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FILED
JAN 16 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JAN REAGAN,	DRE No. H-29906 LA
Respondent.	OAH No. L-2003020357

NOTICE OF VOID ORDER EXTENDING EFFECTIVE DATE
AND
DENIAL OF PETITION FOR RECONSIDERATION BY OPERATION OF THE LAW

A hearing was held in this matter on May 28, 2003, in Los Angeles, California. On June 9, 2003, the Administrative Law Judge issued a Proposed Decision which proposed a stayed suspension of Respondent's real estate broker license. On or about July 10, 2003, the Real Estate Commissioner declined to adopt the Proposed Decision. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with notice of the Commissioner's determination not to adopt the Proposed Decision of the Administrative Law Judge along with a copy of the Proposed Decision. Respondent was notified that the case would be decided by the Commissioner upon the record, the

1 transcript of proceedings held on May 28, 2003, and upon any
2 written argument offered by Respondent and Complainant.

3 On December 3, 2003, a Decision After Rejection was
4 rendered in the above-entitled matter. The Decision After
5 Rejection was to become effective December 23, 2003.

6 On December 17, 2003, Respondent petitioned for
7 reconsideration of the Decision After Rejection and submitted
8 written argument in support of the Petition for Reconsideration.
9 On December 17, 2003, an Order Staying Effective Date, ostensibly
10 making the Decision of December 3, 2003, effective January 22
11 2004, was issued and filed in the record of these proceedings,
12 and served upon Respondent. The Department was without authority
13 or jurisdiction to issue the Order Staying Effective Date because
14 Respondent had filed his petition for reconsideration on
15 December 17, 2003. Bonnell v. Medical Board of California.
16 California Supreme Court Case No. S105798, Daily Appellate
17 Report, Tuesday, December 30, 2003, pp. 14091 - 14093.

18 Pursuant to Government Code Section 11521(a), once a
19 petition for reconsideration has been filed, an agency may no
20 longer grant the 30-day stay authorized by the second sentence
21 of Government Code Section 11521(a), and any such order is void
22 and without effect. Bonnell v. Medical Board of California,
23 supra. The Order Staying Effective Date of December 17, 2003,
24 was therefore void by operation of law and the Department of
25 Real Estate was without jurisdiction to issue said order.
26 Therefore, the decision in this matter was effective on
27 December 23, 2003.

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The Department's authority to grant reconsideration expired on December 23, 2003, the effective date of the Decision of December 3, 2003. As such, Respondent's petition for reconsideration was denied by operation of law. Section 11521 of the Government Code. Ginns v Savage, 21 Cal 2d 520.

DATED: January 16, 2004.

JOHN R. LIBERATOR
Chief Deputy Commissioner

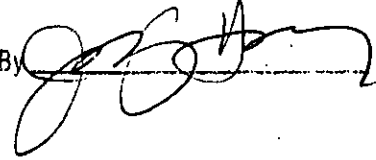
John R. Liberator

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FILED
DEC 17 2003

DEPARTMENT OF REAL ESTATE

By: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-29906 LA
JAN REAGAN,	L-2003020357
Respondent.	

ORDER STAYING EFFECTIVE DATE

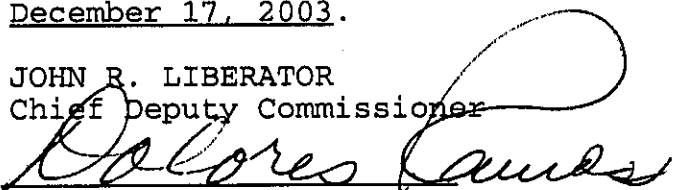
On December 3, 2003, a Decision After Rejection was rendered in the above-entitled matter to become effective December 23, 2003.

IT IS HEREBY ORDERED that the effective date of the Decision After Rejection of December 3, 2003, is stayed for a period of thirty (30) days.

The Decision of December 3, 2003, shall become effective at 12 o'clock noon on January 22, 2004.

DATED: December 17, 2003.

JOHN R. LIBERATOR
Chief Deputy Commissioner

By: 
DOLORES RAMOS
Regional Manager

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FILED
DEC 3 2003

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-29906 LA
JAN REAGAN,)	L-2003020357
Respondent.)	

DECISION AFTER REJECTION

This matter was heard on May 28, 2003, by Administrative Law Judge ("ALJ") Timothy S. Thomas at the Office of Administrative Hearings ("OAH"), Los Angeles, California.

Respondent JAN REAGAN ("Respondent") appeared personally and was represented by Francis T. Donohue III, Attorney at Law.

The Complainant was represented by Mary E. Work, Counsel for the Department of Real Estate.

The ALJ submitted a Proposed Decision dated June 9, 2003. I have declined to adopt said Proposed Decision as my Decision.

Pursuant to Section 11517(c) of the Government Code of the State of California ("Government Code"), Respondent was

1 served with notice of my determination not to adopt the Proposed
2 Decision of the ALJ along with a copy of said Proposed Decision.
3 Respondent was notified that the case would be decided by me
4 upon the record, the transcript of the proceedings conducted on
5 May 28, 2003, and upon any written argument submitted by
6 Respondent and Complainant.

7 On September 8, 2003, Respondent, through her attorney,
8 submitted Argument and Argument was submitted by legal counsel
9 for Complainant on November 20, 2003.

10 I have given careful consideration to the record in the
11 case, including the transcript of the proceedings that was held
12 on May 28, 2003 and the Arguments submitted by Complainant and
13 Respondent. Based on my consideration of the foregoing, the
14 following shall constitute the Decision of the Real Estate
15 Commissioner in this matter:

16 FACTUAL FINDINGS

17 1. Maria Suarez, Deputy Real Estate Commissioner,
18 filed the Accusation in her official capacity.

19 2. Respondent holds license number 00760348 as a real
20 estate broker, although she has rarely conducted business under
21 that license. She is also an escrow agent, licensed by the
22 California Department of Corporations in 1978, and was the owner
23 of Newport Center Escrow from 1986 until April of 2001, when she
24 sold the business. On November 6, 2001, pursuant to a
25 Settlement Agreement, Respondent was suspended from holding any
26 position of employment as an escrow agent for six months, and
27 barred from holding any position of management or control as an
escrow agent for two years.

1 3. The circumstances leading to the settlement with
2 the Department of Corporations involved the handling of two
3 transactions determined by the Commissioner of Corporations to
4 constitute violations of the Financial Code. The Accusation in
5 that matter alleged that in a 1999 transaction Respondent closed
6 the escrow without having received all down payments and closing
7 costs in cash from the buyers as required by the instructions.
8 Instead, Respondent had participated in a plan to provide
9 secondary financing to the buyer. The buyer's broker agreed to
10 lower his commission by \$5,685.00 and advance that amount as a
11 loan to the buyer secured by a deed of trust in a third
12 position. Respondent prepared a receipt that misrepresented
13 that the buyer had deposited the money into escrow as cash, and
14 did not submit to the lender in the first position the amendment
15 to the escrow instructions that permitted the broker's loan to
16 be made. The settlement statement sent to the original lender at
17 close of escrow likewise failed to disclose the existence of the
18 third trust deed or the fact of a loan by the real estate
19 broker.

20 In the second transaction, it was alleged that in 2000
21 Respondent paid \$5,000 of the real estate commission prior to
22 close of escrow, and the sum of \$3,349.80 on a second occasion
23 prior to the close of escrow. These acts were violations of the
24 Financial Code.

25 4. The disciplinary action brought by the Commissioner of
26 Corporations was precipitated by a routine audit conducted in
27 November 1999. Respondent believes she offended the auditor
during the course of her work and that the auditor was

1 thereafter unnecessarily harsh in bringing the charges.
2 However, in the November 6, 2001, Settlement Agreement,
3 Respondent admitted all but one of the allegations contained in
4 the Accusation brought by the Commissioner of Corporations, this
5 includes Respondent's admitted failure to disclose to the
6 buyer's primary lender the existence of a third trust deed and
7 the loan that it secured. The one allegation not admitted by
8 Respondent was dismissed by the agency, and is the allegation
9 regarding payment of a \$5,000 commission payment prior to close
10 of escrow.

11 5. The acts for which Respondent was disciplined by the
12 Commissioner of Corporations would also constitute grounds for
13 discipline if committed by a real estate licensee.

14 6. Respondent avers that in 1999 she was "working too
15 hard," and two newly hired assistants were involved in the
16 transactions in question. While she continues to feel the
17 charges were not justified and that she was not aware she was
18 doing anything wrong, she entered into the settlement because
19 she had by then sold her business and had no desire to own an
20 escrow company again. She accepted the six month suspension as
21 an escrow agent and went to work for another company thereafter.

22 7. There is no evidence of prior discipline with
23 respect to either Respondent's escrow or real estate license.
24 There is no evidence that any individual or entity suffered
25 damage as a result of the acts committed in connection with the
26 escrows involved, or that Respondent personally financially
27 benefited from the conduct in question.

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LEGAL CONCLUSIONS

Cause exists to discipline Respondent's license number 00760348 pursuant to Business and Professions Code section 10177(f), in that Respondent's escrow agent license was suspended for acts that, if done by a real estate licensee, would be grounds for discipline of a California real estate license, based on Factual Findings 2 through 5.

In light of the limiting language contained in the Settlement Agreement entered into between Respondent and the Department of Corporations, the suspension of Respondent's escrow agent license is not sufficient evidence to support a finding of a violation of Section 10177(j).

ORDER

A. All licenses and licensing rights of Respondent Jan Reagan under the Real Estate Law are suspended for a period of 90 days from the effective date of this Decision.

The suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in her discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed suspension. Should no such determination be made, the stay

1 imposed herein shall become permanent.

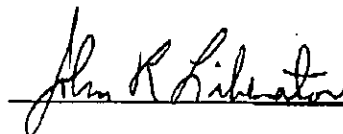
2 3. Respondent shall conduct no escrow activities
3 pursuant to the exemption set forth in Financial Code Section
4 17006(a)(4) or without a license from the Department of
5 Corporations, within two (2) years of the effective date of
6 this Decision.

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

14 This Decision shall become effective at 12 o'clock
15 noon on December 23, 2003.

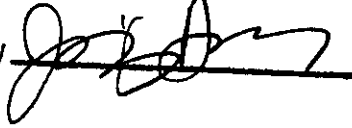
16 IT IS SO ORDERED December 3, 2003

17 PAULA REDDISH ZINNEMANN
18 Real Estate Commissioner

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20 _____

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22 BY: John R. Liberato
23 Chief Deputy Commissioner
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FILED
JUL 10 2003
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of.)	No. H-29906 LA
JAN REAGAN,)	L-2003020357
)	
)	
Respondent.)	

NOTICE

TO: JAN REAGAN, Respondent, and FRANCIS T. DONOHUE III, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 9, 2003, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 9, 2003, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on May 28,

///

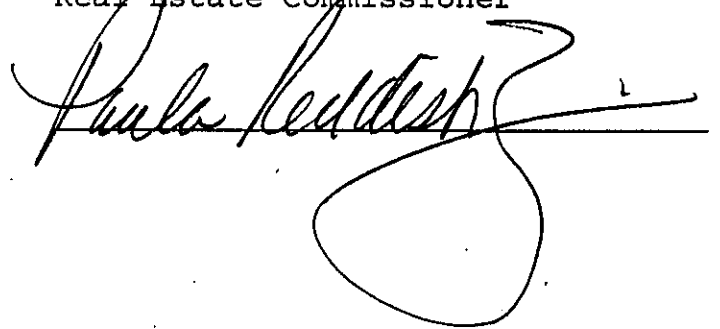
1 2003, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of May 28, 2003, at the Los Angeles office of
6 the Department of Real Estate unless an extension of the time is
7 granted for good cause shown.

8 Written argument of Complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 Respondent at the Los Angeles office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: July 7, 2003

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15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

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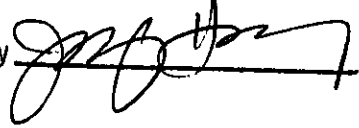
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MARY E. WORK, Counsel
State Bar No. 175887
Department of Real Estate
320 W. 4th St., Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
-Direct- (213) 576-6916

FILED
JAN 23 2003

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JAN REAGAN,	NO. H-29906 LA
	<u>A C C U S A T I O N</u>
Respondent.	

I

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JAN REAGAN is informed and alleges in her official capacity as follows:

II

At all times mentioned herein, JAN REAGAN (hereinafter referred to as "Respondent") was and still is licensed by the Department of Real Estate of the State of California ("Department") as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

1 III

2 Effective on or about November 6, 2001, in the Matter
3 of the Accusation of the Department of Corporations
4 Commissioner, Complainant vs. Jan Reagan, Respondent, File No.
5 963-0950, the Department of Corporations of the State of
6 California Ordered that Respondent be suspended from any
7 position of employment of any escrow agent and barred her from
8 any position of management or control of any escrow agent.

9 Said suspension was based on a Settlement Agreement
10 entered into by the parties in which Respondent agreed that she
11 committed the following violations of law:

12 1. Respondent closed escrow no. 4381 without having
13 received all down payment and closing costs in cash from
14 the buyers as required by the escrow instructions, in
15 violation of Financial Code Section 17414(a)(1) and
16 California Code of Regulations, Title 10, Sections 1738
17 and 1738.2.

18 2. Respondent closed escrow no. 4381 with secondary
19 financing not approved by the lender in violation of
20 Financial Code Section 17414(a)(1) and California Code of
21 Regulations, Title 10, Sections 1738 and 1738.2.

22 3. Respondent closed escrow no. 4381 without receipt
23 of all required cash funds from the buyers and with
24 unapproved secondary financing in violation of Financial
25 Code Section 17414 (a)(2).

26 4. Respondent paid a real estate commission of
27

1 \$3,349.80 prior to the close of escrow no. 4555, in
2 violation of Financial Code Section 17420.

3 IV

4 Respondent's discipline by the Department of
5 Corporations of the State of California, and the acts leading
6 to said discipline, as described above in Paragraph III, are
7 cause under Section 10177(f) and/or 10177(j) of the Business
8 and Professions Code for suspension or revocation of all
9 licenses and license rights of Respondent under the Real Estate
10 law.

11 WHEREFORE, Complainant prays that a hearing be
12 conducted on the allegations of this Accusation and that upon
13 proof thereof, a decision be rendered imposing disciplinary
14 action against all licenses and/or license rights of JAN REAGAN
15 under the Real Estate Law and for such other and further relief
16 as may be proper under applicable provisions of law.

17
18 Dated at Los Angeles, California

19 this 21st day of January, 2003.

20
21 
22 Deputy Real Estate Commissioner

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24
25 cc: Jan Reagan
26 Maria Suarez
27 ✓ SACTO
JN