

1 Bureau of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED

NOV 24 2015

BUREAU OF REAL ESTATE
By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation

BEACH COMMUNITY ESCROW INC.,)	No. H-39465 LA
doing business as Beach Community)	No. H-39533 LA
Escrow; and KENNETH WAYNE)	
SHISHIDO, individually, and as design-)	
nated officer of Beach Community)	<u>STIPULATION & AGREEMENT</u>
Escrow Inc.,)	
)	
Respondents.)	
_____)	

It is hereby stipulated by and between Respondent BEACH COMMUNITY ESCROW INC. ("BEACH COMMUNITY"), Respondent KENNETH WAYNE SHISHIDO ("SHISHIDO") (sometimes referred to as "Respondents") and Respondents' attorney, Mary Work, and the Complainant, acting by and through Cheryl Keily, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on May 21, 2014, in this matter.

1. All issues which were to be contested and all evidence which was to be

1 presented by Complainant and Respondents at a formal hearing on the Accusation, which
2 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
3 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.
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6 2. Respondents have received, read and understand the Statement to Respondent,
7 the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real Estate
8 (“Bureau”) in this proceeding.

9 3. On June 3, 2014, Respondents filed a Notice of Defense, pursuant to Section
10 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
12 Respondents acknowledge that they understand that by withdrawing said Notice of Defense
13 they will thereby waive their right to require the Commissioner of Real Estate
14 (“Commissioner”) to prove the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that they will waive other rights afforded to
16 them in connection with the hearing, such as the right to present evidence in defense of the
17 allegations in the Accusation and the right to cross-examine witnesses.
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20 4. This Stipulation is based on the factual allegations contained in the
21 Accusation. In the interest of expedience and economy, Respondents choose not to contest
22 these allegations, but to remain silent and understand that, as a result thereof, these factual
23 allegations, without being admitted or denied, will serve as a prima facie basis for the
24 disciplinary action stipulated to herein. The Commissioner shall not be required to provide
25 further evidence to prove said factual allegations.
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1 5. This Stipulation is made for the purpose of reaching an agreed disposition of
2 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
3 which the Bureau, the state or federal government, or any agency of this state, another state or
4 federal government is involved, and otherwise shall not be admissible in any other criminal or
5 civil proceedings.
6

7 6. It is understood by the parties that the Commissioner may adopt the
8 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
9 sanctions on Respondents' real estate licenses and license rights as set forth in the below
10 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation
11 and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a
12 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be
13 bound by any admission or waiver made herein.
14

15 7. The Order or any subsequent Order of the Commissioner made pursuant to
16 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
17 further administrative or civil proceedings by the Bureau with respect to any matters which
18 were not specifically alleged to be causes for accusation in this proceeding.
19

20 8. Respondents acknowledge receipt of service of the Commissioner's Desist and
21 Refrain Order, No. H-39533 LA, filed on July 14, 2014, ("Desist and Refrain Order").
22 Respondents agree that the Desist and Refrain Order may be used by the Bureau in any
23 future administrative proceeding in which Respondents' compliance with the provisions of the
24 Real Estate Law and the Commissioner's Regulations prohibiting the performance of third party
25 escrows where Respondents are not performing those acts in the course of or incidental to a real
26 estate transaction in which Respondents is an agent or a party to a transaction.
27

1 2. Said payment shall be in the form of a cashier's check or certified check
2 made payable to the Recovery Account of the Real Estate Fund. Said check must be received
3 by the Bureau prior to the effective date of the Decision in this matter.

4 3. No further cause for disciplinary action against the real estate license of
5 Respondents occurs within two (2) years from the effective date of the Decision in this matter.

6 4. If either Respondent fails to pay the monetary penalty in accordance with the
7 terms of the Decision, the Commissioner may, without a hearing, order the immediate
8 execution of all or any part of the stayed suspension, in which event the Respondent shall not
9 be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau
10 under the terms of this Decision.

11 5. If Respondents pay the monetary penalty and if no further cause for
12 disciplinary action against the real estate license of Respondents occurs within two (2) years
13 from the effective date of the Decision, the stay hereby granted shall become permanent.

14 B. The remaining sixty (60) days of the ninety (90) day suspension shall be
15 stayed for two (2) years upon the following terms and conditions:

16 1. Respondents shall obey all laws, rules and regulations governing the rights,
17 duties and responsibilities of a real estate licensee in the State of California; and

18 2. That no final subsequent determination be made after hearing or upon
19 stipulation that cause for disciplinary action occurred within two (2) years from the effective
20 date of this Decision. Should such a determination be made, the Commissioner may, in his
21 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
22 suspension. Should no such determination be made, the stay imposed herein shall become
23 permanent.
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1 II. Pursuant to Section 10148 of the Business and Professions Code,

2 Respondents BEACH COMMUNITY and SHISHIDO shall pay the Commissioner's reasonable
3 cost for (a) the audit which led to this disciplinary action (b) a subsequent audit to determine if
4 Respondent BEACH COMMUNITY is now in compliance with the Real Estate Law.

5 Respondents BEACH COMMUNITY and SHISHIDO shall be jointly and severally liable for
6 the cost of the audit. The cost of the audit which led to this disciplinary action is \$10,536.40.

7 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
8 the estimated average hourly salary for all persons performing audits of real estate brokers, and
9 shall include an allocation for travel time to and from the auditor's place of work. Said amount
10 for the prior and subsequent audits shall not exceed \$21,072.80.

11 A. Respondents BEACH COMMUNITY and SHISHIDO shall pay such cost

12 within 60 days of receiving an invoice from the Commissioner detailing the activities
13 performed during the audit and the amount of time spent performing those activities.

14 B. The Commissioner may suspend the license of Respondents pending a

15 hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is
16 not timely made as provided for herein, or as provided for in a subsequent agreement between
17 the Respondents and the Commissioner. The suspension shall remain in effect until payment is
18 made in full or until Respondents enter into an agreement satisfactory to the Commissioner to
19 provide for payment, or until a decision providing otherwise is adopted following a hearing
20 held pursuant to this condition.

21 III. Respondents shall pay the Commissioner's reasonable costs for investigation

22 and enforcement of the matter. Respondents shall be jointly and severally liable for the costs
23 for investigation and enforcement. The investigation and enforcement costs which led to this
24

1 disciplinary action total \$3,500. Said payment shall be made within ninety (90) days from the
2 effective date of this Decision.

3 A. The Commissioner shall suspend the license of Respondents pending a
4 hearing held in accordance with California Government Code Section 11500, et seq., if
5 payment is not timely made as provided for herein. The suspension shall remain in effect until
6 payment is made in full, or until a decision providing otherwise is adopted following a hearing
7 held pursuant to this condition.
8

9 IV. All licenses and licensing rights of Respondent SHISHIDO are indefinitely
10 suspended unless or until Respondent SHISHIDO provides proof satisfactory to the
11 Commissioner, of having taken and successfully completed the continuing education course on
12 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
13 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement
14 includes evidence that respondent has successfully completed the trust fund account and
15 handling continuing education course within 120 days prior to the effective date of the Decision
16 in this matter.
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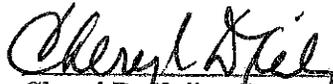
18 V. Respondent SHISHIDO shall, within nine (9) months from the effective date
19 of this Decision, present evidence satisfactory to the Commissioner that Respondent has, since
20 the most recent issuance of an original or renewal real estate license, taken and successfully
21 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
22 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the
23 Commissioner may order the suspension of the restricted license until Respondent presents
24 such evidence. The Commissioner shall afford Respondent the opportunity for a hearing
25 pursuant to the APA to present such evidence.
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VI. Respondent SHISHIDO shall not be a designated officer of a corporate

licensee other than BEACH COMMUNITY unless and until he owns 100% of the corporate stock, or 50% if by way of a community property interest, during the period of the stayed suspension described in Section I, above.

DATED: 10/23/15


Cheryl D. Keily, Counsel
BUREAU OF REAL ESTATE

* * *

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the APA (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Bureau at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Bureau a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Agreement.

DATED: 10/6/15


By: Kenneth Wayne Shishido
for Respondent BEACH COMMUNITY
ESCROW, INC.

DATED: 10/6/15


KENNETH WAYNE SHISHIDO

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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED: 10/6/15



Mary Work, Esq.
Attorney for Respondents
BEACH COMMUNITY ESCROW INC.
KENNETH WAYNE SHISHIDO

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12.0'clock noon on DEC 14 2015.

IT IS SO ORDERED NOVEMBER 20, 2015.

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner

1 Bureau of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982

FILED

JUL 14 2014

BUREAU OF REAL ESTATE

By *J. [Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

To:)
)
12 BEACH COMMUNITY ESCROW INC.,)
13 doing business as Beach Community Escrow;)
14 and)
)
15 KENNETH WAYNE SHISHIDO,)
16 individually and as designated officer of)
17 Beach Community Escrow Inc.,)
)
)
18)

No. H- 39533 LA

ORDER TO DESIST
AND REFRAIN

(B&P Code Section 10086)

19 The Commissioner ("Commissioner") of the California Bureau of Real Estate
20 ("Bureau") caused an investigation to be made of the activities of BEACH COMMUNITY
21 ESCROW INC ("BCEI") dba business as Beach Community Escrow and KENNETH WAYNE
22 SHISHIDO ("SHISHIDO.")

23 Based on that investigation, the Commissioner has determined that BCEI and
24 SHISHIDO have engaged in or are engaging in acts or is attempting to engage in practices
25 constituting violations of the California Financial Code.
26

1 Based on the findings of that investigation, set forth below, the Commissioner
2 hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order
3 under the authority of Business and Professions Code ("Code") Section 10086.

4
5 FINDINGS OF FACT

6 1.

7 From February 26, 2006, Respondent BCEI has been licensed as a real estate
8 corporation. At all times relevant herein, BCEI was acting by and through Respondent
9 SHISHIDO as its designated broker-officer from inception to date, pursuant to Business and
10 Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the
11 Real Estate Law.

12 2.

13 From June 7, 1985, through the present, Respondent SHISHIDO has been
14 licensed as a real estate broker.

15 3.

16 BCEI is owned as set forth in the table below:

17 Table: Ownership, Tenure and License Status

18

Name	Ownership	License	Office
Shishido Family Trust	75%	None	
Richard Daskam	25%	Broker	Secretary
Tammy Newland-Shishido	0%	Salesperson	President/CEO
Kenneth Wayne Shishido	0%	D.O.	VP/CFO

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1 4.

2 At all times mentioned, in the City of Los Alamitos, County of Orange,
3 Respondents BCEI and SHISHIDO acted as real estate brokers wherein BCEI conducted broker-
4 controlled escrows requiring a real estate license through BCEI's escrow division under the
5 exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers
6 performing escrows incidental to a real estate transaction where the broker is a party and where
7 the broker is performing acts for which a real estate license is required.

8 BCEI provides escrow services to the transactions generated by OC Real Estate
9 Consultants Inc. dba Keller William Realty Consultants Inc., and South Bay Passive Income Inc.

10 5.

11 On February 6, 2013, the Bureau completed an audit examination of the books
12 and records of Respondent BCEI pertaining to the residential resale and broker-controlled
13 escrow activities described in Finding 6, which require a real estate license. The audit
14 examination covered a period of time beginning on September 1, 2009 and ending on August
15 31, 2012, (broker escrow audit – LA 120047). The audit examination revealed violations of the
16 Code and Title 10, Chapter 6, California Code of Regulations ("Regulations") as set forth in the
17 following Findings, and more fully set forth in said Audit Report and the exhibits and work
18 papers attached thereto.
19
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21 6.

22 In the course of activities described in Finding 4, above, and during the
23 examination period described in Finding 5, BCEI and SHISHIDO conducted third party sales
24 escrows for the escrows set forth in the table below wherein BCEI and SHISHIDO were not
25 performing acts in the course of or incidental to a real estate transaction in which BCEI was an
26 agent or party to the transaction and in which BCEI was performing acts for which a real estate
27 license is required:

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Table: Third Party Escrows

<u>Buyer</u>	<u>Escrow No.</u>	<u>Listing Agent</u>	<u>RES ID No.</u>	<u>Employing Broker</u>
C. T.	10903	Jenna Christensen	01341901	OC/KWR
D. U.	10875	Susan Lockridge	01899480	OC/KWR
A. A.	10615	Hudson Warren	01746883	OC/KWR
G. G.	100136	Afshin Eskandari	01803613	OC/KWR
J. F.	100283	Kimberly Doner	01828186	OC/KWR
G. H.	100272	Aylwin Agena	01473411	OC/KWR
L. L.	100499	Frank Kenny	01250123	OC/KWR

CONCLUSIONS OF LAW

7.

The conduct of BCEI and SHISHIDO, as described in Finding 6, violated California Financial Code Section 17006(a)(4) for performing third party escrows, whereby BCEI performed escrows in which BCEI was not performing acts in the course of or incidental to a real estate transaction in which BCEI was an agent or a party to the transaction and in which BCEI was performing an act for which a real estate license is required.

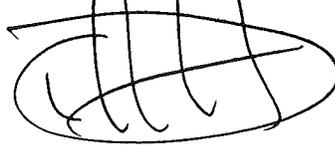
DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that:

BEACH COMMUNITY ESCROW INC. and KENNETH WAYNE SHISHIDO desist and refrain from performing any acts within the State of California, unless they are in compliance with the law as set forth in this Order.

DATED: June 20, 2014.

REAL ESTATE COMMISSIONER



By: **JEFFREY MASON**
Chief Deputy Commissioner

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cc: Beach Community Escrow Inc.
c/o Kenneth Wayne Shishido, D.O.
10900 Los Alamitos Blvd., #160
Los Alamitos, CA 90702

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