

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

AUG 28 2008

DEPARTMENT OF REAL ESTATE

BY: *Franky*

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

No. H-34537 LA

13 PRO ADVANTAGE REAL ESTATE &)

STIPULATION

14 FINANCIAL SERVICES INC.;)

AND

15 and CAROLYN W. REYNOLDS,)

AGREEMENT

16 individually and as designated)

17 officer of Pro Advantage Real)

Estate & Financial Services Inc.,)

18 Respondents,)

19 It is hereby stipulated by and between Respondents

20 PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC., a corporate

21 real estate broker, and CAROLYN W. REYNOLDS, individually and as

22 designated officer of Pro Advantage Real Estate & Financial

23 Services Inc. (sometimes collectively referred to as

24 "Respondents"), represented by Frank M. Buda, Esq. and the

25 Complainant, acting by and through Elliott Mac Lennan, Counsel

26 for the Department of Real Estate, as follows for the purpose of

27 settling and disposing of the Accusation ("Accusation") filed on

November 27, 2007, in this matter:

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

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

3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation and Respondents' decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or any agency of this state, another state or federal
16 government is involved, and otherwise shall not be admissible in
17 any other criminal or civil proceedings.

18 6. It is understood by the parties that the Real
19 Estate Commissioner may adopt this Stipulation as his Decision in
20 this matter thereby imposing the penalty and sanctions on
21 Respondents' real estate licenses and license rights as set forth
22 in the "Order" herein below. In the event that the Commissioner
23 in his discretion does not adopt the Stipulation, it shall be
24 void and of no effect and Respondents shall retain the right to a
25 hearing and proceeding on the Accusation under the provisions of
26
27

1 the APA and shall not be bound by any stipulation or waiver made
2 herein.

3 7. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation shall not
5 constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real
7 Estate with respect to any matters which were not specifically
8 alleged to be causes for Accusation in this proceeding but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondents herein.

11 8. Respondent CAROLYN W. REYNOLDS understands that by
12 agreeing to this Stipulation, Respondent agrees to pay, pursuant
13 to Business and Professions Code Section 10148, the cost of audit
14 which led to this disciplinary action. The amount of said cost
15 for the audit is \$3,556.64.

16 9. Respondent CAROLYN W. REYNOLDS has received, read,
17 and understands the "Notice Concerning Costs of Subsequent
18 Audit". Respondent further understands that by agreeing to this
19 Stipulation, the findings set forth below in the Determination of
20 Issues become final, and the Commissioner may charge Respondent
21 for the cost of any subsequent audit conducted pursuant to
22 Business and Professions Code Section 10148 to determine if the
23 violations have been corrected. The maximum cost of the
24 subsequent audit will not exceed \$3,556.64.

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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC., as described in Paragraph 4, above, is in violation of Section 10145 and 10240 of the Business and Professions Code ("Code") and Section 2831 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

II.

The conduct of CAROLYN W. REYNOLDS, as described in Paragraph 4, constitutes a failure to keep Pro Advantage Real Estate & Financial Services Inc. in compliance with the Real Estate Law during the time that she was the officer designated by a corporate broker licensee, in violation of Code Sections 10159.2. This conduct is a basis for discipline of Respondent's license pursuant to Code Sections 10177(d) and 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC. and CAROLYN W. REYNOLDS, under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision; provided, however, that all thirty days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondents 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, which cause for disciplinary action occurred within two years from the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

II.

Pursuant to Section 10148 of the Business and Professions Code, Respondents PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC. and CAROLYN W. REYNOLDS, shall pay the

1 Commissioner's reasonable cost for (a) the audit which led to
2 this disciplinary action (b) a subsequent audit to determine if
3 Respondents are now in compliance with the Real Estate Law. The
4 cost of the audit which led to this disciplinary action is
5 \$3,556.64. In calculating the amount of the Commissioner's
6 reasonable cost, the Commissioner may use the estimated average
7 hourly salary for all persons performing audits of real estate
8 brokers, and shall include an allocation for travel time to and
9 from the auditor's place of work. Said amount for the prior and
10 subsequent audits shall not exceed \$7,113.28

11 Respondents shall pay such cost within 60 days of
12 receiving an invoice from the Commissioner detailing the
13 activities performed during the audit and the amount of time
14 spent performing those activities.

15 The Commissioner may suspend the license of Respondents
16 pending a hearing held in accordance with Section 11500, et seq.,
17 of the Government Code, if payment is not timely made as provided
18 for herein, or as provided for in a subsequent agreement between
19 the Respondents and the Commissioner. The suspension shall
20 remain in effect until payment is made in full or until
21 Respondents enter into an agreement satisfactory to the
22 Commissioner to provide for payment, or until a decision
23 providing otherwise is adopted following a hearing held pursuant
24 to this condition.
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III.

All licenses and licensing rights of Respondent CAROLYN W. REYNOLDS are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

DATED: 3-6-08

E76
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and discussed it with our counsel. 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

1 hearing at which we would have the right to cross-examine
2 witnesses against us and to present evidence in defense and
3 mitigation of the charges.

4 Respondents can signify acceptance and approval of the
5 terms and conditions of this Stipulation by faxing a copy of its
6 signature page, as actually signed by Respondents, to the
7 Department at the following telephone/fax number: Elliott Mac
8 Lennan at (213) 576-6917. Respondents agree, acknowledge and
9 understand that by electronically sending to the Department a fax
10 copy of Respondents' actual signature as they appear on the
11 Stipulation, that receipt of the faxed copy by the Department
12 shall be as binding on Respondents as if the Department had
13 received the original signed Stipulation.
14

15
16 DATED: 4/25/2008

Carolyn W Reynolds
PRO ADVANTAGE REAL ESTATE &
FINANCIAL SERVICES INC., a
corporate real estate broker,
BY: CAROLYN W. REYNOLDS, D.O.,
Respondent

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21 DATED: 4/25/2008

Carolyn W Reynolds
CAROLYN W. REYNOLDS individually
and as designated officer of Pro
Advantage Real Estate & Financial
Services Inc., Respondent

22
23
24
25 DATED: 5-12-08

Frank M. Buda
FRANK M. BUDA, ESQ.
Attorney for Respondents

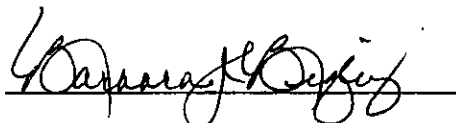
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents PRO ADVANTAGE REAL
ESTATE & FINANCIAL SERVICES INC. and CAROLYN W. REYNOLDS.
individually and as designated officer Of Pro Advantage Real
Estate & Financial Services Inc. and shall become effective at 12
o'clock noon on September 26, 2008.

IT IS SO ORDERED 8/17, 2008.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

facto
1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

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DEPARTMENT OF REAL ESTATE

BY: Agar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-34537 LA

12 PRO ADVANTAGE REAL ESTATE &)
13 FINANCIAL SERVICES INC.; and)

A C C U S A T I O N

14 CAROLYN W. REYNOLDS, individually)
15 and as designated officer of)
16 Pro Advantage Real Estate &)
Financial Services Inc.)

Respondents.)

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, acting in her official
19 capacity, for cause of Accusation against PRO ADVANTAGE REAL
20 ESTATE & FINANCIAL SERVICES INC. and CAROLYN W. REYNOLDS,
21 individually and as Pro Advantage Real Estate &
22 Financial Services Inc., is informed and alleges as follows:

23 1.

24 All references to the "Code" are to the California
25 Business and Professions Code and all references to "Regulations"
26 are to Title 10, Chapter 6, California Code of Regulations.
27

LICENSE HISTORY

2.

A. At all times mentioned, PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC. ("PRO ADVANTAGE"), was licensed or had license rights issued by the Department of Real Estate ("Department") as a corporate real estate broker. On August 30, 2001, PRO ADVANTAGE was originally licensed as a real estate broker.

B. At all times mentioned, CAROLYN W. REYNOLDS ("REYNOLDS"), was licensed or had license rights issued by the Department as a real estate broker. On November 13, 1984, REYNOLDS was originally licensed as a real estate salesperson. On October 15, 1999, REYNOLDS was originally licensed as a real estate broker. On August 30, 2001, REYNOLDS was originally licensed as the designated officer for PRO ADVANTAGE.

C. At all times material herein, PRO ADVANTAGE was licensed by the Department as a corporate real estate broker by and through REYNOLDS, as the designated officer and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf PRO ADVANTAGE of by PRO ADVANTAGE's officers, agents and employees, including REYNOLDS.

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1 LICENSED ACTIVITIES AND BROKERAGE

2 3.

3 At all times mentioned, in the City of Covina, County
4 of Los Angeles, PRO ADVANTAGE acted as real estate broker and
5 conducted licensed activities within the meaning of Code Section
6 10131(d). PRO ADVANTAGE operated a mortgage and loan brokerage.

7 AUDIT EXAMINATION

8 PRO ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC.

9 4.

10 On January 25, 2007, the Department completed an audit
11 examination of the books and records of PRO ADVANTAGE pertaining
12 to the mortgage and loan activities described in Paragraph 3,
13 which require a real estate license. The audit examination
14 covered a period of time beginning on May 1, 2005 through October
15 31, 2006. The audit examination revealed violations of the Code
16 and the Regulations as set forth below, and more fully discussed
17 in Audit Report LA 060041 and the exhibits and work papers
18 attached to said audit report.

19 TRUST ACCOUNT

20 5.

21 At all times mentioned, in connection with the
22 activities described in Paragraph 4, PRO ADVANTAGE did not
23 maintain a trust account during the audit period.
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VIOLATIONS OF THE REAL ESTATE LAW

6.

With respect to the licensed activities referred to in Paragraph 3, and the audit examination including the exhibits and work papers referred to in Paragraph 4, it is alleged that PRO ADVANTAGE and REYNOLDS:

(a) (1) Failed to provide and/or maintain a statement in writing containing all the information required by Code Section 10241(c) to borrower Neuza/Lea Reis, before this borrower became obligated to perform under the terms of their respective loan, as required by Code Section 10240 and Regulation 2840.

(a) (2) Additionally, rebates from lenders for Yield Spread Premiums were not timely disclosed in the Mortgage Loan Disclosure Statements/Good Faith Estimates provided to borrowers Neuza/Lea Reis and Carlos Cruz, as required by Code Section 10240 and Regulation 2840.

(b) Mixed and commingled trust funds and personal funds by depositing trust funds in the form of credit report fees received for borrowers Carlos Cruz and Hector/Elcira Chevez from escrow into PRO ADVANTAGE's general operating account and issuing checks from said account to the credit companies after the escrow checks were deposited, in violation of Code Sections 10145, 10176(e) and 2832.

(c) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in violation of Code Section 10145 and Regulation 2831. No control record of

1 trust funds in the form of credit report fees for beneficiaries
2 Carlos Cruz and Hector/Elcira Chevez.

3 (d) Failed to maintain a separate record for each
4 beneficiary or transaction, thereby failing to account for all
5 trust funds received, as required by Code Section 10145 and
6 Regulation 2831.1. No separate trust fund records were
7 maintained in the form of credit report fees for beneficiaries
8 Carlos Cruz and Hector/Elcira Chevez.

9 (e) Failed to notify the Department of the employment
10 of salesperson Claudia Mesa, as required by Code Section 10161.8
11 and Regulation 2752.

12 7.

13 The conduct of Respondents PRO ADVANTAGE and REYNOLDS
14 described in Paragraph 6, above, violated the Code and the
15 Regulations as set forth:

16 PARAGRAPH

PROVISIONS VIOLATED

17
18 6(a)

Code Section 10240 and Regulation
19 2840

20
21 6(b)

Code Section 10145, 10176(e) and
22 Regulation 2832

23
24
25 6(c)

Code Section 10145 and Regulation
26 2831

1
2 6(d)

Code Section 10145 and Regulation
3 2831.1
4

5 6(e)

Code Section 10161.8 and Regulation
6 2752
7

8 Each of the foregoing violations constitute cause for the
9 suspension or revocation of the real estate license and license
10 rights of Respondents PRO ADVANTAGE and REYNOLDS under the
11 provisions of Code Sections 10176(e), 10177(d) and/or 10177(g).

12 NEGLIGENCE

13 7.

14 The overall conduct of Respondents PRO ADVANTAGE and
15 REYNOLDS constitutes negligence or incompetence. This conduct
16 and violation are cause for the suspension or revocation of the
17 real estate license and license rights of said Respondents
18 pursuant to Code Section 10177(g).

19 CORPORATE SUPERVISION AND COMPLIANCE

20 8.


21 The overall conduct of Respondent REYNOLDS constitutes
22 a failure on her part, as officer designated by a corporate
23 broker licensee, to exercise the reasonable supervision and
24 control over the licensed activities of REYNOLDS as required by
25 Code Section 10159.2, and to keep PRO ADVANTAGE in compliance
26 with the Real Estate Law, and is cause for the suspension or
27

1 revocation of the real estate license and license rights of
2 REYNOLDS pursuant to the provisions of Code Sections 10177(d),
3 10177(g) and 10177(h).

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against the license and license rights of Respondents PRO
8 ADVANTAGE REAL ESTATE & FINANCIAL SERVICES INC. and CAROLYN W.
9 REYNOLDS, under the Real Estate Law (Part 1 of Division 4 of the
10 Business and Professions Code) and for such other and further
11 relief as may be proper under other applicable provisions of law.
12

13 Dated at Los Angeles, California

14 this *14th day of December 2007.*

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16 
17 Deputy Real Estate Commissioner
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23

24 cc: Pro Advantage Real Estate & Financial Services Inc.
25 Carolyn Reynolds
26 Maria Suarez
27 Sacto
Audits - Lisa Kwong