

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

APR - 8 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

* * *

In the Matter of the Accusation of)
)
ENNIS HOMES, INC.)
A Corporation, and)
PAMELA RAE ENNIS,)
)
Respondents.)
_____)

NO. H-2459 FR
(As to ENNIS HOMES, INC. only)

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 March 9, 2011. The Findings of Fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds of substantial misrepresentation and dishonest dealing.

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

1

On February 28, 2010, Luke Martin made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and form for the Notice of Defense were mailed, by certified and regular mail to Respondent ENNIS HOMES, INC. (herein "Respondent") at its last known mailing address on file with the Department on February 28, 2010.

On March 16, 2010, a Notice of Defense was filed and on January 20, 2011, said Notice of Defense was withdrawn; therefore, pursuant to Section 11506 of the Government Code, Respondent's default was entered herein.

2

At all times herein mentioned, Respondent was and now is licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

3

At all times herein mentioned, Respondent was licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through Respondent PAMELA RAE ENNIS as designated officer-broker of Respondent to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker for compensation or in expectation of compensation within the State of California within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage wherein Respondent sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity.

5

In about autumn of 2002, Respondent began work on a housing development on approximately 32 acres within the city of Hanford, California. Respondent received a report from a geotechnical engineering firm, Krazan & Associates, Inc. (herein "Krazan"), informing Respondent, among other things, that the 32-acre site was littered with several piles of debris consisting mainly of wood, concrete, metal, and household trash. Respondent cleaned up the site, as recommended by Krazan, and proceeded with the building of approximately 48 homes.

6

In about the summer of 2005, Respondent, while excavating for utilities installation on several of the lots, including Lot #33, 1052 Minaret Place, Hanford, CA 93230 (herein "subject lot"), encountered debris consisting of concrete pipe, metal, wood, car parts, bricks, a blanket, food packaging, bottles, and glass. Respondent tore down the existing pad and frame on the subject lot, removed the debris, backfilled the resulting pits, recompact the soil in accordance with the Uniform Building Code, and began the construction anew, but with extra reinforcements, for both the footings and the slab, than those specified in the original plan.

7

On about February 23, 2006, an article appeared in the local Hanford newspaper, The Sentinel, concerning the debris issue Respondent was contending with, which included the following quote from Brian Ennis, President of ENNIS HOMES, INC.: "Some residents were upset and concerned, but that was before I had a chance to meet with them."

On about May 6, 2007, Respondent entered into a Purchase Contract with James E. and Jacqueline A. Youkers (herein "the Youkers") for the sale of a completed house on the subject lot, property in the amount of \$250,000.00.

Prior to the close of escrow, June 1, 2007, in connection with the sale of the subject lot, Respondent failed to disclose and/or suppressed any information to the Youkers concerning the debris, its subsequent removal or any other details with respect to the debris on the subject lot, in violation of Sections 10176(a) (substantial misrepresentation) and (i) (fraud and dishonest dealing), and 10177(j) (fraud and dishonest dealing as a principal) of the Code.

DETERMINATION OF ISSUES

The facts alleged above are grounds for the suspension or revocation of the license and license rights of Respondent under Sections 10176(a) and (i), and 10177(j) of the Code.

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

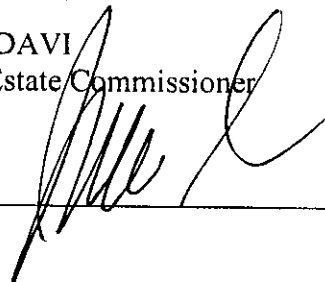
ORDER

The real estate license and license rights of Respondent ENNIS HOMES, INC., under the provisions of Part I of Division 4 of the Business and Professions Code, are hereby revoked.

This Decision shall become effective at 12 o'clock noon on April 28, 2011.

DATED: _____ 3/29 _____, 2011.

JEFF DAVIS
Real Estate Commissioner



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DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-0789

FILED

MAR - 9 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
ENNIS HOMES, INC, a Corporation, and)
PAMELA RAE ENNIS,)
)
Respondents.)

NO. H-2459 FR
DEFAULT ORDER
(As to ENNIS HOMES, INC., only)

Respondent, ENNIS HOMES, INC., only, having withdrawn its Notice of
Defense and pursuant to Section 11506 of the Government Code, is now in default. It is,
therefore, ordered that a default be entered on the record in this matter as to ENNIS HOMES,
INC., only.

IT IS SO ORDERED March 9, 2011.

JEFF DAVI
Real Estate Commissioner

By: Phillip Ihde
PHILLIP IHDE
Regional Manager

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

MAR 14 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 ENNIS HOMES, INC.,)
a Corporation, and)
15 PAMELA RAE ENNIS.)
16 Respondents.)
17)

NO. H-2459 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER
(as to PAMELA RAE ENNIS only)

18 It is hereby stipulated by and between Respondent PAMELA RAE ENNIS only
19 (herein "Respondent"), by and through ^{JACOB L. EATON} Jean M. Pledger, attorney of record herein for
20 Respondent, and the Complainant, acting by and through Mary F. Clarke, Counsel for the
21 Department of Real Estate (herein "the Department"), as follows for the purpose of settling and
22 disposing of the Accusation filed on February 28, 2010, in this matter (herein "the Accusation"):

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

1 2. Respondent has received, read and understands the Statement to Respondent,
2 the Discovery Provisions of the APA, and the Accusation filed by the Department in this
3 proceeding.

4 3. A Notice of Defense was filed on March 16, 2010, by Respondent, pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she
8 will thereby waive her right to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that
10 she will waive other rights afforded to her in connection with the hearing such as the right to
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.

13 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
14 factual allegations pertaining to her in the Accusation filed in this proceeding are true and correct
15 and the Real Estate Commissioner shall not be required to provide further evidence of such
16 allegations.

17 5. It is understood by the parties that the Real Estate Commissioner may adopt
18 the Stipulation and Agreement in Settlement and Order as his decision in this matter thereby
19 imposing the penalty and sanctions on Respondent's real estate license and license rights as set
20 forth in the below "Order". In the event that the Commissioner in his discretion does not adopt
21 the Stipulation and Agreement in Settlement and Order, it shall be void and of no effect, and
22 Respondent shall retain the right to a hearing and proceeding on the Accusation under all the
23 provisions of the APA and shall not be bound by any admission or waiver made herein.

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

1 DETERMINATION OF ISSUES

2 I

3 The acts and omissions of Respondent as described in the Accusation are grounds
4 for the suspension or revocation of the license and license rights of Respondent under the
5 provisions of the Business and Professions Code (herein "the Code") and/or Chapter 6, Title 10,
6 California Code of Regulations (herein "the Regulations"), under Sections 10159.2, 10177(g)
7 and (h) of the Code, and Section 2725 of the Regulations, in conjunction with Section 10177(d)
8 of the Code as to Respondent.

9 ORDER

10 The license and licensing rights of Respondent under the Real Estate Law are
11 suspended for a period of 180 days from the effective date of this Order; provided, however, that:

12 1. 150 days of said suspension shall be stayed for two (2) years upon the
13 following terms and conditions:

14 (a) Respondent shall obey all laws, rules and regulations governing the
15 rights, duties and responsibilities of a real estate licensee in the State of California; and,

16 (b) That no final subsequent determination be made, after hearing or upon
17 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
18 date of this Order. Should such a determination be made, the Commissioner may, in his
19 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
20 suspension. Should no such determination be made, the stay imposed herein shall become
21 permanent.

22 (c) No further cause for disciplinary action against the real estate license of
23 said Respondent occurs within two (2) years from the effective date of the Order in this matter.

24 2. The remaining 30 days of said 180-day suspension shall be stayed upon the
25 condition that Respondent petition pursuant to Section 10175.2 of the Code and pay a monetary
26 penalty pursuant to Section 10175.2 of the Code at a rate of \$100.00 for each day of the
27 suspension for a total monetary penalty of \$3,000.00:

1 (a) Said payment shall be in the form of a cashier's check or certified check
2 made payable to the Recovery Account of the Real Estate Fund. Said check must be received by
3 the Department prior to the effective date of the Order in this matter.

4 (b) If Respondent fails to pay the monetary penalty as provided above prior
5 to the effective date of this Order, the stay of the suspension shall be vacated as to Respondent
6 and the order of suspension shall be immediately executed, under this paragraph of the Order, in
7 which event Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
8 for the money paid to the Department under the terms of this Order.

9 (c) If Respondent pays the monetary penalty and any other moneys due
10 under this Stipulation and Agreement, as provided above, and if no further cause for disciplinary
11 action against the real estate license of Respondent occurs within two (2) years from the
12 effective date of this Order, the entire stay hereby granted under this paragraph of the Order, as
13 to Respondent, shall become permanent.

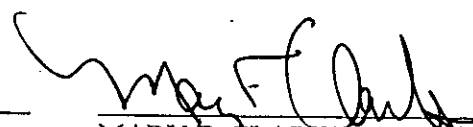
14 3. Respondent shall take, complete, and submit proof within 90 days of the
15 effective date of this Order, satisfactory to the Commissioner, of having taken and completed, at
16 an accredited institution, the following education courses: 1) ethics and/or professional
17 conduct; 2) agency relationships and duties; and 3) pertinent consumer disclosures, specified in
18 Paragraphs (1), (2), and (6) of subdivision (a) of Section 10170.5, respectively, of the Code.

19 (a) If Respondent fails to complete the courses, as provided above, within
20 90 days of the effective date of this Order, the stay of the suspension shall be vacated and the
21 order of suspension shall be immediately executed, under this paragraph of this Order, in which
22 event Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the
23 money paid to the Department under the terms of this Order.

24 (b) If Respondent completes the education courses, as provided above, and
25 if no further cause for disciplinary action against the real estate license of Respondent occurs
26 within two (2) years from the effective date of this Order, the entire stay hereby granted under
27 paragraph of this Order, as to Respondent, shall become permanent.

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2-10-11
DATED


MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE


I have read this Stipulation and Agreement in Settlement and Order and have discussed it with my attorney and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

2-7-2011
DATED


PAMELA RAE ENNIS, Respondent

I have reviewed the Stipulation and Agreement in Settlement and Order as to form and content and have advised my client accordingly.

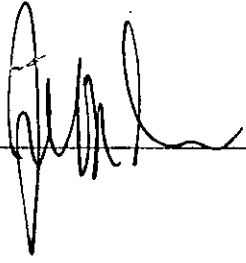
2/8/11
DATED


~~JEAN M. PLEDGER~~ JACOB L. EATON
Attorney for Respondent

1 The foregoing Stipulation and Agreement in Settlement and Order is hereby
2 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
3 April 4 _____, 2011.

4 IT IS SO ORDERED _____ 3/7, 2011.

6 JEFF DAVI
7 Real Estate Commissioner

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1 MARY F. CLARKE, Counsel, #186744
2 Department of Real Estate
3 P. O. Box 187007
Sacramento, CA 95818-7007

4 Telephone: (916) 227-0780
5
6
7

FILED

FEB 28 2010

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 ENNIS HOMES, INC.,) NO. H-2459 FR
a Corporation, and,)
15 PAMELA RAE ENNIS,) ACCUSATION
16 Respondents.)
17)

18 The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the
19 State of California, for causes of Accusation against ENNIS HOMES, INC. (herein "EHP") and
20 PAMELA RAE ENNIS (herein "ENNIS") (collectively herein as "Respondents"), is informed
21 and alleges as follows:

22 1

23 The Complainant makes this Accusation in his official capacity.

24 2

25 At all times herein mentioned, Respondents were and now are licensed and/or
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (herein "the Code").

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At all times herein mentioned, EHI was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through ENNIS as designated officer-broker of EHI to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, ENNIS was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of EHI. As said designated officer-broker, ENNIS was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of EHI for which a license is required.

5

Whenever reference is made in an allegation in this Accusation to an act or omission of EHI, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with EHI committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent and while acting within the course and scope of their authority and employment.

6

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers for compensation or in expectation of compensation within the State of California within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage wherein Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity.

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1
2 In about the autumn of 2002, EHI began work on a housing development on
3 approximately 32 acres within the city of Hanford, California. EHI received a report from a
4 geotechnical engineering firm, Krazan & Associates, Inc. (herein "Krazan"), informing EHI,
5 among other things, that the 32-acre site was littered with several piles of debris consisting
6 mainly of wood, concrete, metal, and household trash. EHI cleaned up the site, as recommended
7 by Krazan, and proceeded with the building of approximately 48 homes.

8
9 In about the summer 2005, EHI, while excavating for utilities installation on
10 several of the lots, including Lot #33, encountered debris consisting of concrete pipe, metal,
11 wood, car parts, bricks, a blanket, food packaging, bottles, and glass. EHI tore down the existing
12 pad and frame on Lot #33, removed the debris, backfilled the resulting pits, recompactd the soil
13 in accordance with the Uniform Building Code, and began the construction anew, but with extra
14 reinforcements, for both the footings and the slab, than those specified in the original plan.

15
16 On about February 23, 2006, an article appeared in the local Hanford newspaper,
17 The Sentinel, concerning the debris issue EHI was contending with, which included the
18 following quote from Brian Ennis, President of EHI: "Some residents were upset and concerned,
19 but that was before I had a chance to meet with them."

20
21 On about May 6, 2007, EHI entered into a Purchase Contract with James E. and
22 Jacqueline A. Youkers (herein "the Youkers") for the sale of the completed house on Lot #33,
23 property address, 1052 Minaret Place, Hanford, CA 93230, in the amount of \$250,000.00.

24
25 Prior to the close of escrow, which occurred on June 1, 2007, on the sale of
26 Lot #33, EHI failed to disclose and/or suppressed any information to the Youkers concerning
27 the debris, its subsequent removal or any other details with respect to the debris on Lot #33, in

1 violation of Sections 10176(a) (substantial misrepresentation) and (i) (fraud and dishonest
2 dealing) and/or 10177(g) (negligence) and/or (j) (fraud and dishonest dealing) of the Code.

3 12

4 At all times mentioned herein, Respondent ENNIS failed to exercise reasonable
5 supervision over the acts of Respondent EHI and its agents and employees in such a manner as
6 to allow the acts and omissions on the part of EHI, as described in Paragraph 11, above, to occur
7 in violation of Sections 10159.2 (reasonable supervision) and 10177(g) (negligence) and (h)
8 (reasonable supervision) of the Code and Section 2725 (reasonable supervision) of the Regulations.

9 13

10 The facts alleged above are grounds for the suspension or revocation of the
11 licenses and license rights of Respondents under the following provisions of the Code and/or
12 the Regulations:

- 13 (a) as to Paragraph 11 and Respondent EHI, under Sections 10176(a)
14 and (i) and/or 10177(g) and/or (j) of the Code; and
15 (b) as to Paragraph 12 and Respondent ENNIS under Sections 10159.2
16 and 10177(g) and (h) of the Code and Section 2725 of the
17 Regulations, in conjunction with Section 10177(d) of the Code.

18 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
19 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
20 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
21 Division 4 of the Business and Professions Code) and for such other and further relief as may be
22 proper under other applicable provisions of law.

23

24

LUKE MARTIN

25 LUKE MARTIN
26 Deputy Real Estate Commissioner

26

Dated at Fresno, California,

27

this 9th day of February, 2010.