

1 Department of Real Estate
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FILED
OCT - 8 2004

DEPARTMENT OF REAL ESTATE
By Laurel G. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 TO:) No. H- 4125 SAC
12)
13 4K&D CORP., a North Carolina) ORDER TO DESIST AND REFRAIN
14 Corporation, VALERIA DEVINE,) (B&P Code Section 10086)
15 ROBERT KIRK and J. MARIAN McLEOD,)
16 each individually and doing)
17 Business as Great Estates)
18 Auction Company)
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27)

17 The Real Estate Commissioner of the State of
18 California (herein "Commissioner") has determined from evidence
19 available to the California Department of Real Estate (herein
20 "the Department") that you, 4K&D CORP, a North Carolina
21 Corporation, VALERIA DEVINE, ROBERT KIRK, and J. MARIAN McLEOD,
22 each individually and doing business as Great Estates Auction
23 Company (herein "you"), while engaged in activities which
24 require a real estate broker license under the provisions of
25 Sections 10131(a) and 10131.2 of the California Business and
26 Professions Code (herein "the Code"), violated Sections 10130 of
27 the Code and Section 10085 of the Code in conjunction with

1 Section 2970 of Chapter 6, Title 10, California Code of
2 Regulations (herein "the Regulations").

3 I

4 Between on or about June 1, 2003, and on or about
5 November 12, 2003, within this State, and at other times and on
6 other occasions unknown to the Department but well known to you,
7 you engaged in the business of finding, locating and promoting
8 the sale of real estate, and, in the course of said business,
9 you solicited and obtained written agreements with prospective
10 sellers of residential real property wherein you agreed, among
11 other things, (a) to render services to the owners of such
12 properties to promote the sale of said property, and (b) to
13 circularize, notify and refer real estate brokers or salesmen to
14 said property offered for sale.

15 II

16 Between on or about June 1, 2003, and on or about
17 November 12, 2003, within this State, in course of the
18 activities described in Paragraph I, above, you solicited and
19 obtained a written agreement with Adelaide Andrews (herein
20 "Andrews"), a prospective seller of residential real property
21 located at 386 Sunset Drive, Encinitas, California, 92024
22 (herein "Sunset Drive"), wherein you agreed, among other things,
23 (a) to render services to Andrews as owner of Sunset Drive to
24 promote the sale of Sunset Drive, and (b) to circularize, notify
25 and refer real estate brokers or salesmen to Sunset Drive.

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III

In the Andrews transaction described above, you contracted for, charged, claimed, demanded, collected and received a \$66,256.68 fee, in the form of a promissory note from Andrews secured by Sunset Drive, prior and as a condition precedent to the performance by you of your obligations under the written agreement.

IV

The fee described in Paragraph III, above, was an "advance fee" within the meaning of Section 10026 of the Code.

V

Said advance fee was collected pursuant to a written agreement which constitutes an advance fee agreement within the meaning of Section 10085 of the Code.

VI

By the commission of the acts described above, you engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Sections 10131(b) and 10131.2 of the Code.

VII

You failed, prior to engaging in the business and acting in the capacity of a real estate broker within the State of California, to obtain a real estate broker license from the Department of Real Estate in violation of Section 10130 of the Code.

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VIII

In the Andrews transaction described above, you failed to submit the advance fee agreement referred to in Paragraph I, above, to the Commissioner ten days prior to use as required by Section 10085 of the Code and Section 2970 of the Regulations.

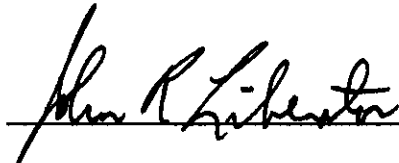
NOW, THEREFORE, YOU, 4K&D CORP, VALARIA DEVINE, ROBERT KIRK, and J. MARIAN McLEOD, AND EACH OF YOU, INDIVIDUALLY AND DOING BUSINESS AS GREAT ESTATES AUCTION COMPANY, AND YOUR AGENTS AND EMPLOYEES, ARE HEREBY ORDERED TO DESIST AND REFRAIN from:

(a) performing any activities for which a real estate license is required unless you comply with Section 10130 of the Code; and

(b) using any advance fee agreement without first complying with 10085 of the Code and Section 2970 of the Regulations.

DATED: Oct. 1, 2004

JOHN R. LIBERATOR
Chief Deputy Commissioner



cc: 4K&D CORPORATION
VALERIA DEVINE
ROBERT KIRK
J. MARIAN McLEOD
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