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FILED
FEB 26 2010
DEPARTMENT OF REAL ESTATE

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
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8 Telephone: (213) 576-6982

Handwritten signature: Biederholt

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-36042 LA
) L-2009070568
MARY ANNE REYNOLDS, dba)
Orange County Property Network;) STIPULATION
and KIMBERLY CLARK) AND
) AGREEMENT
)
Respondent,

It is hereby stipulated by and between Respondent MARY ANNE REYNOLDS (sometimes referred to as "Respondent"), represented by Frank M. Buda, Esq. and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on June 10, 2009, in this matter:

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

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

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. Respondent timely filed a Notice of Defense
9 pursuant to Section 11506 of the Government Code for the purpose
10 of requesting a hearing on the allegations in the Accusation.
11 Respondent hereby freely and voluntarily withdraws said Notice of
12 Defense. Respondent acknowledges that she understands that by
13 withdrawing said Notice of Defense she thereby waives her right
14 to require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that she will waive other rights
17 afforded to her in connection with the hearing such as the right
18 to present evidence in her defense of the allegations in the
19 Accusation and the right to cross-examine witnesses.
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21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
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1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. This Stipulation is made for the purpose of
5 reaching an agreed disposition of this proceeding and is
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department of Real Estate ("Department"), the
8 state or federal government, or any agency of this state, another
9 state or federal government is a party.

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

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

1 constitute a bar, estoppel and merger as to any allegations
2 actually contained in the Accusations against Respondent herein.

3 DETERMINATION OF ISSUES

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

6 The conduct of MARY ANNE REYNOLDS as described in
7 Paragraph 4, hereinabove, is a basis for discipline of
8 Respondent's license and license rights as violations of the Real
9 Estate law pursuant to Business and Professions Code ("Code")
10 Section 10177(g).

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 I.

14 All licenses and licensing rights of Respondent
15 MARY ANNE REYNOLDS, under the Real Estate Law are suspended for a
16 period of thirty days from the effective date of this Decision;
17 provided, however, that if Respondent requests, said suspension,
18 or a portion thereof, shall be stayed upon condition that:

19 1. No further cause for disciplinary action against
20 the real estate license of Respondent occurs within one (1) year
21 from the effective date of the Decision in this matter.

22 2. Respondent shall within six (6) months from the
23 effective date of the Decision herein, take and pass the
24 Professional Responsibility Examination administered by the
25 Department including the payment of the appropriate examination
26 fee. If Respondent fails to satisfy this condition, the
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1 Commissioner may order suspension of Respondent's license until
2 Respondent passes the examination.

3
4 DATED: 12/9/04

James A. Demus
5 JAMES A. DEMUS, Counsel for
6 the Department of Real Estate

7 * * *

8 EXECUTION OF THE STIPULATION

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

21 Respondent can signify acceptance and approval of the
22 terms and conditions of this Stipulation by faxing a copy of its
23 signature page, as actually signed by Respondent, to the
24 Department at the following telephone/fax number: James A. Demus
25 at (213) 576-6917. Respondent agrees, acknowledges and
26 understands that by electronically sending to the Department a
27

1 fax copy of Respondent's actual signature as it appears on the
 2 Stipulation, that receipt of the faxed copy by the Department
 3 shall be as binding on Respondent as if the Department had
 4 received the original signed Stipulation.

5
 6 DATED: Dec. 1, 2009 Mary Anne Reynolds
 7 MARY ANNE REYNOLDS Respondent

8
 9 DATED: 12-1-2009 Frank M. Buda
 10 FRANK M. BUDA, ESQ.
 11 Attorney for Respondent

12 * * *

13 The foregoing Stipulation and Agreement is hereby
 14 adopted as my Decision as to Respondent MARY ANNE REYNOLDS and
 15 shall become effective at 12 o'clock noon on
 16 MAR 18 2010

17 IT IS SO ORDERED [Signature], 2009.

18
 19 JEFF DAVI
 20 Real Estate Commissioner
 21
 22
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1 fax copy of Respondent's actual signature as it appears on the
2 Stipulation, that receipt of the faxed copy by the Department
3 shall be as binding on Respondent as if the Department had
4 received the original signed Stipulation.

5
6 DATED: _____

MARY ANNE REYNOLDS Respondent

7
8
9
10 DATED: _____

FRANK M. BUDA, ESQ.
Attorney for Respondent

11 * * *

12
13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision as to Respondent MARY ANNE REYNOLDS and
15 shall become effective at 12 o'clock noon on
16 _____,

17 IT IS SO ORDERED _____

18
19 JEFF DAVI
20 Real Estate Commissioner
21
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23 _____
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BEFORE THE DEPARTMENT OF REAL ESTATE

FILED
FEB 26 2010
DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

Kimberly Clark

In the Matter of the Accusation of)
)
KIMBERLY CLARK,)
)
)
Respondent.)
_____)

No. H-36042 LA
L-2009070568

DECISION

The Proposed Decision dated January 7, 2010, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision:

Page 2, Findings of Fact, paragraph 3, the last sentence "Respondent told English she was employed by Clark, and Clark would sign the agreement." is corrected to read "Respondent told English she was employed by Reynolds, and Reynolds would sign the agreement."

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on MAR 18 2010.

IT IS SO ORDERED 2/11/10

JEFF DAVI
Real Estate Commissioner

Barbara J. Bigby
BY: Barbara J. Bigby
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY ANNE REYNOLDS, dba Orange
County Property Network,

and

KIMBERLY CLARK,

Respondents.

Case No. H-36042 LA

OAH No. 2009070568

PROPOSED DECISION

Ralph B. Dash, Administrative Law Judge, Office of Administrative Hearings, heard this matter on December 8, 2009, at Los Angeles, California.

Prior to the hearing, the Department of Real Estate (Department) resolved this matter with respect to Mary Anne Reynolds (Reynolds).

James Demus, Staff Counsel, represented Complainant.

The Accusation was served and due notice of the time and place for hearing was given to Kimberly Clark (Respondent) as required by the Government Code. There was no appearance by or on behalf of Respondent and the matter proceeded by way of a default hearing.

Documentary evidence having been received and the matter having been submitted, the Administrative Law Judge makes the following Proposed Decision:

FINDINGS OF FACT

1. Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.
2. The Department issued Respondent a real estate salesperson license on February 14, 2007. That license is in full force and effect and is due to expire on February 13, 2011. At all relevant times, Reynolds was a real estate broker licensed by the Department and was doing business as Orange County Property Network (OCPN).

3. The evidence presented at the default hearing established, by clear and convincing evidence, the following: In December 2006, prior to her licensure, Respondent held herself out to be a licensed real estate salesperson who could arrange loans that were to be secured by real property. Respondent spoke with Kurt English (English), a Department-licensed real estate broker who owned a mortgage brokerage company. English was attempting to secure a loan for a client (Buyer) who was trying to buy a 68 acre parcel of land. Respondent informed English that she could arrange the necessary loan, a loan that would generate substantial fees for English. Respondent and English agreed to split the fees if the loan was made. English told Respondent that he wanted a written fee-splitting agreement, and that such an agreement would have to be signed by Respondent's employing broker. Respondent told English she was employed by ~~Clark~~ Reynolds, and ~~Clark~~ Reynolds would sign the agreement.

4. On December 7, 2006, Clark and English signed a written fee-splitting agreement prepared by English. The agreement provided that 50 percent of all loan fees Buyer paid would go to OCPN and 50 percent would go to English's brokerage company. The agreement included the following provision: "OCPN is responsible for paying any compensation or other costs to . . . [Respondent] resulting from any financing related to the Property." The agreement also provided that any notices that were required to be given to OCPN would also be copied to Respondent at OCPN's address. The agreement required signatures from OCPN and from Respondent. Reynolds signed on behalf of OCPN. The signature block for Respondent identified her as a salesperson. Respondent signed the agreement, but crossed out the word "Salesperson" and put "Consultant" in its place. Ultimately, the loan was not consummated.

* * * * *

CONCLUSIONS OF LAW

1. Business and Professions Code¹ section 10130 provides:

It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department.

The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his counsel, deputies or assistants may assist in presenting the law or facts at the trial.

It is the duty of the district attorney of each county in this state to prosecute all violations of this section in their respective counties in which the violations occur.

¹ All statutory references are to the Business and Professions Code.

2. Section 10177 provides, in part:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

[¶] . . . [¶]

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

[¶] . . . [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

3. Respondent's real estate salesperson's license is subject to discipline based on the foregoing code sections, as she held herself out as a real estate salesperson at a time she was unlicensed.

* * * * *


ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The real estate salesperson's license of Kimberly Clark, together with all licensing rights appurtenant thereto, are revoked.

Date:

1-7-10



RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

*Sacts
Jaw*

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013

5 (213) 576-6982
6 (213) 576-6910 (direct)

FILED

JUN 10 2009

DEPARTMENT OF REAL ESTATE
BY: *James B. Olson*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12 MARY ANNE REYNOLDS, dba)	No. H-36042 LA
13 Orange County Property Network;)	<u>ACCUSATION</u>
14 and KIMBERLY CLARK,)	
15 Respondents.)	

16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against MARY ANNE REYNOLDS, doing business as Orange County
19 Property Network; and KIMBERLY CLARK, alleges as follows:

20 I

21 The Complainant, Robin Trujillo, acting in her official
22 capacity as a Deputy Real Estate Commissioner of the State of
23 California, makes this Accusation against MARY ANNE REYNOLDS
24 ("REYNOLDS"); doing business as Orange County Property Network
25 ("OCPN"); and KIMBERLY CLARK ("CLARK").

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II

REYNOLDS and CLARK ("Respondents") 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, Respondent REYNOLDS was licensed by the Department of Real Estate of the State of California ("Department") as a real estate broker. REYNOLDS has been licensed by the Department as real estate broker since on or about April 27, 2004.

IV

At all times herein mentioned, Respondent REYNOLDS, on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Sections 10131(a) and 10131(d) of the Code.

V

Respondent CLARK was originally licensed as a real estate salesperson on February 14, 2007. From February 14, 2007 through August 1, 2007 and September 7, 2007 through January 15, 2008, Respondent CLARK was employed by Respondent REYNOLDS.

VI

In connection with Respondent REYNOLDS's activities as a real estate broker, as described above, Respondent acted in violation of the Real Estate Law, the Code and Title 10, Chapter

1 6, California Code of Regulations (hereinafter Regulations), as
2 follows:

3 Violated Section 10137 of the Code by employing or
4 compensating, directly or indirectly, Respondent CLARK, who was
5 not, at the time, licensed by the Department in any capacity, as
6 set forth below:

7 During the period in and around December 7, 2006,
8 Respondents entered into a Fee Allocation Agreement ("Agreement")
9 with a company that introduced a borrower to Respondents. This
10 agreement arranged for OCPN to pay compensation to Respondent
11 CLARK resulting from any financing she secured for a property.
12 In addition, CLARK identified and represented herself to be a
13 real estate licensee and agreed to obtain financing for real
14 property.

15 VII

16 The conduct, acts and/or omissions of Respondents
17 REYNOLDS and CLARK, as alleged above, subjects their real estate
18 licenses and license rights to suspension or revocation as
19 follows:

20 1. Respondent REYNOLDS, pursuant to Sections 10137,
21 10177(d) and/or 10177(g) of the Code for the conduct alleged in
22 Paragraph VI.

23 2. Respondent CLARK, pursuant to Sections 10130,
24 10177(d) and/or 10177(j) of the Code for the conduct alleged in
25 Paragraph VI.

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 MARY ANNE REYNOLDS, doing business as Orange County Property;
6 and KIMBERLY CLARK under the Real Estate Law (Part 1 of Division
7 4 of the Business and Professions Code) and for such other and
8 further relief as may be proper under other applicable provisions
9 of law.

10 Dated at Los Angeles, California,

11 this 3 day of June, 2009

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15 ROBIN TRUJILLO
16 Deputy Real Estate Commissioner

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24 cc: Mary Anne Reynolds
25 Kimberly Clark
26 Shelton Real Estate & Loans Inc.
27 Robin Trujillo
Sacto.