANAGEMENT, INC. ,) DEFAULT ORDER
13 Respondent.)

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

OCT 01 2019

19 IT IS SO ORDERED _____

20 DANIEL J. SANDRI
21 ACTING REAL ESTATE COMMISSIONER

22
23 By: *[Signature]*
24 JEFFREY OBOYSKI
Assistant Commissioner, Enforcement

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27

1 Department of Real Estate
2 320 West Fourth St, Ste 350
3 Los Angeles, CA, 90013

* **FILED**
OCT 01 2019
DEPT. OF REAL ESTATE
By R. P. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. H-41471 LA
12)
13 JEFF A BURGESS,) DEFAULT ORDER
14) Respondent.)

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

18 IT IS SO ORDERED OCT 01 2019

19 DANIEL J. SANDRI
20 ACTING REAL ESTATE COMMISSIONER

21
22 By: [Signature]
23 JEFFREY OBOYSKI
24 Assistant Commissioner, Enforcement
25
26
27