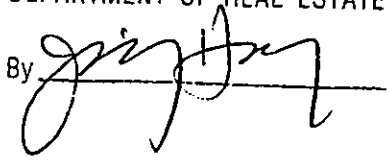


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Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

(213) 576-6911

FILED
DEC 22 2000
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) DRE NO. H-28667 LA
)
DILBECK, INC. and,) L-2000080547
)
MARK RAYMUNDO DILBECK,)
)
13 individually and as)
)
14 designated officer of) STIPULATION AND AGREEMENT
)
Dilbeck, Inc.)
)
15)
)
)
16 Respondents.)

It is hereby stipulated by and between DILBECK, INC.,
and MARK RAYMUNDO DILBECK, individually and as
designated officer of Dilbeck, Inc. (sometimes collectively
referred to as Respondents), and the Complainant, acting by and
through Elliott Mac Lennan, Counsel for the Department of Real
Estate, as follows for the purpose of settling and disposing of
the Accusation filed on July 28, 2000, in this matter:

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondents
at a formal hearing on the Accusation, which hearing was to be
held in accordance with the provisions of the Administrative

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement (Stipulation).

4 2. Respondents have received, read and understand the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. Respondents filed a Notice of Defense on August 4,
9 2000, pursuant to Section 11506 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notice of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notice of Defense they
14 thereby waive their right to require the Commissioner to prove
15 the allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that they will
17 waive other rights afforded to them in connection with the
18 hearing such as the right to present evidence in their defense
19 the right to cross-examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interest of
22 expedience and economy, Respondents choose not to contest these
23 allegations, but to remain silent and understand that, as a
24 result thereof, these factual allegations, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. The Real Estate Commissioner shall
27



1 not be required to provide further evidence to prove said factual
2 allegations.

3 5. This Stipulation is based on Respondents' decision
4 not to contest the allegations set forth in the Accusation as a
5 result of the agreement negotiated between the parties. This
6 Stipulation is expressly limited to this proceeding and any
7 further proceeding initiated by or brought before the Department
8 of Real Estate based upon the facts and circumstances alleged in
9 the Accusation and is made for the sole purpose of reaching an
10 agreed disposition of this proceeding without a hearing. The
11 decision of Respondents not to contest the allegations is made
12 solely for the purpose of effectuating this Stipulation. It is
13 the intent and understanding of the parties that this Stipulation
14 shall not be binding or admissible against Respondents in any
15 actions against Respondents by third parties.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt this Stipulation as her Decision in
18 this matter thereby imposing the penalty and sanctions on
19 Respondents' real estate licenses and license rights as set forth
20 in the "Order" herein below. In the event that the Commissioner
21 in her discretion does not adopt the Stipulation, it shall be
22 void and of no effect and Respondents shall retain the right to a
23 hearing and proceeding on the Accusation under the provisions of
24 the APA and shall not be bound by any stipulation or waiver made
25 herein.

26 7. The Order or any subsequent Order of the Real
27 Estate Commissioner made pursuant to this Stipulation shall not



1 constitut an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for accusation in this proceeding.

5
6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, it is
8 stipulated and agreed that the following determination of issues
9 shall be made:

10 I

11 The conduct of DILBECK, INC., as described in Paragraph
12 4, is in violation of Section 10145 of the Business and
13 Professions Code (Code) and Sections 2831 of Title 10, Chapter 6
14 of the California Code of Regulations and is a basis for the
15 suspension or revocation of Respondent's license and license
16 rights as a violation of the Real Estate Law pursuant to Section
17 10177(d) of the Code.

18 II

19 The conduct of MARK RAYMUNDO DILBECK, as described in
20 Paragraph 4, constitutes a failure to keep DILBECK, INC., in
21 compliance with the Real Estate Law during the time that he was
22 the officer designated by a corporate broker licensee. This
23 conduct is a basis for the suspension or revocation of
24 Respondent's license pursuant to Section 10177(h) of the Code.

25 /
26 /
27 /

ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
TO THE WRITTEN STIPULATION OF THE PARTIES:

I

All licenses and licensed rights of DILBECK, INC., and
MARK RAYMUNDO DILBECK under the Real Estate Law are revoked;

A. However, a restricted real estate broker license
shall be issued to Respondent DILBECK, INC., and to MARK RAYMUNDO
DILBECK pursuant to Section 10156.5 of the Code if Respondents
make application therefor and pay to the Department of Real
Estate the appropriate fee for the restricted license within 90
days from the effective date of this Decision.

1. The restricted license issued to a Respondent shall
be subject to all of the provisions of Section 10156.7 of the
Code and the following limitations, conditions and restrictions
imposed under authority of Section 10156.6 of the Code

2. The restricted license issued to a Respondent may
be suspended prior to hearing by Order of the Real Estate
Commissioner in the event of a Respondent's conviction or plea of
nolo contendere to a crime which is substantially related to a
Respondent's fitness or capacity as a real estate licensee.

3. The restricted license issued to a Respondent may
be suspended prior to hearing by Order of the Real Estate
Commissioner on evidence satisfactory to the Commissioner that a
Respondent has violated provisions of the California Real Estate
Law, the Subdivided Lands Law, Regulations of the Real Estate
Commissioner or conditions attaching to the restricted license.

1 Respondents shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions of
4 a restricted license until two (2) years has elapsed from the
5 effective date of this Decision.

6 5. Prior to the issuance of any restricted license,
7 Respondents, or either of them, shall first provide evidence
8 satisfactory to the Commissioner prior to the effective date of
9 the Decision that the deficit in the amount of \$1,406.79, and the
10 overage in the amount of \$3,931.43, as of August 31, 1999, as set
11 forth in Audit Report 980724, have been cured, including the
12 identity of the source of funds used to cure the deficit.

13 6. Respondent MARK RAYMUNDO DILBECK shall, within six
14 months from the effective date of this Decision, present evidence
15 satisfactory to the Real Estate Commissioner that Respondent has,
16 since the most recent issuance of an original or renewal real
17 estate license, taken and successfully completed the continuing
18 education requirements of Article 2.5 of Chapter 3 of the Real
19 Estate Law for renewal of a real estate license. If Respondent
20 fails to satisfy this condition, the Commissioner may order the
21 suspension of the restricted license until the Respondent
22 presents such evidence. The Commissioner shall afford Respondent
23 the opportunity for a hearing pursuant to the Administrative
24 Procedure Act to present such evidence.

25 7. Respondent MARK RAYMUNDO DILBECK shall within six
26 months from the effective date of this Decision, take and pass
27 the Professional Responsibility Examination administered by the



1 Department including the payment of the appropriate examination
2 fee. If Respondent fails to satisfy this condition, the
3 Commissioner may order suspension of Respondent's license until
4 Respondent passes the examination.

5 8. Pursuant to Section 10148 of the Business and
6 Professions Code, Respondents, or either of them, shall pay the
7 Commissioner's reasonable cost for the prior audit giving rise to
8 the discipline herein and a subsequent audit to determine if
9 Respondent DILBECK, INC. is now in compliance with the Real
10 Estate Law. In calculating the amount of the Commissioner's
11 reasonable cost, the Commissioner may use the estimated average
12 hourly salary for all persons performing audits of real estate
13 brokers, and shall include an allocation for travel time to and
14 from the auditor's place of work. Said amount for the prior and
15 subsequent audits shall not exceed \$12,409.54

16 9. Respondents shall pay such cost within 45 days of
17 receiving an invoice from the Commissioner detailing the
18 activities performed during the audit and the amount of time
19 spent performing those activities.

20 The Commissioner may suspend the license of a
21 Respondent pending a hearing held in accordance with Section
22 11500, et seq., of the Government Code, if payment is not timely
23 made as provided for herein, or as provided for in a subsequent
24 agreement between the Respondents and the Commissioner. The
25 suspension shall remain in effect until payment is made in full
26 or until a Respondent enters into an agreement satisfactory to
27 the Commissioner to provide for payment, or until a decision



1 providing otherwise is adopted following a hearing held pursuant
2 to this condition.

3 DATED: 10-10-00 E.L.L.
4 ELLIOTT MAC LENNAN, Counsel for
5 the Department of Real Estate

6 * * *

7 We have read the Stipulation and Agreement, and have
8 discussed it with our counsel. Its terms are understood by us
9 and are agreeable and acceptable to us. We understand that we
10 are waiving rights given to us by the California Administrative
11 Procedure Act (including but not limited to Sections 11506,
12 11508, 11509 and 11513 of the Government Code), and we willingly,
13 intelligently and voluntarily waive those rights, including the
14 right of requiring the Commissioner to prove the allegations in
15 the Accusation at a hearing at which we would have the right to
16 cross-examine witnesses against us and to present evidence in
17 defense and mitigation of the charges.

18 Respondents can signify acceptance and approval of the
19 terms and conditions of this Stipulation and Agreement by faxing
20 a copy of its signature page, as actually signed by Respondents,
21 to the Department at the following telephone/fax number: Elliott
22 Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and
23 understand that by electronically sending to the Department a fax
24 copy of Respondents' actual signature as they appear on the
25 Stipulation and Agreement, that receipt of the faxed copy by the
26 Department shall be as binding on Respondents as if the

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1 Department had received the original signed Stipulation and
2 Agreement.


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DATED: 10/24/00



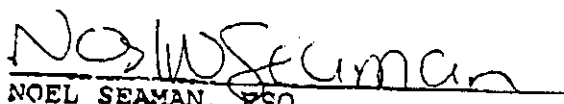
DILBECK, INC.,
BY: MARK RAYMUNDO DILBECK

DATED: 10/24/00



MARK RAYMUNDO DILBECK,
Individually and as designated
officer of DILBECK,
Inc. Respondent

DATED: 10/25/00



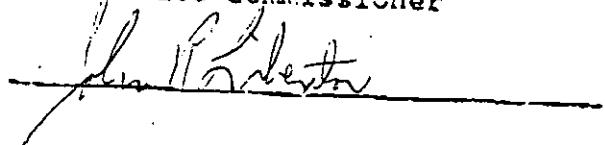
NOEL SEAMAN, ESQ.
Attorney for Respondents

* * *

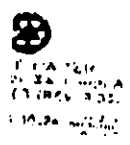
The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o' clock noon on January 11, 2001.

IT IS SO ORDERED December 14, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BY: John R. Liberator
Chief Deputy Commissioner



Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 31 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

DILBECK INC., et al.,

By K. Niederholt
Case No. H-28667-LA
OAH No. L-2000080547

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles on October 26, 2000, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: August 31, 2000

By [Signature]
Counsel

RE 501 (Rev. 8/97)

cc: Dilbeck Inc.
Mark Raymundo Dilbeck
Noel Seanan, Esq.
Sacto OAH JN

kw

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6911

FILED
JUL 28 2000
DEPARTMENT OF REAL ESTATE

By *Frederick*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-28667 LA
DILBECK, INC.;)
and MARK RAYMUNDO DILBECK,)
individually and as)
designated officer of)
Dilbeck, Inc.,)
)
Respondents.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DILBECK, INC., dbas Dilbeck Realtors Better Homes & Gardens, Dilbeck Realtors James R. Gary Better Homes & Gardens, Dilbeck Realtors Since 1963, Keeler Dilbeck Realtors, and Bliss Keeler Realtors; MARK RAYMUNDO DILBECK, individually and as designated officer of DILBECK, INC., is informed and alleges in his official capacity as follows:

/
/

back file

2 DILBECK, INC. (DI) and MARK RAYMUNDO DILBECK (DILBECK),
3 individually and as designated officer of DILBECK, INC., sometimes
4 collectively referred to as Respondents, are presently licensed
5 and/or have license rights under the Real Estate Law (Part 1 of
6 Division 4 of the California Business and Professions Code).

7 2

8 All references to the "Code" are to the California
9 Business and Professions Code and all references to "Regulations"
10 are to Title 10, Chapter 6, California Code of Regulations.

11 3.

12 At all times mentioned, DI was licensed by the
13 Department of Real Estate of the State of California (Department)
14 as a corporate real estate broker by and through DILBECK as
15 designated officer. DI was originally licensed by the Department
16 on July 20, 1982.

17 4

18 At all times mentioned, DILBECK was licensed by the
19 Department as designated officer of DI to qualify DI and to act
20 for DI as its real estate broker and, as provided by Section
21 10159.2 of the Code, was responsible for the supervision and
22 control of the activities conducted on behalf of DI by its
23 officers, managers and employees as necessary to secure full
24 compliance with the provisions of the Real Estate Law including
25 the supervision of the salespersons licensed to the corporation in
26 the performance of acts for which a real estate license is
27 required. DILBECK was originally licensed as a real estate broker



1 on May 3, 1993, and since this date he has been the designated
2 officer of DI.

3 5

4 Whenever reference is made in an allegation in the
5 Accusation to an act or omission of DI such allegation shall be
6 deemed to mean that the officers, directors, managers, employees,
7 agents and real estate licensees employed by or associated with DI
8 committed such act or omission, including DILBECK, while engaged
9 in the furtherance of the business or operation of DI and while
10 acting within the course and scope of its corporate authority,
11 agency and employment.

12 6

13 At all times mentioned, in the City of La Canada-
14 Flintridge, Los Angeles County, Respondents DI and DILBECK acted
15 as real estate brokers within this meaning of Section 10131(a) of
16 the Code, primarily including the operation of a residential
17 resale property brokerage and secondarily, a commercial property
18 brokerage. DI and DILBECK also engaged in property management
19 activities with the public within the meaning of Section 10131(b)
20 of the Code. In addition, Respondents conducted broker controlled
21 escrows under the exemption set forth in Section 17006(a)(4) of
22 the California Financial Code.

23 7

24 On October 13, 1999, the Department completed an audit
25 examination of the books and records of DI, dba Bliss Keeler
26 Realtors, pertaining to its licensed activities described in
27 Paragraph 6. The audit examination covered a period of time



1 beginning on June 1, 1997 and ending on August 31, 1999. The
2 audit examination revealed violations of the Code and the
3 Regulations as set forth in the following paragraphs.

4 8

5 At all times mentioned, in connection with the
6 activities described in Paragraph 7, above, Respondent DI accepted
7 or received funds in trust (trust funds) from or on behalf of
8 actual or prospective buyers and sellers. Thereafter it made
9 disposition of such funds. DI maintained two trust accounts
10 during the audit period:

11
12 Dilbeck, Inc. dba Keeler Dilbeck Realtors Trust Account
13 Account No. 0013010064
14 City National Bank (T/A #1)
City of Commerce, California

15 (This account was used as a depository for rental income and
16 expenses pertaining to property management and lease agreements)
payments to lenders).

17 Dilbeck Realtors James R. Gary Better Homes & Gardens, dba
18 Glenfinnan, Escrow Division Trust Account
19 Account No. 189-1010777 (T/A #2)
20 Commercia Bank California
Woodland Hills, California

(This account was used as a depository for escrow funds received).

21 9

22 With respect to the trust funds referred to in Paragraph
23 8, DI:

24 (a) Permitted an unidentified overage of \$3,931.43 in
25 T/A #1 as of August 31, 1999, in violation of Section 10145 of the
26 Code;

27 (b) Permitted, allowed or caused the disbursement of



1 trust funds from T/A #2, where the disbursement of the funds
2 reduced the total of aggregate funds in T/A #2, to an amount
3 which, on August 31, 1999, was \$1,406.79, less than the existing
4 aggregate trust fund liability of DI to every principal who was an
5 owner of the funds, without first obtaining the prior written
6 consent of the owners of said funds, as required by Section 10145
7 of the Code and Sections 2832.1, 2950(g), and 2951 of the
8 Regulations;

9 (c) Failed to maintain an adequate control record in
10 the form of a columnar record in chronological order of all trust
11 funds received into T/A#2, as required by Sections 2831, 2950(d),
12 and 2951 of the Regulations;

13 (d) Failed to maintain an accurate and complete
14 separate record for each beneficiary or transaction, thereby
15 failing to account for all trust funds received, deposited, and
16 disbursed by T/A #1 and T/A #2 as required by Sections 2831.1,
17 2950(d) and 2951 of the Regulations;

18 (e) Failed to perform an accurate monthly
19 reconciliation of the balance of all separate beneficiary or
20 transaction records maintained pursuant to Section 2831.1 of the
21 Regulations with the record of all trust funds received and
22 disbursed by T/A #2, as required by Sections 2831.2, 2950(d) and
23 2951 of the Regulations and,

24 (f) Failed to place funds, including earnest money
25 deposits received in certain sales transactions, accepted on
26 behalf of another into the hands of the owner of the funds, into a
27 neutral escrow depository or into a trust fund account in the name



1 of the broker as trustee at a bank or other financial institution
2 not later than three business days following receipt of the funds
3 by the broker or by the broker's salesperson, as required by
4 Section 2832 of the Regulations.

5 10

6 The conduct of Respondent DI, described in Paragraph 9,
7 above, violated the Code and the Regulations now set forth:

8 PARAGRAPH

PROVISIONS VIOLATED

9
10 9(a) Section 10145 of the Code, and

11
12 9(b) Section 10145 of the Code, and
13 Sections 2832.1, 2950(g), and 2951 of the
14 Regulations

15
16 9(c) Section 10145 of the Code, and
17 Sections 2831, 2950(d), and 2951 of
18 the Regulations

19 /
20 9(d) Section 10145 of the Code, and
21 Sections 2831.1, 2950(d) and 2951 of
22 the Regulations

23
24 9(e) Section 10145 of the Code, and
25 Sections 2831.2, 2950(d) and 2951 of
26 the Regulations, and

27



1 9(f)

Section 10145 of the Code, and
2 Section 2832 of the Regulations.

3
4 Each of the foregoing violations separately constitutes cause for
5 the suspension or revocation of the real estate license and
6 license rights of DI under 10177(d) of the Code.

7 11

8 The Department attempted to complete a audit examination
9 of the books and records of DI pertaining to the activities
10 described in Paragraph 6. The audit examination revealed that
11 Respondent failed to retain the records of its activity requiring
12 a real estate license for the period of time beginning on June 1,
13 1997 to August 31, 1999, including copies of invoices and receipts
14 in regard to the management of the real property located at 2545
15 Doolittle, Arcadia, California. This conduct is in violation of
16 Section 10148 of the Code and constitutes cause for the suspension
17 or revocation of the real estate license and license rights of DI
18 under the provisions of Section 10177(d) of the Code.

19 12

20 The audit examination also revealed that DI, despite
21 taking an actual fee, did not disclose to Charles and Jeannie
22 Morgan, the owners of 2545 Doolittle, Arcadia, California, the
23 management fee because there was no written property management
24 agreement disclosing the fee. The conduct of taking a secret
25 profit undisclosed to the aforesaid owners constitutes a violation
26 of Section 10176(g) of the Code and is cause for the suspension or
27



1 revocation of the real estate license and license rights of
2 Respondent DI under the provisions thereunder.

3 13

4 The audit examination also revealed that Respondent DI
5 used the fictitious name of "Glenfinnan Escrow" to conduct
6 licensed activities on behalf of DI without holding a license
7 bearing said fictitious business name. The conduct of DI, in
8 failing to obtain a license for use of the aforesaid name, is in
9 violation of Section 2731 of the Regulations and is cause to
10 suspend or revoke Respondent's real estate license and license
11 rights under Section 10177(d) of the Code.

12 14

13 The overall conduct of Respondents DI and DILBECK,
14 jointly and severally, constitutes negligence and/or incompetence.
15 This conduct and violations are cause to suspend or revoke the
16 real estate license and license rights of said Respondents under
17 Section 10177(g) of the Code.

18 15

19 The conduct of Respondent DILBECK, constitutes a failure
20 on his part, as officer designated by a corporate broker licensee,
21 to exercise reasonable supervision and control over the licensed
22 activities of DI and to keep it in compliance with the Real Estate
23 Law, is cause for the suspension or revocation of the real estate
24 license and license rights of DILBECK under Sections 10159.2,
25 10177(d) and 10177(h) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of DILBECK, INC., MARK RAYMUNDO DILBECK, individually and as designated officer of DILBECK, INC., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law. Dated at Los Angeles, California this 28th day of July, 2000.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Dilbeck, Inc.
c/o Mark Raymundo Dilbeck, D.O.
Sacto.
JN
Audits