

FILED

JAN 13 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

6 BEFORE THE DEPARTMENT OF REAL ESTATE

7 STATE OF CALIFORNIA

8 * * *

9	In the Matter of the Accusation of)	NO. H-4928 SAC
10)	
11	KEVIN V. MORAN, and)	<u>STIPULATION AND AGREEMENT</u>
12	SHANNON SUE CLARK)	<u>IN SETTLEMENT</u>
13)	<u>AND ORDER</u>
14	Respondents.)	

14 It is hereby stipulated by and between Respondents KEVIN V. MORAN (herein
15 "MORAN"), and SHANNON SUE CLARK (herein "CLARK") (herein jointly "Respondents"),
16 individually and jointly and the Complainant, acting by and through Mary F. Clarke, Counsel for
17 the Department of Real Estate (herein "the Department"), as follows for the purpose of settling
18 and disposing of the Accusation filed on February 5, 2008 in this matter (herein "the
19 Accusation"):

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

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

4 3. A Notice of Defense was filed on February 8, 2008 by Respondent Clark,
5 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on
6 the allegations in the Accusation. Respondent Clark hereby freely and voluntarily withdraws
7 said Notice of Defense. Respondent Clark acknowledges that she understands that by
8 withdrawing said Notice of Defense she will thereby waive her right to require the
9 Commissioner to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that she will waive other rights afforded to her in
11 connection with the hearing such as the right to present evidence in defense of the allegations in
12 the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation.
14 In the interests of expedience and economy, Respondents choose not to contest these allegations,
15 but to remain silent and understand that, as a result thereof, these factual allegations, without
16 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 said factual allegations.

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

26 6. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation and Agreement in Settlement shall not constitute an estoppel, merger

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

4 DETERMINATION OF ISSUES

5 I

6 The acts and omissions of Respondents as described in the Accusation are
7 grounds for the suspension or revocation of the licenses and license rights of Respondents under
8 the following provisions of the California Business and Professions Code (herein "the Code")
9 and/or Chapter 6, Title 10, California Code of Regulations (herein "the Regulations"):

10 (a) as to Paragraph VI and Respondent MORAN under Section 10161.8 of the
11 Code and Section 2752 of the Regulations in conjunction with Section 10177(d) of the Code;

12 (b) as to Paragraphs VII(a) and (b) and Respondent CLARK under Sections
13 10176(a) and 10177(c) of the Code and in conjunction with Section 10177(d) of the Code;

14 (c) as to Paragraph VIII and Respondent MORAN under
15 Section 1099 of the Civil Code and Section 2905 of the Regulations in conjunction with Section
16 10177(d) of the Code; and

17 (d) as to Paragraph IX and Respondent MORAN under
18 Section 10148 of the Code in conjunction with Section 10177(d) of the Code.

19 ORDER

20 I

21 All licenses and licensing rights of Respondent MORAN under the Real Estate
22 Law are suspended for a period of sixty (60) days from the effective date of this Order; provided,
23 however, that:

24 1. Said suspension shall be stayed for two (2) years upon the following terms and
25 conditions:

26 (a) Respondent shall obey all laws, rules and regulations governing the rights,
27 duties and responsibilities of a real estate licensee in the State of California; and

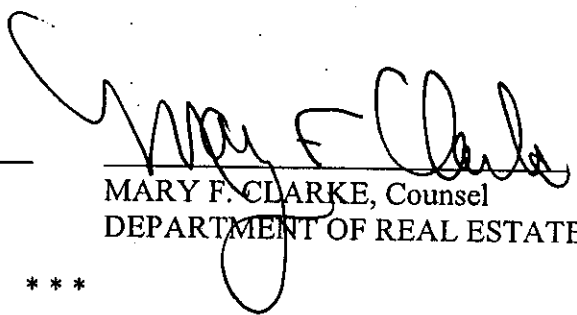
1 (b) That no final subsequent determination be made, after hearing or upon
2 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
3 date of this Order. Should such a determination be made, the Commissioner may, in his
4 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
5 suspension. Should no such determination be made, the stay imposed herein shall become
6 permanent.

7 II

8 All licenses and licensing rights of Respondent CLARK under the Real Estate
9 Law are suspended for a period of sixty (60) days from the effective date of this Order.

10
11
12 DATED:

8-22-08



MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE

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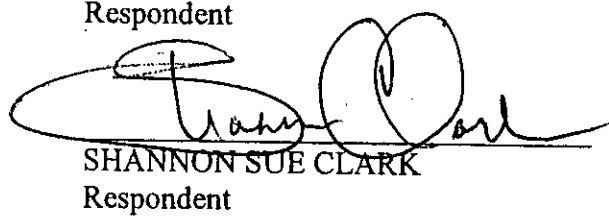
15 I have read the Stipulation and Agreement and its terms are understood by me and
16 are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
17 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,
18 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
19 those rights, including the right of requiring the Commissioner to prove the allegations in the
20 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
21 and to present evidence in defense and mitigation of the charges.

22
23 DATED

8-14-08

24
25
26 DATED

KEVIN V. MORAN
Respondent



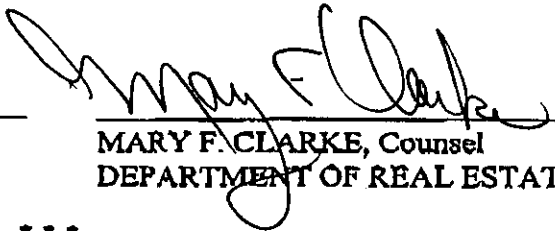
SHANNON SUE CLARK
Respondent

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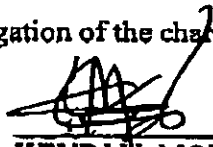
II

All licenses and licensing rights of Respondent CLARK under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order.

DATED: 8-22-08 
MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE

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8/15/08
DATED


KEVIN V. MORAN
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DATED

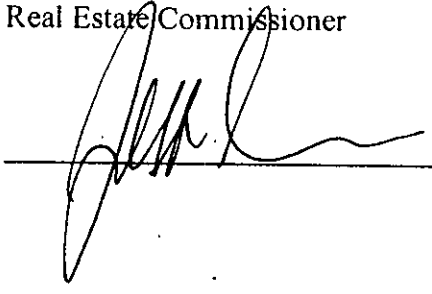
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The foregoing Stipulation and Agreement is hereby adopted by me as my Decision
in this matter and shall become effective at 12 o'clock noon on February 2, 2011

IT IS SO ORDERED 12/30/2010

JEFF DAVI
Real Estate Commissioner



FILED

JAN 13 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

6 BEFORE THE DEPARTMENT OF REAL ESTATE

7 STATE OF CALIFORNIA

8 * * *

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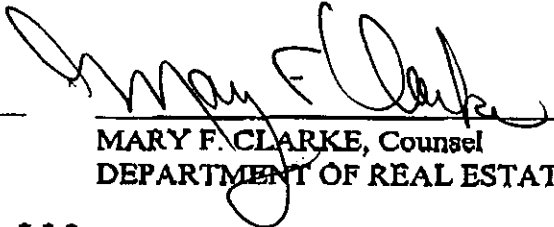
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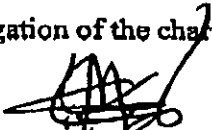
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8/15/08
DATED


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Respondent

DATED

SHANNON SUE CLARK
Respondent

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IT IS SO ORDERED 12/30/2010

JEFF DAVI
Real Estate Commissioner



1 MARY F. CLARKE, Real Estate Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0780 (Direct)

FILED

FEB - 5 2008

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 KEVIN V. MORAN, and,)
13 SHANNON SUE CLARK,)
14 Respondents.)

NO. H-4928 SAC

ACCUSATION

15 The Complainant, CHARLES W. KOENIG, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against KEVIN V. MORAN (herein "MORAN"), and SHANNON
18 SUE CLARK (herein "CLARK"), is informed and alleges as follows:

19 I

20 The Complainant, CHARLES W. KOENIG, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

24 At all times herein mentioned, MORAN and CLARK (herein
25 "Respondents") were and now are licensed and/or have license
26 rights under the Real Estate Law (Part 1 of Division 4 of the
27 Business and Professions Code) (herein "the Code").

1 III

2 At all times herein mentioned, Respondent MORAN was and
3 now is licensed by the Department of Real Estate of the State of
4 California (herein "the Department") as a real estate broker.

5 IV

6 At all times herein mentioned Respondent CLARK was and
7 now is licensed by the Department as real estate salesperson.
8 At no time mentioned herein after November 24, 2004, was Clark
9 licensed by the Department in the employ of Moran.

10 V

11 At all times herein mentioned Respondent MORAN,
12 individually, and by and through Respondent CLARK, engaged in the
13 business of, acted in the capacity of, advertised, or assumed to
14 act as a real estate broker within the State of California within
15 the meaning of Sections 10131(a) of the Code, including the
16 operation and conduct of a real estate brokerage that included the
17 sale or offer of sale, purchase or offer of purchase, solicitation
18 of prospective sellers and purchasers of, solicitation or
19 obtaining listings of, or negotiations of the purchase, sale or
20 exchange of real property or a business opportunity.

21 VI

22 During the three year period next preceding the filing
23 of the original Accusation herein, in connection with the
24 operation and conduct of a real estate brokerage as described in
25 Paragraph V, above, Respondent MORAN failed to immediately notify
26 the Commissioner in writing that CLARK had entered the employ of
27 said brokerage as a real estate salesperson, in violation of

1 Section 10161.8 of the Code and Section 2752 of Chapter 6, Title
2 10, California Code of Regulations (herein "the Regulations").

3 VII

4 On or about between May 20, 2005, and on or about
5 August 22, 2005, in the course of employment described in
6 Paragraph V, and in connection with the sale of real property
7 located at 733 Diane Avenue, Stockton, CA 95207, Respondent
8 CLARK, represented to buyer that said property was located in the
9 Lincoln Unified School District, when, in reality, the property
10 was actually located in the Stockton Unified School District.
11 The location of said property was of primary importance to buyer,
12 who relied on said representation in purchasing the property
13 and would not have purchased it if buyer had known it was located
14 in the Stockton Unified School District. Respondent CLARK
15 thereby:

- 16 (a) made a substantial misrepresentation concerning
17 which school district wherein said real property
18 was located, in violation and/or willful disregard
19 of Section 10176(a) of the Code; and,
20 (b) publication, advertisement, distribution or
21 circularization of a false statement or
22 representation concerning which school district
23 wherein said real property was located, in
24 violation of Section 10140 of the Code.

25 VIII

26 On or about between May 20, 2005, and on or about
27 August 22, 2005, in connection with the sale of real property

1 located at 733 Diane Avenue, Stockton, CA 95207, Respondent
2 MORAN failed to effect delivery of the pest inspection report
3 certification and the notice of work completed, if any, to the
4 transferee, in violation of Section 1099 of the Civil Code and
5 Section 2905 of the Regulations.

6 IX

7 On or about between May 2, 2007, and on or about July 13,
8 2007, in connection with the sale of a parcel of real property
9 located at 733 Diane Avenue, Stockton, CA 95207, Respondent MORAN
10 failed to make available for examination, inspection, and copying
11 by the Commissioner of the Department the transaction file of
12 said real property in violation of Section 10148 of the Code.

13 X

14 The facts alleged above are grounds for the suspension
15 or revocation of the licenses and license rights of Respondents
16 under the following provisions of the Code and/or the Regulations:

17 (a) as to Paragraph VI and Respondent MORAN under
18 Section 10161.8 of the Code and Section 2752 of the
19 Regulations in conjunction with Section 10177(d) of
20 the Code;

21 (b) as to Paragraph VII(a) and (b) and Respondent CLARK
22 under Sections 10176(a) and 10177(c) of the Code and
23 in conjunction with Section 10177(d) of the Code;

24 (c) as to Paragraph VIII and Respondent MORAN under
25 Section 1099 of the Civil Code and Section 2905 of
26 the Regulations in conjunction with Section 10177(d)
27 of the Code; and,

1 (d) as to Paragraph IX and Respondent MORAN under
2 Section 10148 of the Code in conjunction with
3 Section 10177(d) of the Code.

4 PRIOR DISCIPLINE

5 XI

6 Effective August 2, 2000, in Case No. H-3508 SAC, the
7 Real Estate Commissioner revoked, and issued a restricted a real
8 estate salesperson license to CLARK, for a violation of Sections
9 10177(a) and 498 of the Code.

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 action
13 against all licenses and license rights of Respondents under the
14 Real Estate Law (Part 1 of Division 4 of the Business and
15 Professions Code) and for such other and further relief as may be
16 proper under other applicable provisions of law.

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20 
21 CHARLES W. KOENIG
22 Deputy Real Estate Commissioner

23 Dated at Sacramento, California
24 this 18th day of December, 2007.