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APR 14 2005

DEPARTMENT OF REAL ESTATE

By Jean Brunth

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-3512 SAC
GARY EUGENE REYNOLDS,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On September 1, 2000, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on October 2, 2000, and Respondent has operated as a restricted licensee since that time.

On May 13, 2004, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to
2 my satisfaction that Respondent meets the requirements of law for
3 the issuance to Respondent of an unrestricted real estate broker
4 license and that it would not be against the public interest to
5 issue said license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement is granted and that a real estate
8 broker license be issued to Respondent if Respondent satisfies
9 the following condition within nine months from the date of this
10 Order:

11 1. Submittal of a completed application and payment of
12 the fee for a real estate broker license.

13 This Order shall be effective immediately.

14 DATED: 4--7, 2005.

15 JEFF DAVI
16 Real Estate Commissioner

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1 Department of Real Estate
2 P. O. BOX 187000
3 Sacramento, California 95818-7000
4 Telephone: (916) 227-0789

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SEP 11 2000

DEPARTMENT OF REAL ESTATE

By Juan A. Rasmussen

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-3512 SAC
12 GARY EUGENE REYNOLDS,) STIPULATION AND AGREEMENT
13)
14 Respondent.)

15 It is hereby stipulated by and between GARY EUGENE
16 REYNOLDS (hereafter Respondent), represented by Steven R.
17 Matulich, Attorney at Law, and the Complainant, acting by and
18 through Deidre L. Johnson, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing
20 the Accusation as to him filed on May 16, 2000, in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedures Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement.

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

4 3. On June 5, 2000, Respondent filed his Notice of
5 Defense pursuant to Section 11505 of the Government Code for the
6 purpose of requesting a hearing on the allegations in the
7 Accusation. Respondent hereby freely and voluntarily withdraws
8 said Notice of Defense. Respondent acknowledges that he
9 understands that by withdrawing said Notice of Defense he will
10 thereby waive his rights to require the Commissioner to prove the
11 allegations in the Accusation at a contested hearing held in
12 accordance with the provisions of the APA, and that he will waive
13 other rights afforded to him in connection with the hearing such
14 as the right to present evidence in defense of the allegations in
15 the Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth
17 below, hereby admits that the factual allegations pertaining to
18 him in Paragraphs I through IV of the Accusation filed in this
19 proceeding are true and correct and the Real Estate Commissioner
20 shall not be required to provide further evidence of such
21 allegations.

22 5. Without admitting the truth of the allegations
23 pertaining to him contained in the remaining paragraphs of the
24 Accusation, Respondent stipulates that he will not interpose a
25 defense thereto. This Stipulation is based on the factual
26 allegations as to Respondent contained in the Accusation. In the
27 interests of expedience and economy, Respondent chooses not to

1 contest these allegations, but to remain silent and understands
2 that, as a result thereof, these factual allegations, without
3 being admitted or denied, will serve as the basis for the
4 disciplinary action stipulated to herein. The Real Estate
5 Commissioner shall not be required to provide further evidence to
6 prove said factual allegations.

7 6. Respondent has received, read and understands the
8 "Notice Concerning Costs of Subsequent Audit." Respondent
9 understands, by agreeing to this Stipulation and Agreement, and
10 after the findings set forth below in the "Determination of
11 Issues" become final, that the Commissioner may charge Respondent
12 for the costs of a subsequent audit that may be conducted
13 pursuant to Section 10148 of the Business and Professions Code.

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

24 8. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation and
26 Agreement shall not constitute an estoppel, merger or bar to any
27 further administrative or civil proceedings by the Department of



1 Real Estate with respect to any matters which were not
2 specifically alleged to be causes for accusation in this
3 proceeding.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and
6 waivers and for the purpose of settlement of the pending
7 Accusation as to Respondent without a hearing, it is stipulated
8 and agreed that the following determination of issues shall be
9 made:

10 The acts and/or omissions of Respondent GARY EUGENE
11 REYNOLDS as stipulated above violate Section 10145 of the
12 California Business and Professions Code, and Section 2832 of
13 Title 10, California Code of Regulations, and constitute grounds
14 for disciplinary action against the real estate license and
15 license rights of Respondent under the provisions of Section
16 10177(d) of the Code.

17 ORDER

18 A. All real estate license(s) and license rights of
19 Respondent GARY EUGENE REYNOLDS are hereby revoked.

20 B. A restricted real estate broker license shall be
21 issued to Respondent pursuant to Section 10156.6 of the Code if
22 he makes application therefor and pays to the Department of Real
23 Estate the appropriate fee for said license within ninety (90)
24 days from the effective date of the decision.

25 C. The restricted license issued to Respondent shall
26 be subject to all of the provisions of Section 10156.7 of the
27

1 Business and Professions Code and to the following limitations,
2 conditions and restrictions imposed under authority of Section
3 10156.6 of that Code:

4 (1) The restricted license issued to Respondent may
5 be suspended prior to hearing by Order of the
6 Real Estate Commissioner in the event of
7 Respondent's conviction or plea of nolo
8 contendere to a crime which is substantial
9 related to Respondent's fitness or capacity as a
10 real estate licensee.

11 (2) The restricted license issued to Respondent may
12 be suspended prior to hearing by Order of the
13 Real estate Commissioner on evidence
14 satisfactory to the Commissioner that Respondent
15 has violated provisions of the California Real
16 Estate Law, the Subdivided Lands Law,
17 Regulations of the Real Estate Commissioner or
18 conditions attaching to the restricted license.

19 (3) Respondent shall not be eligible to apply for
20 the issuance of an unrestricted real estate
21 license, nor the removal of any of the
22 conditions of the restricted license, until two
23 (2) years has elapsed from the effective date of
24 this Decision.

25 (4) Respondent shall, within nine (9) months from
26 the effective date of this Decision, present
27 evidence satisfactory to the Real Estate

1 Commissioner that Respondent has, since the most
2 recent issuance of an original or renewal real
3 estate license, taken and successfully completed
4 the continuing education requirements of Article
5 2.5 of Chapter 3 of the Real Estate Law for
6 renewal of a real estate license. If Respondent
7 fails to satisfy this condition, the
8 Commissioner may order the suspension of the
9 restricted license until the Respondent presents
10 such evidence. The Commissioner shall afford
11 Respondent the opportunity for hearing pursuant
12 to the Administrative Procedure Act to present
13 such evidence.

14 (5) Pursuant to Section 10148 of the Business and
15 Professions Code, Respondent shall pay the
16 Commissioner's reasonable costs for a subsequent
17 audit by the Department as a result of the trust
18 fund violations found herein. In calculating
19 the amount of the Commissioner's reasonable
20 costs, the Commissioner may use the estimated
21 average hourly salary for all Department
22 personnel performing audits of real estate
23 brokers, and shall include an allocation for
24 travel costs, including mileage, time to and
25 from the auditor's place of work and per diem.
26 Respondent shall pay such costs within
27 sixty (60) days of receiving an invoice for the

1 audit from the Commissioner detailing the
2 activities performed during the audit and the
3 amount of time spent performing those
4 activities. The Commissioner may suspend the
5 restricted license issued to Respondent pending
6 a hearing held in accordance with Section 11500,
7 et seq., of the Government Code, if payment is
8 not timely made as provided for herein, or as
9 provided for in a subsequent agreement between
10 the Respondent and the Commissioner. The
11 suspension shall remain in effect until payment
12 is made in full, or until Respondent enters into
13 an agreement satisfactory to the Commissioner to
14 provide for payment, or until a decision
15 providing otherwise is adopted following a
16 hearing held pursuant to this condition.

17 (6) On or before the effective date of this
18 Decision, Respondent shall submit proof to the
19 satisfaction of the Real Estate Commissioner
20 that he has made restitution in the total sum of
21 not less than \$604.00 to the sellers in the
22 transaction that is the subjection of this
23 Accusation, Eric and Murice Shelton.

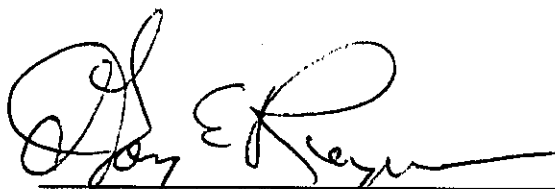
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25
26 DATED: August 2, 2000

Deidre L. Johnson
DEIDRE L. JOHNSON
Counsel for the Complainant

* * *

I have read the Stipulation and Agreement, have discussed it with counsel, 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 California Administrative Procedure Act, 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.

DATED: 8-2-00



GARY EUGENE REYNOLDS
Respondent

APPROVED AS TO FORM:

DATED: 2 August 00



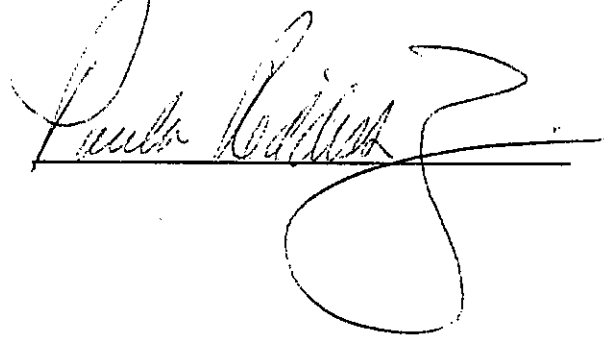
STEVEN R. MATULICH
Counsel for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on October 2, 2000.

IT IS SO ORDERED September 1, 2000.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner



FILED
JUN 19 2000

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

GARY EUGENE REYNOLDS,

}

Case No. H-3512 SAC

OAH No. N-2000060176

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, 560 J Street,

Suites 340/360, Sacramento, California 95814

on August 3, 2000, at the hour of 9:00 AM,
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: June 19, 2000

By Deidre L. Johnson
DEIDRE L. JOHNSON Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED

MAY 16 2000

DEPARTMENT OF REAL ESTATE

By James R. ...

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA
11

12 * * *

13 In the Matter of the Accusation of)
14 GARY EUGENE REYNOLDS,)
15 Respondent.)
16

NO. H-3512 SAC
ACCUSATION

17 The Complainant, Charles W. Koenig, a Deputy Real
18 Estate Commissioner of the State of California, for causes of
19 Accusation against GARY EUGENE REYNOLDS, is informed and alleges
20 as follows:

21 PRELIMINARY ALLEGATIONS

22 I

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

27 ///

1 II

2 The Complainant, Charles W. Koenig, a Deputy Real
3 Estate Commissioner of the State of California, makes this
4 Accusation against Respondent in his official capacity and not
5 otherwise.

6 III

7 At all times herein mentioned, Respondent was licensed
8 by the Department of Real Estate (hereafter the Department) as a
9 real estate broker.

10 IV

11 Within the three years last past, Respondent engaged in
12 the business and acted in the capacity of a real estate broker in
13 California within the meaning of Section 10131(a) of the Code,
14 wherein Respondent sold or offered to sell, bought or offered to
15 buy, solicited prospective sellers or purchasers of, and/or
16 negotiated the purchase, sale or exchange of real property.

17 FIRST CAUSE OF ACTION

18 V

19 On or about November 2, 1998, and while acting in the
20 capacity of a real estate licensee as alleged above, Respondent
21 prepared a real estate purchase contract and receipt for deposit
22 (hereafter Deposit Receipt) on behalf of prospective buyer Andra
23 Clark (hereafter Buyer), to constitute Buyer's offer to purchase
24 real property located at #5 Ruiz Court, Sacramento, California.
25 The Deposit Receipt acknowledged receipt by Respondent from Buyer
26 of a deposit in the sum of \$500.00 (hereafter Initial Earnest
27 Money), and stated that the funds were to be held uncashed until

1 the next business day after acceptance of the offer, and then
2 deposited.

3 VI

4 Respondent presented the Deposit Receipt and offer to
5 sellers Eric and Murice Shelton (hereafter Sellers) by and
6 through their real estate agent. In connection with the offer,
7 Respondent expressly or impliedly represented to Sellers that
8 Buyer had given him the Initial Earnest Money, that the earnest
9 money deposit was in the sum of \$500.00, that he would hold it
10 until acceptance, and that, upon acceptance he would deposit the
11 Initial Earnest Money with the escrow company within three
12 business days thereafter. In reliance thereon, Sellers entered
13 into negotiations regarding certain terms of the offer, which led
14 to acceptance of the above terms on or about November 3, 1998.

15 VII

16 At all times herein, Respondent owed to Sellers an
17 affirmative duty of honest and fair dealing and good faith. The
18 above representations by Respondent were false and untrue and
19 were known or should have been known by him to be false and
20 untrue at the times they were made. The true facts then existing
21 were that Respondent was not in receipt of \$500.00 or any sum of
22 money or negotiable instrument from Buyer whatsoever. Respondent
23 failed to disclose the true facts to Sellers during negotiations
24 or thereafter.

25 VIII

26 On and after November 3, 1998, Respondent failed to
27 obtain the Initial Earnest Money from Buyer and failed to deposit

1 it. Respondent knew or should have known that he did not deposit
2 Buyer's Initial Earnest Money into a trust account in his name as
3 trustee, or into an escrow account at Chicago Title Company or
4 any other escrow company within three business days after
5 acceptance, or at any time thereafter during the transaction.
6 Respondent failed to so inform Sellers.

7 IX

8 Escrow was due to close pursuant to the contract on or
9 about December 3, 1998. Buyer had problems arranging financing.
10 By a written addendum on or about December 10, 1998, Buyer and
11 Sellers negotiated and agreed to an extension to December 31,
12 1998, in consideration of Buyer's additional earnest money
13 deposit of \$600.00. The addendum provided that the total earnest
14 money deposit of \$1,100.00 was nonrefundable and not contingent
15 on Buyer obtaining financing. Buyer's \$600.00 was deposited with
16 Chicago Title on or about December 15, 1998.

17 X

18 On or about December 30, 1998, Sellers learned that Buyer
19 was denied purchase money financing from a lender. They then
20 learned that Respondent had not deposited Buyer's Initial Deposit
21 into escrow as above alleged. It was finally deposited on or about
22 December 31, 1998. The transaction was thereafter terminated.

23 XI

24 The acts and/or omissions of Respondent as alleged
25 above violate Section 10145 of the Code, and Section 2832 of
26 Title 10, California Code of Regulations, and constitute grounds
27 for disciplinary action under the provisions of Section 10177(d).

1 of the Code. The acts and/or omissions also constitute grounds
2 for disciplinary action under the provisions of Sections 10176(a)
3 and/or 10177(g) of the Code.

4 SECOND CAUSE OF ACTION

5 I

6 On or about April 27, 1999, in the Sacramento Superior
7 and Municipal Courts of California, Small Claims Unit, in Case
8 No. 99SC01664, a judgment was entered against Respondent upon
9 grounds of fraud, misrepresentation, or deceit with reference to
10 a transaction for which a real estate license is required.

11 II

12 The facts set forth in Paragraph I above constitute
13 cause under Section 10177.5 of the Code for the suspension or
14 revocation of all license(s) and license rights of Respondent
15 under the Real Estate Law.

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

23
24 
25 CHARLES W. KOENIG
Deputy Real Estate Commissioner

26 Dated at Sacramento, California,
27 this 2nd day of May, 2000.