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FILED

APR 16 2013

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

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|---|---------------------------------|
| 11 In the Matter of the Accusation of) | DRE No. H-38337 LA |
| 12 JAMIE LYNNE RAMSEY and) | OAH No. 2012110929 |
| 13 JOAN A. KINDT,) | <u>FIRST AMENDED ACCUSATION</u> |
| 14 Respondents.) | |
| 15) | |

16 This First Amended Accusation amends the Accusation filed
17 on August 16, 2012. The Complainant, Robin Trujillo, a Deputy
18 Real Estate Commissioner of the State of California, for cause
19 of Accusation against JAMIE LYNNE RAMSEY and JOAN A. KINDT
20 (collectively "Respondents"), is informed and alleges as
21 follows:

22 1.

23 The Complainant, Robin Trujillo, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation
25 in her official capacity.

26 2.

27 Respondents are presently licensed and/or have license
28 rights under the Real Estate Law (Part 1 of Division 4 of the

1 California Business and Professions Code, "Code").

2 3.

3 From September 10, 1991 through the present, Respondent
4 JAMIE LYNNE RAMSEY ("RAMSEY") has been licensed by the
5 Department of Real Estate ("Department") as a real estate
6 salesperson, license no. 01119817. Respondent RAMSEY was
7 licensed under the employment of broker Builder Intelligence
8 Group, Inc. from February 1, 2008, through September 30, 2008.
9 From October 1, 2008, through December 9, 2008, Respondent
10 RAMSEY was licensed "NBA" - non-working status as RAMSEY had no
11 broker affiliation. From December 10, 2008, through the present,
12 RAMSEY has been licensed under the employment of Respondent JOAN
13 A. KINDT.
14

15 4.

16 From July 30, 1990 through the present, Respondent JOAN A.
17 KINDT ("KINDT") has been licensed by the Department as a real
18 estate broker, license no. 00662436.

19 FIRST CAUSE OF ACCUSATION
20 (Unlicensed Activity/Misrepresentation)

21 5.

22 Code Section 10132 defines a real estate salesperson as a
23 person who, for compensation or in expectation of compensation,
24 is employed by a licensed real estate broker to do one or more
25 of the acts set forth in Sections 10131, 10131.1, 10131.2,
26 10131.3, 10131.4, and 10131.6. Code Section 10131 defines a
27 real estate broker as a person who: (b) leases or rents or
28 offers to lease or rent, or places for rent, or solicits

1 listings of places for rent, or solicits for prospective
2 tenants, or negotiates the sale, purchase or exchanges or leases
3 on real property, or on a business opportunity, or collects
4 rents from real property, or improvements thereon, or from
5 business opportunities.

6 6.

7 At all times relevant herein, Real Property Management
8 Goldcoast ("RPMG") was not licensed in any capacity by the
9 Department. RPMG is a California corporation formed on or about
10 November 22, 2010. Respondent RAMSEY is the president and
11 director for RPMG.

12 7.

13 Within the three year period prior to filing this
14 Accusation, Respondents, while doing business as RPMG, solicited
15 and offered to perform property management services on the
16 website: www.realpropertygoldcoast.com. The website failed to
17 disclose the real estate license identification number for
18 Respondents. RPMG continues to advertise real property
19 management services using the main business address of 4215
20 Tierra Rejada Rd., Suite 222, Moorpark, California 93021.

21 8.

22 Within the three year period prior to filing this
23 Accusation, Respondents, while doing business as RPMG, solicited
24 and offered to perform property management services for others,
25 including Fredericka M. and Andrew and Danielle B.

26 (a) Andrew and Danielle B. entered into a written agreement
27 for RPMG to manage Andrew and Danielle B.'s real property
28 located at 4573 Alamo Street, Unit B, Simi Valley, California

1 ("subject property"). Respondent RAMSEY terminated RPMG's
2 property management agreement with Andrew and Danielle B. on
3 December 27, 2009. Upon termination of the agreement,
4 Respondent RAMSEY made the misrepresentation to Andrew and
5 Danielle B. that a \$1,100 deposit from the former tenant of the
6 subject property was applied towards repairs to return the
7 subject property to "move-in condition" for a new tenant.
8 Thereafter, Andrew and Danielle B. discovered that the subject
9 property had not been returned to a "move-in condition" by RPMG.
10 RAMSEY failed to provide Andrew and Danielle B. with an
11 accounting of any repairs or payments for repairs made to the
12 subject property.

13 (b) On or about August 22, 2011, Respondent RAMSEY
14 solicited property management services on behalf of RPMG to
15 Fredericka M. Fredericka M. entered into a written agreement
16 with RPMG to manage real property located at 4611 Peppermill
17 Street, Moorpark, California ("subject property"). Respondent
18 RAMSEY failed to provide the services promised to Fredericka M.
19 including, but not limited to, advertising and listing the
20 property for rent, performing maintenance and repairs of the
21 rental property, negotiating the lease of the rental property,
22 and providing an accounting of handling of trust funds.

23 9.

24 In response to an inquiry from the Department, Respondent
25 KINDT claimed that RPMG's activities were rendered under her
26 broker license. An investigator for the Department traveled to
27 4215 Tierra Rejada Rd., Suite 222, Moorpark, California, and
28

1 discovered that the location belongs to "Mail N More", a private
2 mailbox service and is not a physical office location for RPMG.

3 10.

4 The activities described in Paragraphs 8(a) and (b), above,
5 require a real estate license under Code Section 10131(b).

6 Respondents RAMSEY and KINDT violated Code Section 10130 by
7 doing business as RPMG, an unlicensed entity, to perform
8 activities requiring a license. Respondents' violation of Code
9 Section 10130 constitutes grounds for the suspension or
10 revocation of the license and license rights of Respondents
11 RAMSEY and KINDT pursuant to Code Section 10177(d) and/or
12 10177(g).

13 11.

14 The conduct, acts or omissions of Respondent RAMSEY, as set
15 forth in Paragraphs 7, 8(a) and (b), above, constitutes grounds
16 for the suspension or revocation of the license and license
17 rights of Respondent RAMSEY pursuant to Code Section 10176(a)
18 (making any substantial misrepresentation).

19
20 SECOND CAUSE OF ACCUSATION

21 (Unlicensed Fictitious Business Name)

22 12.

23 There is hereby incorporated in this Second, separate and
24 distinct Cause of Accusation, all of the allegations contained
25 in Paragraphs 1 through 11, with the same force and effect as if
26 herein fully set forth.

27 ///

28 ///

1 13.

2 Real estate brokers are required to apply for a license for
3 use of a fictitious business name pursuant to Code Section
4 10159.5 and Section 2731 of the California Code of Regulations,
5 Title 10, Chapter 6 ("Regulations").

6 14.

7 The conduct, acts or omissions of Respondent KINDT as set
8 forth in Paragraphs 7, 8, 9, and 13, above, constitute cause to
9 suspend or revoke the real estate license and license rights of
10 Respondent KINDT under the provisions of Code Section 10177(d)
11 and/or 10177(g) for violation of Code Section 10159.5 and
12 Regulation 2731.

13 THIRD CAUSE OF ACCUSATION

14 (Place of Business/Branch Offices)

15 15.

16 There is hereby incorporated in this Third, separate and
17 distinct Cause of Accusation, all of the allegations contained
18 in Paragraphs 1 through 14, with the same force and effect as if
19 herein fully set forth.

20 16.

21 Code Section 10162 requires real estate brokers to have and
22 maintain a definite place of business in the State of California
23 which shall serve as their office for the transaction of
24 business. No real estate license authorizes the licensee to do
25 business except from the location stipulated in the real estate
26 license as issued or altered pursuant to Code Section 10161.8.
27 Code Section 10163 requires a real estate broker to apply for
28

1 and procure an additional license for each branch maintained by
2 the broker.

3 17.

4 The conduct, acts or omissions of Respondents RAMSEY and
5 KINDT, as set forth in Paragraphs 7 through 9, above, constitute
6 cause to suspend or revoke the real estate license and license
7 rights of Respondent RAMSEY under the provisions of Code Section
8 10177(d) and/or 10177(g) for violation of Regulation 2715.

9 18.

10 The conduct, acts or omissions of Respondent KINDT, as set
11 forth in Paragraphs 7 through 9, above, constitute cause to
12 suspend or revoke the real estate license and license rights of
13 Respondent KINDT under the provisions of Code Section 10177(d)
14 and/or 10177(g) for violation of Code Sections 10162, 10163 and
15 Regulation 2715.

16
17 FOURTH CAUSE OF ACCUSATION

18 (Failure to Disclose License Identification Number
19 on Solicitation Materials)

20 19.

21 There is hereby incorporated in this Fourth, separate and
22 distinct Cause of Accusation, all of the allegations contained
23 in Paragraphs 1 through 18, with the same force and effect as if
24 herein fully set forth.

25 20.

26 A real estate broker or salesperson, when engaging in acts
27 for which a license is required, shall disclose their real
28 estate license identification number on all solicitation

1 materials intended to be the first point of contact with
2 consumers pursuant to Regulation 2773.

3 21.

4 The conduct, acts or omissions of Respondents RAMSEY and
5 KINDT, as set forth in Paragraphs 7 through 9, above, constitute
6 cause to suspend or revoke the real estate licenses and license
7 rights of Respondents RAMSEY and KINDT under the provisions of
8 Code Sections 10177(d) and/or 10177(g) for violation of
9 Regulation 2773.

10 FIFTH CAUSE OF ACCUSATION

11 (Failure to Supervise)

12 22.

13 There is hereby incorporated in this Fifth, separate and
14 distinct Cause of Accusation, all of the allegations contained
15 in Paragraphs 1 through 21, with the same force and effect as if
16 herein fully set forth.

17 23.

18 The conduct, acts and/or omissions of Respondent KINDT, in
19 allowing Respondent RAMSEY to violate the Real Estate Law, as
20 set forth above, constitutes a failure by Respondent KINDT to
21 exercise reasonable supervision over the activities of her
22 salespersons required under Regulation 2725 and is cause to
23 suspend or revoke the real estate license and license rights of
24 Respondent KINDT pursuant to Code Sections 10177(d) and/or
25 10177(g).

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1 SIXTH CAUSE OF ACCUSATION

2 (Audit LA 110211)

3 24.

4 There is hereby incorporated in this Sixth, separate and
5 distinct Cause of Accusation, all of the allegations contained
6 in Paragraphs 1 through 23, with the same force and effect as if
7 herein fully set forth.

8 25.

9 On January 9, 2013, the Department completed an audit
10 examination of the books and records of Respondent KINDT
11 pertaining to Respondents' property management activities which
12 require a real estate license pursuant to Code section 10131(b).
13 The audit examination covered a period of time beginning on
14 January 1, 2010, to April 30, 2012. The audit examination
15 revealed violations of the Code and the Regulations as set forth
16 in the following paragraphs, and more fully discussed in Audit
17 Report LA 110211 and the exhibits and work papers attached to
18 said audit report.

19 26.

20 Respondent claimed to have maintained twenty-six (26) bank
21 accounts for the handling of the receipts and disbursements of
22 property management activities for the audit period as follows:

23
24 Bank Account 1 (B/A #1)

25 Bank: Wells Fargo Bank, N.A.

26 Account Name: Real Property Management Goldcoast

27 Account #: xx-xx-xx-9727
28

1 Signatories: Grant J. Ramsey (Unlicensed)

2 Joan Kindt - REB

3 Jamie L. Ramsey - RES

4 # of signatures required: 1 of 2

5 Account Type: Multi-beneficiary (not a trust account)

6 Bank Account 2 (B/A #2)

7 Bank: Wells Fargo Bank, N.A.

8 Account Name: Real Property Management Goldcoast

9 Account #: xx-xx-xx-0418

10 Signatories: Grant J. Ramsey (Unlicensed)

11 Joan Kindt - REB

12 Jamie L. Ramsey - RES

13 # of signatures required: 1 of 2

14 Account Type: Multi-beneficiary (not a trust account)

15 Bank Account 3 (B/A #3)

16 Bank: Wells Fargo Bank, N.A.

17 Account Name: Real Property Management Goldcoast F Account

18 Account #: xx-xx-xx-9693

19 Signatories: Grant J. Ramsey (Unlicensed)

20 Jamie L. Ramsey - RES

21 # of signatures required: 1 of 2

22 Account Type: Multi-beneficiary (not a trust account)

23 Bank Account 4 (B/A #4)

24 Bank: Wells Fargo Bank, N.A.

25 Account Name: Real Property Management Goldcoast

26 Account #: xx-xx-xx-9305

27

28

1 Signatories: Grant J. Ramsey (Unlicensed)

2 Jamie L. Ramsey - RES

3 # of signatures required: 1 of 2

4 Account Type: Multi-beneficiary (not a trust account)

5 Violations

6 27.

7 In the course of activities described in Paragraph 25,
8 above, and during the examination period described in Paragraph
9 55, Respondent acted in violation of the Code and the
10 Regulations as follows:

11 (a) (Issue One) B/A#1 and B/A#4 had a shortage of
12 \$10,426.17 (\$8,111.17 and \$2,315.00 respectively) as of April
13 30, 2012. Based on records made available for the audit, there
14 was no evidence that the owners of the trust funds had given
15 Respondent KINDT written consent to allow her to reduce the
16 balance of trust funds in B/A #1 and B/A #4 to an amount less
17 than their existing aggregate trust funds liabilities, in
18 violation of Code Section 10145 and Regulation 2832.1. B/A #2
19 and B/A #3 appeared to be balanced.

20 (b) (Issue Three) Failed to perform and maintain a monthly
21 reconciliation comparing the balance of all separate records to
22 the balance of the control record for B/A #1 and B/A #4, in
23 violation of Code Section 10145 and Regulation 2831.2.

24 (c) (Issue Four) B/A #1 and B/A #4 were not designated as
25 trust accounts in the name of the broker as trustee. A review
26 of the bank signature cards did not indicate that the bank
27 accounts were trust accounts, in violation of Code Section 10145
28 and Regulation 2832.

1 (d) (Issue Five) Respondent RAMSEY, who is the office
2 manager for Respondent KINDT, was allowed to be a signor on B/As
3 #1, 2, 3 and 4, without authorization from KINDT. In addition,
4 Grant J. Ramsey, RAMSEY's son and an unlicensed employee of
5 RPMG, was allowed to be a signor on B/As #1, 2, 3 and 4, without
6 fidelity bond coverage. The bank signature cards indicated that
7 RAMSEY and Grant J. Ramsey were signers on the accounts, in
8 violation of Code Section 10145 and Regulation 2834.

9 (e) (Issue Six) Failed to maintain accurate separate
10 records for the beneficiaries of rents received and deposited
11 into B/As #1, 2, 3 and 4, in violation of Code Section 10145 and
12 Regulation 2831.1.

13 (f) (Issue Seven) During the audit period, Respondent KINDT
14 used the unlicensed fictitious business name "Real Property
15 Management Gold Coast", in violation of Code Section 2731.

16 (g) (Issue Eight) Performed real estate activities at an
17 office location that was not registered as Respondent KINDT's
18 main office address, in violation of Code Section 10162 and
19 Regulation 2715.

20 (h) (Issue Nine) Failed to provide adequate supervision for
21 the licensed activities of Respondent RAMSEY, who was office
22 manager for Respondent KINDT. A review of the bank signature
23 cards revealed that KINDT was not a signer on the bank account
24 into which trust funds were deposited. KINDT was not aware of
25 the deficiencies of the trust fund records. The day-to-day
26 administration of the office was left in the hands of the office
27 manager, Respondent RAMSEY, in violation of Regulation 2725.

28 ///

1 Disciplinary Statutes

2 28.

3 The conduct of Respondent described in Paragraph 27, above,
4 violated the Code and the Regulations as set forth below:

5

| 6 PARAGRAPH | PROVISIONS VIOLATED |
|--------------------|--|
| 7 | |
| 8 27(a) | Code section 10145 and Regulation 2832.1 |
| 9 27(b) | Code section 10145 and Regulation 2831.2 |
| 10 27(c) | Code section 10145 and Regulation 2832 |
| 11 27(d) | Code section 10145 and Regulation 2834 |
| 12 27(e) | Code section 10145 and Regulation 2831.1 |
| 13 27(f) | Regulation 2731 |
| 14 27(g) | Code sections 10162 and Regulation 2715 |
| 15 27(h) | Regulation 2725 |

16 29.

17 The violations set forth above in Paragraph 29
18 constitute cause for the suspension or revocation of the real
19 estate license and license rights of Respondent KINDT under the
20 provisions of Code Sections 10177(d) for violation of the Real
21 Estate Law, and/or 10177(g) for negligence.

22 30.

23 Code Section 10106 provides, in pertinent part, that
24 in any order issued in resolution of a disciplinary proceeding
25 before the Department of Real Estate, the Commissioner may
26 request the administrative law judge to direct a licensee found
27 to have committed a violation of this part to pay a sum not to
28

1 exceed the reasonable costs of the investigation and enforcement
2 of the case.

3 WHEREFORE, Complainant prays that a hearing be
4 conducted on the allegations of this Accusation and that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against all licenses and/or license rights of Respondents
7 JAMIE LYNNE RAMSEY and JOAN A. KINDT under the Real Estate Law
8 (Part 1 of Division 4 of the Business and Professions Code), for
9 the cost of investigation and enforcement as permitted by law,
10 and for such other and further relief as may be proper under
11 other provisions of law.

12 Dated at Los Angeles, California

13 this 11 day of April, 2013.

14
15 
16 _____
17 ROBIN TRUJILLO
18 Deputy Real Estate Commissioner
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24

25 cc: Jamie Lynne Ramsey
26 Joan A. Kindt
27 Robin Trujillo
28 Sacto.
OAH