

1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
APR 17 2008

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-34025 LA
12) L-2007100367
13 SAMTIM, INC.,)
14 and RONALD HOLBORN,) STIPULATION AND AGREEMENT
15 individually and as)
16 designated officer of)
17 Samtim, Inc.,)
18 and MARY LEIGH KENNEDY,)
19 Respondents.)

18 It is hereby stipulated by and between SAMTIM, INC.,
19 and RONALD HOLBORN (sometimes referred to as Respondents) and
20 their attorney, Kevin Spainhour, and the Complainant, acting by
21 and through James R. Peel, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of
23 the Accusation filed on June 25, 2007, in this matter.

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and
26 Respondents at a formal hearing on the Accusation, which hearing
27 was to be held in accordance with the provisions of the

1 Administrative Procedure Act ("APA"), shall instead and in place
2 thereof be submitted solely on the basis of the provisions of
3 this Stipulation and Agreement ("Stipulation").

4 2. Respondents have received, read and understand the
5 Statement to Respondent, the Discovery Provisions of the
6 Administrative Procedure Act ("APA") and the Accusation filed by
7 the Department of Real Estate in this proceeding.

8 3. On August 13, 2007, Respondents filed a Notice of
9 Defense pursuant to Section 11506 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notices of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notices of Defense they will
14 thereby waive their right to require the Commissioner to prove
15 the allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that they will
17 waive other rights afforded to them in connection with the
18 hearing, such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.
21

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation filed in this
24 proceeding. In the interest of expedience and economy,
25 Respondents choose not to contest these factual allegations, but
26 to remain silent and understand that, as a result thereof, these
27 factual statements, will serve as a prima facie basis for the

1 disciplinary action stipulated to herein. The Real Estate
2 Commissioner shall not be required to provide further evidence
3 to prove such allegations.

4 5. This Stipulation and Respondents' decision not to
5 contest the Accusation is made for the purpose of reaching an
6 agreed disposition of this proceeding and is expressly limited
7 to this proceeding and any other proceeding or case in which the
8 Department of Real Estate ("Department"), the state or federal
9 government, or an agency of this state, another state or the
10 federal government is involved.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt the Stipulation as his decision
13 in this matter thereby imposing the penalty and sanctions on
14 Respondents' real estate licenses and license rights as set
15 forth in the below "Order". In the event that the Commissioner
16 in his discretion does not adopt the Stipulation, the
17 Stipulation shall be void and of no effect, and Respondents
18 shall retain the right to a hearing on the Accusation under all
19 the provisions of the APA and shall not be bound by any
20 stipulation or waiver made herein.

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any conduct which was not specifically
27 alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

1
2 By reason of the foregoing stipulations and waivers
3 and solely for the purpose of settlement of the pending
4 Accusation without a hearing, it is stipulated and agreed that
5 the following determination of issues shall be made:

6 The conduct, acts and/or omissions of Respondents
7 SAMTIM, INC., and RONALD HOLBORN, as set forth in the Accusation,
8 constitute cause for the suspension or revocation of all of the
9 real estate licenses and license rights of Respondents under the
10 provisions of Section 10177(d) of the Business and Professions
11 Code ("Code") for violation of Code Section 10137.

ORDER

I

14 All licenses and licensing rights of Respondents
15 SAMTIM, INC., and RONALD HOLBORN under the Real Estate Law are
16 suspended for a period of sixty (60) days from the effective
17 date of this Decision; provided, however, that sixty (60) days
18 of said suspension shall be stayed upon the condition that:

20 a. Respondents SAMTIM, INC., and RONALD HOLBORN
21 shall each pay a monetary penalty pursuant to Section 10175.2 of
22 the Business and Professions Code at the rate of \$130 for each
23 day of the suspension for a total monetary penalty of \$7,800
24 (\$15,600 for both Respondents).

25 b. Said payment shall be in the form of a
26 cashier's check or certified check made payable to the Recovery
27 Account of the Real Estate Fund. Said check must be received by

1 the Department prior to the effective date of the Decision in
2 this matter.

3 c. No further cause for disciplinary action
4 against the real estate licenses of Respondents occurs within
5 one year from the effective date of the Decision in this matter.

6 d. If Respondents fail to pay the monetary penalty
7 in accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, order the immediate
9 execution of all or any part of the stayed suspension in which
10 event Respondents shall not be entitled to any repayment nor
11 credit, prorated or otherwise, for money paid to the Department
12 under the terms of this Decision.

13 e. If Respondents pay the monetary penalty and if
14 no further cause for disciplinary action against the real estate
15 licenses of Respondents occurs within one year from the
16 effective date of the Decision, the stay hereby granted shall
17 become permanent.

18
19 II

20 Respondent RONALD HOLBORN shall, within six months
21 from the effective date of this Decision, take and pass the
22 Professional Responsibility Examination administered by the
23 Department including the payment of the appropriate examination
24 fee. If Respondent fails to satisfy this condition, the
25 Commissioner may order suspension of Respondent's license until
26 Respondent passes the examination.
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DATED: Feb 27, 2008

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate
* * *

We have read the Stipulation and Agreement, have discussed it with our attorney, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of his or her actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department

1 shall be as binding on Respondent as if the Department had
2 received the original signed Stipulation and Agreement.

3 further, if the Respondents are represented, the
4 Respondents' Counsel can signify his or her agreement to the
5 terms and conditions of the Stipulation and Agreement by
6 submitting that signature via fax.

7
8 DATED: 2-25-2008


SANTINI, INC.
Respondent

9
10 DATED: 2-25-2008


RONALD HOLBORN
Respondent

11
12 DATED: 2-25-2008


KEVIN SPAINHOUR
Counsel for Respondents

13
14 * * *

15
16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision and Order in this matter, and shall
18 become effective at 12 o'clock noon on _____

19
20 IT IS SO ORDERED _____

21
22 JEFF DAVI
Real Estate Commissioner

1 shall be as binding on Respondent as if the Department had
2 received the original signed Stipulation and Agreement.

3 Further, if the Respondents are represented, the
4 Respondents' Counsel can signify his or her agreement to the
5 terms and conditions of the Stipulation and Agreement by
6 submitting that signature via fax.

7
8 DATED: _____
9 SAMTIM, INC.
Respondent

10
11 DATED: _____
12 RONALD HOLBORN
Respondent

13
14 DATED: _____
15 KEVIN SPAINHOUR
Counsel for Respondents

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision and Order in this matter, and shall
19 become effective at 12 o'clock noon on May 7, 2008

20 IT IS SO ORDERED

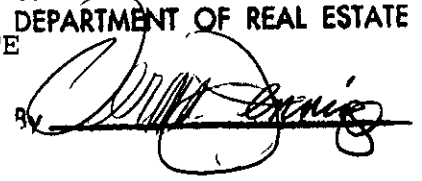
21 _____
22 JEFF DAVI
23 Real Estate Commissioner
24
25
26
27

FILED
APR 17 2008

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

* * * *

In the Matter of the Accusation of)
)
SAMTIM, INC.,)
and RONALD HOLBORN,)
individually and as)
designated officer of)
Samtim, Inc., and)
MARY LEIGH KENNEDY,)
)
Respondents.)
_____)

No. H-34025 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on February 27, 2008; and the Findings of Fact set forth herein are based on one or more of the following:

- (1) Respondent's express admissions, (2) affidavits, and
- (3) other evidence.

FINDINGS OF FACT

I

On June 21, 2007, Janice A. Waddell made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, Discovery Provisions and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department of Real Estate of the State of California (hereinafter Department) on June 25, 2007.

On February 27, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

Respondents SAMTIM, INC., and RONALD HOLBORN, individually and as designated officer of said corporation, and Respondent MARY LEIGH KENNEDY are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter Code).

III

At all times herein mentioned, Respondents SAMTIM, INC., and RONALD HOLBORN were licensed by the Department as real estate brokers.

IV

Respondent MARY LEIGH KENNEDY was licensed as a real estate salesperson effective July 3, 2004. The license was suspended from January 4, 2006, through April 25, 2006, for failure to satisfy certain educational requirements pursuant to Section 10153.4 of the Code.

V

At all times material herein, Respondents SAMTIM, INC., and RONALD HOLBORN engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the state of California within the meaning of Section 10131(a) of the Code, including soliciting buyers and sellers and negotiating the sale of real property.

VI

In connection with Respondents SAMTIM, INC., and RONALD HOLBORN's activities as real estate brokers, as described above, Respondents violated Section 10137 of the Code by employing Respondent MARY LEIGH KENNEDY to solicit listings on real property during the time her license was suspended, as follows:

- (a) Solicited Manuel Estrada for a listing on 1220 E. 47th Street, Los Angeles.
- (b) Solicited Arturo Colin for a listing on 10531 Lexington Street, Stanton.

- (c) Solicited Raul and Maria Mendoza for a listing on 4455 Coppermine Street, Riverside.
- (d) Solicited David A. Otramba for a listing on 155 North Trevor Street, Anaheim.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent MARY LEIGH KENNEDY exists pursuant to Code Sections 10177(d) and 10177(j) for violation of Code Section 10130.

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

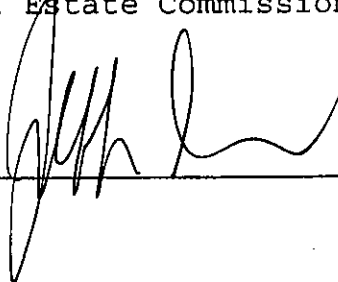
The license and license rights of Respondent MARY LEIGH KENNEDY under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on May 7, 2008.

DATED: _____

4-8-08

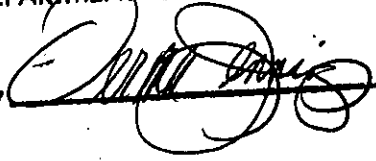
JEFF DAVI
Real Estate Commissioner



Also
file

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)

FILED
JUN 25 2007
DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-34025 LA
12	SAMTIM, INC.;)	<u>A C C U S A T I O N</u>
13	RONALD HOLBORN,)	
14	individually and as)	
15	designated officer of)	
16	Samtim, Inc.;)	
17	and MARY LEIGH KENNEDY,)	
18)	
19	Respondents.)	

20 The Complainant, Janice A. Waddell, a Deputy Real
21 Estate Commissioner of the State of California, for cause of
22 accusation against SAMTIM, INC., RONALD HOLBORN, individually and
23 as designated officer of SAMTIM, Inc., and MARY LEIGH KENNEDY,
24 alleges as follows:

25 I

26 The Complainant, Janice A. Waddell, acting in her
27 official capacity as a Deputy Real Estate Commissioner of the
State of California, makes this Accusation against SAMTIM, INC.,

1 RONALD HOLBORN, individually and as designated officer of SAMTIM,
2 Inc., and MARY LEIGH KENNEDY.

3 II

4 SAMTIM, INC., RONALD HOLBORN, individually and as
5 designated officer of said corporation, and MARY LEIGH KENNEDY
6 (hereinafter referred to as "Respondents"), are presently
7 licensed and/or have license rights under the Real Estate Law
8 (Part 1 of Division 4 of the Business and Professions Code)
9 (hereinafter Code).

10 III

11 At all times mentioned herein, Respondent SAMTIM, INC.
12 was licensed as a real estate broker through Respondent RONALD
13 HOLBORN as its designated broker-officer, and Respondent MARY
14 LEIGH KENNEDY was licensed as a real estate salesperson. The
15 license of Respondent MARY LEIGH KENNEDY was suspended from
16 January 4, 2006 through April 26, 2006 for failure to satisfy
17 certain educational requirements pursuant to Section 10153.4 of
18 the Code. Effective November 15, 2006, in case No. H-32687 LA,
19 Respondents SAMTIM, INC. and RONALD HOLBORN had their real estate
20 license suspended for 60 days which suspension could be stayed
21 for two years on terms and conditions.

22 IV

23 At all times material herein, Respondents engaged in
24 the business of, acted in the capacity of, advertised or assumed
25 to act as a real estate broker in the State of California, within
26 the meaning of Section 10131(a) of the Code, including soliciting
27 buyers and sellers and negotiating the sale of real property.

V

1
2 Respondents SAMTIM, INC. and ROBERT HOLBORN violated
3 Section 10137 of the Code by employing Respondent MARY LEIGH
4 KENNEDY to solicit listings on real property during the time her
5 license was suspended, as follows:

6 (a) Solicited Manuel Estrada for a listing on 1220 E.
7 47th Street, Los Angeles.

8 (b) Solicited Arturo Colin for a listing on 10531
9 Lexington Street, Stanton.

10 (c) Solicited Raul and Maria Mendoza for a listing on
11 4455 Coppermine Street, Riverside.

12 (d) Solicited David A. Otramba for a listing on 155
13 North Trevor Street, Anaheim.

14 VI

15 The conduct of Respondents SAMTIM, INC. and RONALD
16 HOLBORN, as alleged above, subjects their real estate licenses
17 and license rights to suspension or revocation pursuant to
18 Sections 10137, and 10177(d) and/or 10177(g) of the Code.

19 VII

20 The conduct of Respondent RONALD HOLBORN for failure to
21 adequately supervise Samtim, Inc. is in violation of Code section
22 10159.2 and subjects his real estate licenses and license rights
23 to suspension or revocation pursuant to Sections 10177(h),
24 10177(d) and/or 10177(g) of the Code.

25 ///

26 ///

27 ///

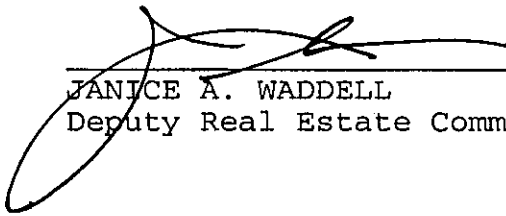
VIII

The conduct of Respondent MARY LEIGH KENNEDY is in violation of Code section 10130 and subjects her real estate license and license rights to suspension or revocation pursuant to Sections 10177(d) and 10177(j) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents SAMTIM, INC.; RONALD HOLBORN, individually and as designated officer of SAMTIM, Inc.; and MARY LEIGH KENNEDY under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 21 day of June, 2007.



JANICE A. WADDELL
Deputy Real Estate Commissioner

cc: Samtim, Inc.
Ronald Holborn
Mary Leigh Kennedy
Janice A. Waddell
Sacto.