

FLAG

FILED

OCT - 7 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
BEVERLY MARGARET HOLTZ,
Respondent.

No. H-2659 SD

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 19, 2001, a Decision was rendered herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on January 17, 2002, and Respondent has operated as a restricted licensee since that time.

On June 11, 2007, Respondent petitioned for reinstatement of said real estate salesperson license and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this
4 order:

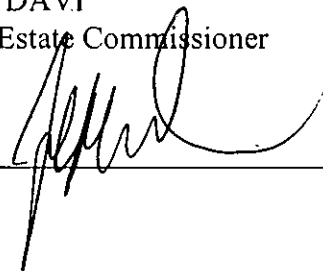
- 5 1. Submittal of a completed application and payment of the fee for a real
6 estate salesperson license.
- 7 2. Submittal of evidence of having, since the most recent issuance of an
8 original or renewal real estate license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
10 license.

11 This Order shall become effective immediately.

12 DATED: 9-29-09

13 JEFF DAVI
14 Real Estate Commissioner

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1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
DEC 27 2001

DEPARTMENT OF REAL ESTATE

Laurie A. Jan

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-2659 SD

12 BEVERLY MARGARET HOLTZ,)

STIPULATION AND AGREEMENT

13)
14 Respondent.)
15

16 It is hereby stipulated by and between BEVERLY
17 MARGARET HOLTZ (hereinafter "Respondent"), by and through her
18 attorney, Peter K. Solecki; and the Complainant, acting by and
19 through David A. Peters, Counsel for the Department of Real
20 Estate, as follows for purpose of settling and disposing of the
21 Accusation filed July 25, 2001 in this matter:

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA) (Government Code Section 11500 et seq.),

27 ///

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA,
5 and the Accusation filed by the Department of Real Estate in
6 this proceeding.

7 3. On September 17, 2001, Respondent filed her
8 Notice of Defense pursuant to Section 11505 of the Government
9 Code for the purpose of requesting a hearing on the allegations
10 in the Accusation. Respondent hereby freely and voluntarily
11 withdraws her Notice of Defense. Respondent acknowledges that
12 by withdrawing said Notice of Defense she will thereby waive her
13 right to require the Commissioner to prove the allegations in
14 the Accusation at a contested hearing held in accordance with
15 the provisions of the APA and that she will waive other rights
16 afforded to her in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interests of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being
24 admitted or denied, will serve as a prima facie basis for the
25 disciplinary action stipulated to herein. The Real Estate
26 Commissioner shall not be required to provide further evidence
27 to prove said factual allegations.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 her Decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate license and license rights
5 as set forth in the below "Order". In the event that the
6 Commissioner in her discretion does not adopt the Stipulation
7 and Agreement, it shall be void and of no effect, and Respondent
8 shall retain the right to a hearing and proceeding on the
9 Accusation under all the provisions of the APA and shall not be
10 bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation and
13 Agreement shall not constitute an estoppel, merger or bar to any
14 further administrative or civil proceedings by the Department of
15 Real Estate with respect to any matters which were not
16 specifically alleged to be causes for accusation in this
17 proceeding.

18 DETERMINATION OF ISSUES

19 By reason of the foregoing stipulations, admissions
20 and waivers, and solely for the purpose of settlement of the
21 pending Accusation without a hearing, it is stipulated and
22 agreed that the following determination of issues shall be made:

23 I

24 The conduct of Respondent BEVERLY MARGARET HOLTZ, as
25 described in the Accusation, constitutes cause for the
26 suspension or revocation of the real estate license and license
27 ///

1 rights of Respondent under the provisions of Section 10177(g) of
2 the Business and Professions Code.

3 ORDER

4 I

5 The real estate salesperson license and all license
6 rights of Respondent BEVERLY MARGARET HOLTZ under the Real
7 Estate Law are revoked; however, a restricted real estate
8 salesperson license shall be issued to Respondent pursuant to
9 Section 10156.5 of the Business and Professions Code if
10 Respondent makes application therefor and pays to the Department
11 of Real Estate the appropriate fee for the restricted license
12 within ninety (90) days from the effective date of this
13 Decision. The restricted license issued to Respondent shall be
14 subject to all of the provisions of Section 10156.7 of the
15 Business and Professions Code and to the following limitations,
16 conditions and restrictions imposed under authority of Section
17 10156.6 of that Code:

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

23 B. The restricted license issued to Respondent may
24 be suspended prior to hearing by Order of the Commissioner on
25 evidence satisfactory to the Commissioner that Respondent has
26 violated provisions of the California Real Estate Law, the

27 ///

1 Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

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

8 D. Respondent shall submit with any application for
9 license under an employing broker, or any application for
10 transfer to a new employing broker, a statement signed by the
11 prospective employing broker on a form approved by the
12 Department of Real Estate which shall certify:

13 (1) That the employing broker has read the Decision
14 of the Commissioner which granted the right to a
15 restricted license; and

16 (2) That the employing broker will exercise close
17 supervision over the performance by the
18 restricted licensee relating to activities for
19 which a real estate license is required.

20 E. Respondent shall, within nine (9) months from the
21 effective date of this Decision, present evidence satisfactory
22 to the Real Estate Commissioner that Respondent has, since the
23 most recent issuance of an original or renewal real estate
24 license, taken and successfully completed the continuing
25 education requirements of Article 2.5 of Chapter 3 of the Real
26 Estate Law for renewal of a real estate license. If Respondent
27 fails to satisfy this condition, the Commissioner may order the

1 suspension of the restricted license until the Respondent
2 presents such evidence. The Commissioner shall afford
3 Respondent the opportunity for a hearing pursuant to the
4 Administrative Procedure Act to present such evidence.

5 F. Respondent shall, within six (6) months from the
6 effective date of this Decision, take and pass the Professional
7 Responsibility Examination administered by the Department
8 including the payment of the appropriate examination fee. If
9 Respondent fails to satisfy this condition, the Commissioner may
10 order suspension of Respondent's license until Respondent passes
11 the examination.

12 G. Any restricted real estate salesperson license
13 issued to Respondent may be suspended or revoked for a violation
14 by Respondent of any of the conditions attaching to the
15 restricted license.

16 12/13/01
17 DATED

18 

DAVID A. PETERS, Counsel
DEPARTMENT OF REAL ESTATE

19 * * *

20 I have read the Stipulation and Agreement, have
21 discussed it with my counsel, and its terms are understood by
22 me and are agreeable and acceptable to me. I understand that I
23 am waiving rights given to me by the California Administrative
24 Procedure Act (including but not limited to Sections 11506,
25 11508, 11509, and 11513 of the Government Code), and I
26 willingly, intelligently, and voluntarily waive those rights,
27 including the right of requiring the Commissioner to prove the

1 allegations in the Accusation at a hearing at which I would
2 have the right to cross-examine witnesses against me and to
3 present evidence in defense and mitigation of the charges.

4
5 12/11/01

6 DATED

Beverly Margaret Holtz
7 BEVERLY MARGARET HOLTZ
8 Respondent

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

11 12/11/01

12 DATED

Peter K. Solecki
13 PETER K. SOLECKI
14 Attorney for Respondent

15 * * *

16 The foregoing Stipulation and Agreement for
17 Settlement is hereby adopted by the Real Estate Commissioner as
18 her Decision and Order and shall become effective at 12 o'clock
19 noon on JANUARY 17, 2002

20 IT IS SO ORDERED

December 19, 2001

21 PAULA REDDISH ZINNEMANN
22 Real Estate Commissioner

Paula Reddish
23
24
25
26
27

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
NOV - 6 2001

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

BEVERLY MARGARET HOLTZ,

Case No. H-2659 SD

OAH No. L-2001100027

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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1350 FRONT STREET, SUITE 6022, SAN DIEGO, CA 92101** on **JANUARY 16 & 17, 2002**, 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.

Dated: NOVEMBER 6, 2001

DEPARTMENT OF REAL ESTATE

By



DAVID A. PETERS, Counsel

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED
JUL 25 2001

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zari*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-2659 SD

12 BEVERLY MARGARET HOLTZ,)

ACCUSATION

13 Respondent.)
14

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against BEVERLY MARGARET HOLTZ (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, J. Chris Graves, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 against Respondent in his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the
26 California Business and Professions Code (hereinafter "Code").

27 ///

1 III

2 At all times herein mentioned, Respondent was licensed
3 as a real estate salesperson in the employ of Pickford Realty
4 Inc. dba Prudential California Realty, a licensed real estate
5 broker corporation.

6 IV

7 At all times herein mentioned, Respondent was
8 performing acts requiring a real estate license for or in
9 expectation of a compensation.

10 V

11 On or about August 28, 1999, Edward M. Fortin and
12 Irene Ann Owen Fortin (hereinafter "the Buyers") submitted an
13 offer, by and through Respondent, to purchase certain real
14 property commonly known as 7030 Via Mariposa Norte, Bonsall,
15 California (hereinafter "the Subject Property") owned by
16 E. Aubrey Woodroof and Nancy W. Woodroof (hereinafter "the
17 Sellers"). Said offer in the form of a Residential Purchase
18 Agreement and Receipt for Deposit provided that a \$10,000.00
19 deposit was being held uncashed until acceptance and would be
20 deposited with the escrow holder within three (3) business days
21 after acceptance.

22 VI

23 On or about August 28, 1999, Respondent, in connection
24 with the offer described in Paragraph V above, received the
25 \$10,000.00 deposit in the form of a personal check from buyer
26 Irene Anne Owen [Fortin] made payable to Marcus McLaughlin
27 [escrow holder].

1 VII

2 On or about August 28, 1999, the Sellers made a
3 counter-offer on the purchase of the Subject Property
4 incorporating the deposit terms of the original offer and adding
5 additional terms.

6 VIII

7 On or about August 29, 1999, the Buyers made a
8 counter-offer on the purchase of the Subject Property
9 incorporating the deposit terms of the original offer and adding
10 additional terms.

11 IX

12 On or about August 31, 1999, the Sellers accepted the
13 counter-offer described in Paragraph VIII above. The \$10,000.00
14 deposit was a material inducement to Sellers to agree to sell
15 the Subject Property to the Buyers.

16 X

17 On or about August 31, 1999, the Buyers informed
18 Respondent that the \$10,000.00 deposit check described in
19 Paragraph VI above, was not valid because the account on which
20 the check was drawn did not hold sufficient funds to cover the
21 check and that the Buyers would issue or cause to be issued a
22 new \$10,000.00 deposit check from a different account.

23 XI

24 Beginning on or about September 3, 1999 and continuing
25 thereafter, Respondent failed to deliver the \$10,000.00 check
26 described in Paragraph VI above or any replacement deposit
27 check, to the escrow holder.

1 XI

2 Beginning on or about September 3, 1999 and continuing
3 thereafter Respondent failed to disclose to the Sellers the
4 material facts well known to Respondent, but unknown to the
5 Sellers, that Respondent was holding the deposit check described
6 in Paragraph VI above.

7 XII

8 Beginning on or about August 31, 1999 and continuing
9 thereafter Respondent failed to disclose to the Sellers the
10 material fact well known to Respondent but unknown to the
11 Sellers, that the deposit check described in Paragraph VI above,
12 was not valid because the account on which the check was drawn
13 did not hold sufficient funds to cover the check.

14 XIII

15 Beginning on or about August 31, 1999 and continuing
16 thereafter, Respondent failed to disclose to the Sellers the
17 material fact that the Buyers did not provide a \$10,000.00
18 replacement deposit check and that no \$10,000.00 replacement
19 deposit check was placed with the escrow holder.

20 XII

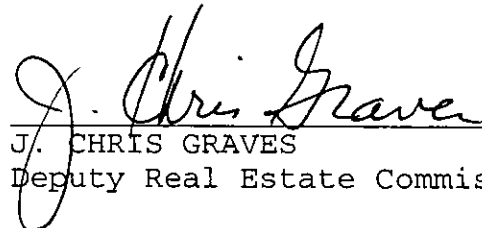
21 On or about September 1, 1999, without the knowledge
22 or authorization of the Sellers, Respondent returned the deposit
23 check described in Paragraph VI above.

24 XIII

25 The acts and omissions of Respondent set forth above
26 constitute the making of substantial misrepresentations, and
27 fraud or dishonest dealing, and are cause under Sections

1 10176(a), 10176(i) and 10145(c) of the Code in conjunction with
2 Section 10177(d) of the Code for the suspension or revocation of
3 all licenses and license rights of Respondent under the Real
4 Estate Law. In the alternative, the acts and omissions of
5 Respondent set forth above constitute negligence or incompetence
6 in performing acts for which a real estate license is required,
7 and are cause under Section 10177(g) of the Code for suspension
8 or revocation of all licenses and license rights of Respondent
9 under the Real Estate Law.

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Accusation and that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against all license and license rights of Respondent,
14 under the Real Estate Law (Part 1 of Division 4 of the Business
15 and Professions Code) and for such other and further relief as
16 may be proper under other provisions of law.

17
18 
19 J. CHRIS GRAVES
Deputy Real Estate Commissioner

20 Dated at San Diego, California,
21 this 18th day of July, 2001.
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24
25
26
27