

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**FILED**

DEC 03 2014

BUREAU OF REAL ESTATE

By Hans

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

) No. H-38944 LA

) L-2014020249

) CHASSITY RENEE CLARK,

) Respondent.

STIPULATION AND AGREEMENT

AND

DECISION AFTER REJECTION

It is hereby stipulated by and between Respondent CHASSITY RENEE CLARK, acting on her own behalf, and the Complainant, acting by and through Amelia V. Vetrone, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on July 10, 2013, in this matter:

1. This Stipulation is based on the factual allegations contained in the Accusation filed in this proceeding. In the interest of expedience and economy, Respondent chooses not to contest these factual allegations, and understands that, as a result thereof, these factual statements will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

1                   2. Respondent further acknowledges that the Real Estate Commissioner held a  
2 hearing on this Accusation on July 28, 2014, before the Office of Administrative Hearings for  
3 the purpose of proving the allegations therein. Respondent was present at the hearing,  
4 represented herself, and participated therein. Further, Respondent has had an opportunity to  
5 read and review the Proposed Decision of the Administrative Law Judge.

6                   3. Respondent understands that pursuant to Government Code Section  
7 11517(c), the Real Estate Commissioner has rejected the Proposed Decision of the  
8 Administrative Law Judge. Respondent further understands that pursuant to the same Section  
9 11517(c), the Real Estate Commissioner may decide this case upon the record, including the  
10 transcript, without taking any additional evidence, after affording Respondent the opportunity to  
11 present written argument to the Real Estate Commissioner.

12                   4. Respondent further understands that by signing this Stipulation and  
13 Agreement, Respondent is waiving her right to seek a dismissal of the Accusation through  
14 proceedings under Government Code Section 11517(c) if this Stipulation and Agreement  
15 ("Stipulation") is accepted by the Real Estate Commissioner.

16                   5. It is understood by the parties that the Real Estate Commissioner may adopt  
17 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on  
18 Respondent's real estate license and license rights as set forth in the below "Order". In the  
19 event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation  
20 shall be void and of no effect and Respondent shall retain the right to further proceedings under  
21 the Administrative Procedure Act (beginning at Government Code Section 11500).

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

26                   DETERMINATION OF ISSUES

27                   By reason of the foregoing, it is stipulated and agreed that the following

determination of issues shall be made:

The conduct of CHASSITY RENEE CLARK as described in the Accusation is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provision of Sections 490 and 10177(b) of the California Business and Professions Code.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent CHASSITY RENEE CLARK  
under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson  
license shall be issued to Respondent pursuant to Section 10156.5 of the Business and  
Professions Code if Respondent makes application therefor and pays to the Bureau of Real  
Estate the appropriate fee for the restricted license within 90 days from the effective date of this  
Decision. The restricted license issued to Respondent shall be subject to all of the provisions of  
Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed  
under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing  
by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of  
nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as  
a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to  
hearing by Order of the Real Estate Commissioner on evidence satisfactory to the  
Commissioner that Respondent has violated provisions of the California Real Estate Law, the  
subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to  
the restricted license.

///

1                   3. Respondent shall not be eligible to apply for the issuance of an unrestricted  
2 real estate license nor for the removal of any of the conditions, limitations or restrictions of a  
3 restricted license until two (2) years have elapsed from the effective date of this Decision.

4                   4. Respondent shall submit with any application for license under an employing  
5 broker, or any application for transfer to a new employing broker, a statement signed by the  
6 prospective employing real estate broker on a form approved by the Bureau of Real Estate  
7 which shall certify:

8                   (a) That the employing broker has read the Decision of the Commissioner which  
9 granted the right to a restricted license; and

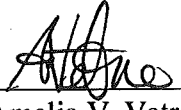
10                   (b) That the employing broker will exercise close supervision over the  
11 performance by the restricted licensee relating to activities for which a real estate license  
12 is required.

13                   5. Respondent shall, within nine months from the effective date of this  
14 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,  
15 since the most recent issuance of an original or renewal real estate license, taken and  
16 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the  
17 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this  
18 condition, the Commissioner may order the suspension of the restricted license until the  
19 Respondent presents such evidence. The Commissioner shall afford Respondent the  
20 opportunity for a hearing pursuant to the Administrative Procedure Act to present such  
21 evidence.

22                   6. Respondent shall notify the Commissioner in writing within 72 hours of any  
23 arrest by sending a certified letter to the Commissioner at Bureau of Real Estate, Post Office  
24 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's  
25 arrest, the crime for which Respondent was arrested, and the name and address of the arresting  
26 law enforcement agency. Respondent's failure to timely file written notice shall constitute an  
27

1 independent violation of the terms of the restricted license and shall be grounds for the  
2 suspension or revocation of that license.

3  
4 10-14-14  
5 DATED

  
Amelia V. Vetrone, Counsel  
Bureau of Real Estate

6  
7  
8 \* \* \*

9  
10 EXECUTION OF THE STIPULATION

11 I have read the Stipulation and understand its terms which are agreeable and  
12 acceptable to me. I understand that I am waiving rights given to me by the California  
13 Administrative Procedure Act (beginning at Government Code Section 11500), and I willingly,  
14 intelligently and voluntarily waive those rights, including the right to require the  
15 Commissioner to provide additional evidence in support of the Accusation or as a basis for the  
16 disciplinary action stipulated to herein.


17  
18 MAILING AND FACSIMILE

19 Respondent (1) shall mail the original signed signature page of the stipulation  
20 herein to Amelia V. Vetrone: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth  
21 St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a  
22 copy of a signed signature page, to the Bureau at the following telephone/fax number: (213)  
23 576-6917, Attention: Amelia V. Vetrone.

24 A facsimile constitutes acceptance and approval of the terms and conditions of  
25 this stipulation. Respondent agrees, acknowledges and understands that by electronically  
26 sending to the Bureau a facsimile copy of Respondent's actual signature as it appears on the  
27

1 stipulation that receipt of the facsimile copy by the Bureau shall be as binding on Respondent as  
2 if the Bureau had received the original signed stipulation.

3  
4  
5 DATED: 10/7/14

  
CHASSITY RENEE CLARK  
Respondent

6  
7  
8 \* \* \*

9 The foregoing Stipulation and Agreement and Decision After Rejection is  
10 hereby adopted as my Decision as to Respondent CHASSITY RENEE CLARK  
11 and shall become effective at 12 o'clock noon on DEC 23 2014.

12 IT IS SO ORDERED OCT 24 2014

13  
14 Real Estate Commissioner

15   
16

17 By: JEFFREY MASON  
18 Chief Deputy Commissioner  
19  
20  
21  
22  
23  
24  
25  
26  
27

FILED

SEP 10 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

CHASSITY RENEE CLARK,

Respondent.

No. H-38944 LA

OAH No. 2014020249

NOTICE

TO: CHASSITY RENEE CLARK, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 31, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 31, 2014, 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 July 28, 2014, any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of July 28, 2014, at the

1 Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for  
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted  
4 within 15 days after receipt of the argument of Respondent at the Los Angeles office of the  
5 Bureau of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: 9/5/2014

7 REAL ESTATE COMMISSIONER

8  
9   
10 WAYNE S. BELL  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27



**BEFORE THE  
BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**CHASSITY RENEE CLARK,**

**Respondent.**

Case No. H-38944 LA

OAH No. 2014020249

**PROPOSED DECISION**

This matter was heard by Matthew Goldsby, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 28, 2014, in Los Angeles.

Amelia V. Vetrone, Counsel, appeared and represented Robin Trujillo, Deputy Real Estate Commissioner (Complainant), Bureau of Real Estate (the Bureau).

Chassity Renee Clark (Respondent) appeared and represented herself.

The record was closed and the matter was submitted for decision at the conclusion of the hearing.

**FACTUAL FINDINGS**

1. On June 17, 2010, the Bureau issued to Respondent a real estate salesperson license. The license expired on June 16, 2014. The Bureau maintains jurisdiction over this matter pursuant to Business and Professions Code section 10103. The license has no prior history of discipline.

2. On July 3, 2013, Complainant made and filed the Accusation against Respondent in Complainant's official capacity. Respondent timely filed a Notice of Defense requesting a hearing.

3. On May 26, 2011, in the Superior Court of California, County of Los Angeles, in case number 1LG06542, Respondent was convicted on her nolo contendere plea of violating Penal Code section 602, subdivision (k) [trespass], a misdemeanor.

///

4. Imposition of sentence was suspended and Respondent was placed on summary probation for three years under certain terms and conditions, including fines, fees and restitution in the total amount of \$1,455. In lieu of paying fines, Respondent was permitted to perform 10 days of community service. When Respondent failed to perform community service or pay the assessed fines, the court incarcerated Respondent for 24 hours.

5. Respondent's conviction arose from the following facts and circumstances. On October 5, 2010, Respondent tendered two checks to move into a residential apartment. One check was in the amount of \$30 for a background check; the second check was in the amount of \$695 for the security deposit. On October 11, 2010, Respondent tendered a third check in the amount of \$463 as the prorated balance for rent due for occupancy.

6. All three checks were written on a closed account. Respondent knew the account was closed and that the checks would not be honored by the bank. When the bank returned the checks to the landlord, the landlord issued a three-day notice to pay or quit. When Respondent did not pay or quit, the landlord filed an unlawful detainer action to evict Respondent from the premises. At trial, Respondent stipulated to vacate the premises on or before December 14, 2010. Respondent moved out as provided in the stipulation.

7. There was a conflict in the evidence as to Respondent's intent when she tendered the checks. Respondent denied acting with fraudulent intent and testified that she tendered the checks intending to raise funds to cover the transactions. The testimony is disbelieved as inconsistent with the record. Respondent wrote checks on a closed account, as compared to playing the float with an active account. Respondent did not have an honest good faith belief that any funds raised could be deposited into a closed account before the debit cleared. In fact, her testimony is belied by the fact that she used a closed into which accrued funds could not have been deposited to cover the debt. Respondent otherwise unlawfully detained real property for two months and did not surrender possession until the owner took legal action. The duration of Respondent's hostile possession of the premises tends to disprove her testimony. Accordingly, the conflict is resolved with the finding that Respondent wrote the checks with the intent of conferring a financial or economic benefit upon herself to the detriment and injury of the landlord.

8. Respondent currently works as a real estate salesperson. She disclosed her disciplinary and criminal proceedings to her broker. She paid restitution to the victim and completed the remaining terms of probation. She is enrolled in a training program for self-improvement and business practices. She has begun the process to expunge the conviction, but the conviction is not yet expunged. She has no prior or subsequent convictions.

9. Despite a prayer for cost recovery in the Accusation, Complainant introduced no evidence of her costs of investigation and enforcement.

///

///

## LEGAL CONCLUSIONS

1. Cause exists pursuant to Business and Professions Code sections 490, subdivision (a), and 10177, subdivision (b), to discipline Respondent's license because the conviction was substantially related to the qualifications, functions or duties of a real estate licensee, based on paragraphs 3, 4, 5, and 6 of the Factual Findings.

2. Cause does not exist to award Complainant costs of investigation and enforcement pursuant to Business and Professions Code section 10106, subdivision (b), as set forth in paragraph 9 of Factual Findings.

3. The crime for which Respondent was convicted is substantially related to the qualifications, functions or duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivision (a), paragraph (8), because Respondent committed an unlawful act with the intent of conferring a financial or economic benefit upon Respondent as the perpetrator, based on paragraphs 3, 4, 5, 6 and 7 of the Factual Findings.

4. Business and Professions Code section 490, subdivision (a), provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Pursuant to Business and Professions Code section 10177, subdivision (b), the Real Estate Commissioner may suspend or revoke the license of a real estate licensee who has entered a plea of guilty or nolo contendere to a crime substantially related to the qualifications, functions, or duties of a real estate licensee.

6. California Code of Regulations, title 10, section 2910, subdivision (a), provides in pertinent part:

When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, . . . the crime shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Bureau within the meaning of Sections 480 and 490 of the Code if it involves:

[¶ ...¶]

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

7. Complainant has the burden of proving cause for discipline by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Med. Quality Assurance* (1982) 135 Cal.App.3d 853, 857.)

8. Complainant has established by clear and convincing evidence to a reasonable certainty that the conviction was substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was convicted of the crime of trespass which is an unlawful act. The act was committed with the intent of conferring a financial or economic benefit to Respondent because Respondent acquired possession of real property without the funds to pay for it. Respondent intended to injure the landlord because Respondent knew that the checks drawn on a closed account would not be honored when presented to the bank.

9. Respondent must establish rehabilitation under California Code of Regulations, title 10, section 2912. This regulation sets forth criteria developed by the Bureau for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

10. Facts tending to disprove rehabilitation under the criteria established by the Bureau are as follows:

(A) Respondent has begun the process of expunging the conviction, but the conviction is not yet expunged. (*Id.*, subd. (c) and (d).)

(B) Respondent completed her probation, but she served 24 hours in detention when she failed to pay fines or perform 10 hours of community service in lieu of payment. (*Id.*, subd. (e).)

(C) Respondent presented no evidence from family members or business associates to show a change in attitude from that which existed at the time of the commission of the criminal act. (*Id.*, subd. (m).)

11. Although criminal trespass does not include dishonesty, fraud or deception, the public is subject to substantial injury by a licensee who has shown a propensity to manipulate financial documents relating to a real estate transaction. Respondent unlawfully detained real property for two months before being compelled to vacate by legal action. In order to fix the degree of discipline, these circumstances surrounding the commission of the crime are given considerable weight. (Bus. & Prof. Code, § 493.)

12. Facts tending to show rehabilitation under the criteria established by the Bureau are as follows:

(A) More than two years have passed since the conviction. (*Id.*, subd. (a).)

(B) Respondent paid restitution to the landlord. (*Id.*, subd. (b).)

(C) Respondent completed the terms and conditions of her summary probation.  
(*Id.*, subd. (e).)

(D) Respondent is taking training courses in self-improvement and business practices to correct her behavior. (*Id.*, subd. (e) and (k).)

(E) Respondent testified on her own behalf that she recognizes her wrongdoing and that she has developed a change in her attitude. (*Id.*, subd. (m).)

13. Respondent has shown some progress in rehabilitation and has no prior or subsequent convictions or license discipline. Accordingly, revocation of Respondent's license would be unduly harsh discipline and a properly-conditioned probationary period should suffice to protect the public health, safety and welfare.

### ORDER

All licenses and licensing rights of Respondent Chassity Renee Clark under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Business and Professions Code section 10156.5 if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

///

///

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

- a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
- b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Complainant's request for cost recovery is denied.

DATED: July 31, 2014



MATTHEW GOLDSBY,  
Administrative Law Judge  
Office of Administrative Hearings