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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OXY-HEALTH, LLC, a California limited liability company,)	CV 09-3796 RSWL (SHx)
)	
)	
Plaintiff,)	ORDER Re: Plaintiff's
v.)	Motion for Partial
)	Summary Judgment on
DIANE PECHENICK, an)	Defendants' Fourth
individual; CALIFORNIA)	Affirmative Defense for
REALTY PARTNERS, INC. d/b/a)	Unclean Hands [45]
HEALING DIVES, INC., a)	
California corporation,)	
)	
Defendants.)	
)	

On August 3, 2010, Plaintiff's Motion for Partial Summary Judgment on Defendants' Fourth Affirmative Defense for Unclean Hands came on for regular calendar before this Court. Plaintiff, Oxy-Health, LLC, appeared through its counsel of record, Michael De Vries and Alice Jennifer Barry. Defendants, California Realty Partners, Inc. and Diane Pechenick, appeared through their counsel of record, Russell Petti. The Court having reviewed all papers submitted pertaining to this Motion and having considered all arguments

1 presented to the Court, **NOW FINDS AND RULES AS FOLLOWS:**

2 The Court hereby **GRANTS** Plaintiff's Motion for
3 Partial Summary Judgment on Defendants' Fourth
4 Affirmative Defense for Unclean Hands.

5 The Court finds that there is no genuine issue as
6 to any material fact on the issue of Unclean Hands.
7 See Lies v. Farrell Lines, Inc., 641 F.2d 765, 768 (9th
8 Cir. 1981). "Under Rule 56(c) the moving party has the
9 burden of showing that there is no genuine issue as to
10 any material fact and that he is entitled to a partial
11 summary judgment as a matter of law." Lies, 641 F.2d
12 at 768.

13 Defendants have failed to produce any evidence
14 supporting the affirmative defense of Unclean Hands.
15 Defendants have failed to establish that Plaintiff
16 acted in a manner intended to deceive consumers or with
17 the requisite bad faith to warrant a finding of Unclean
18 Hands. See Perfumebay.com Inc. v. EBAY, Inc., 506 F.3d
19 1165, 1177 (9th Cir. 2007) (citing Japan Telecom, Inc.
20 v. Japan Telecom America Inc., 287 F.3d 866, 870 (9th
21 Cir. 2002)).

22 The Court finds that Defendants California Realty
23 Partners, Inc. and Diane Pechenick failed to provide
24 evidence to support the affirmative defense of Unclean
25 Hands.

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