

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
7

FILED  
MAY 15 2003

DEPARTMENT OF REAL ESTATE  
By Laurie G. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) DRE No. H-1568 FR  
12 )  
13 RANCH AND COAST PROPERTIES, ) OAH No. N-2003010157  
14 a California Corporation, )  
15 THOMAS HENRY ERSKINE, and ) STIPULATION AND AGREEMENT  
16 VICTORIA ANN SILVA, )  
17 Respondents. )

18 It is hereby stipulated by and between Respondents  
19 RANCH AND COAST PROPERTIES, a California corporation ("RANCH"),  
20 THOMAS HENRY ERSKINE ("ERSKINE"), and VICTORIA ANN SILVA  
21 ("SILVA"), individually and acting by and through Steven A.  
22 Sokol, Esq., attorney of record herein for RANCH, ERSKINE and  
23 SILVA, and the Complainant, acting by and through James L.  
24 Beaver, Counsel for the Department of Real Estate ("the  
25 Department"), as follows for the purpose of settling and  
26 disposing of the Accusation filed on November 27, 2002 in this  
27 matter ("the Accusation"):

DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

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

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

11           3. On December 13, 2002, Respondents filed Notices of  
12 Defense pursuant to Section 11505 of the Government Code for the  
13 purpose of requesting a hearing on the allegations in the  
14 Accusation. Respondents each hereby freely and voluntarily  
15 withdraw said Notice of Defense. Respondents acknowledge that  
16 Respondents understand that by withdrawing said Notice of Defense  
17 Respondents will thereby waive Respondents' right to require the  
18 Real Estate Commissioner (herein "the Commissioner") to prove the  
19 allegations in the Accusation at a contested hearing held in  
20 accordance with the provisions of the APA and that Respondents  
21 will waive other rights afforded to Respondents in connection  
22 with the hearing such as the right to present evidence in defense  
23 of the allegations in the Accusation and the right to cross-  
24 examine witnesses.

25           4. This Stipulation is based on Respondents' decision  
26 not to contest the allegations set forth in the Accusation as a

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 result of the agreement negotiated between the parties. This  
2 Stipulation is expressly limited to this proceeding and any  
3 further proceeding initiated by or brought before the Department  
4 of Real Estate based upon the facts and circumstances alleged in  
5 the Accusation and is made for the sole purpose of reaching an  
6 agreed disposition of this proceeding without a hearing. The  
7 decision of Respondents not to contest the allegations is made  
8 solely for the purpose of effectuating this Stipulation. It is  
9 the intent and understanding of the parties that this Stipulation  
10 shall not be binding or admissible against Respondents in any  
11 actions against Respondents by third parties.

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

22           6. This Stipulation and Agreement shall not  
23 constitute an estoppel, merger or bar to any further  
24 administrative or civil proceedings by the Department with  
25 respect to any matters which were not specifically alleged to be  
26

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and  
4 waivers and solely for the purpose of settlement of the pending  
5 Accusation without hearing, it is stipulated and agreed that the  
6 following Determination of Issues shall be made:

7 I

8 The acts and omissions of Respondents RANCH and SILVA  
9 as described in the Accusation are grounds for the suspension or  
10 revocation of the licenses and license rights of Respondents  
11 RANCH and SILVA under the following provisions of the California  
12 Business and Professions Code (herein "the Code"):

13 (a) as to Paragraphs XV and XVI of the Accusation  
14 under Section 11018.2 of the Code in conjunction with Section  
15 10177(d) of the Code; and

16 (b) as to Paragraph XVII of the Accusation under under  
17 Section 11018.1(a) of the Code and Section 2795.1 of Chapter 6,  
18 Title 10, California Code of Regulations in conjunction with  
19 Section 10177(d) of the Code.

20 II

21 The acts and omissions of Respondent ERSKINE as  
22 described in Paragraph XVIII of the Accusation are grounds for  
23 the suspension or revocation of the licenses and license rights  
24 of Respondent ERSKINE under Sections 10177(g) and 10177(h) of the  
25 Code and Section 10159.2 of the Code in conjunction with Section  
26 10177(d) of the Code.

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

ORDER

I

1  
2  
3 All licenses and licensing rights of Respondent RANCH  
4 AND COAST PROPERTIES under the Real Estate Law are suspended for  
5 a period of sixty (60) days from the effective date of the  
6 Decision herein; provided, however, if such Respondent petitions,  
7 sixty (60) days of said sixty (60) day suspension (or a portion  
8 thereof) imposed on such Respondent shall be stayed upon  
9 condition that:

10 (a) such Respondent pays a monetary penalty pursuant  
11 to Section 10175.2 of the Code at the rate of \$100.00 for each  
12 day of the suspension for a total monetary penalty of \$6,000.00  
13 with respect to such Respondent.

14 (b) Said payment shall be in the form of a cashier's  
15 check or certified check made payable to the Recovery Account of  
16 the Real Estate Fund. Said check must be received by the  
17 Department prior to the effective date of the Decision in this  
18 matter.

19 (c) If such Respondent fails to pay the monetary  
20 penalty in accordance with the terms and conditions of the  
21 Decision, the Commissioner may, without a hearing, vacate and set  
22 aside the stay order with respect to such Respondent, and order  
23 the immediate execution of all or any part of the stayed  
24 suspension.

25 (d) No final subsequent determination be made, after  
26 hearing or upon stipulation, that cause for disciplinary action

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 against such Respondent occurred within two (2) years of the  
2 effective date of the Decision herein. Should such a  
3 determination be made, the Commissioner may, in his or her  
4 discretion, vacate and set aside the stay order with respect to  
5 such Respondent, and order the execution of all or any part of  
6 the stayed suspension, in which event such Respondent shall not  
7 be entitled to any repayment nor credit, prorated or otherwise,  
8 for money paid to the Department under the terms of this  
9 Decision.

10 (e) If such Respondent pays the monetary penalty and  
11 if no further cause for disciplinary action against the real  
12 estate license of such Respondent occurs within two (2) years  
13 from the effective date of the Decision herein, then the stay  
14 hereby granted shall become permanent with respect to such  
15 Respondent.

16 II

17 All licenses and licensing rights of Respondent THOMAS  
18 HENRY ERSKINE under the Real Estate Law are suspended for a  
19 period of sixty (60) days from the effective date of the Decision  
20 herein; provided, however, if such Respondent petitions, sixty  
21 (60) days of said sixty (60) day suspension (or a portion  
22 thereof) imposed on such Respondent shall be stayed upon  
23 condition that:

24 (a) such Respondent pays a monetary penalty pursuant  
25 to Section 10175.2 of the Code at the rate of \$100.00 for each  
26 day of the suspension for a total monetary penalty of \$6,000.00

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 with respect to such Respondent.

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

7 (c) If such Respondent fails to pay the monetary  
8 penalty in accordance with the terms and conditions of the  
9 Decision, the Commissioner may, without a hearing, vacate and set  
10 aside the stay order with respect to such Respondent, and order  
11 the immediate execution of all or any part of the stayed  
12 suspension.

13 (d) No final subsequent determination be made, after  
14 hearing or upon stipulation, that cause for disciplinary action  
15 against such Respondent occurred within two (2) years of the  
16 effective date of the Decision herein. Should such a  
17 determination be made, the Commissioner may, in his or her  
18 discretion, vacate and set aside the stay order with respect to  
19 such Respondent, and order the execution of all or any part of  
20 the stayed suspension, in which event such Respondent shall not  
21 be entitled to any repayment nor credit, prorated or otherwise,  
22 for money paid to the Department under the terms of this  
23 Decision.

24 (e) If such Respondent pays the monetary penalty and  
25 if no further cause for disciplinary action against the real  
26 estate license of such Respondent occurs within two (2) years

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 from the effective date of the Decision herein, then the stay  
2 hereby granted shall become permanent with respect to such  
3 Respondent.

4 III

5 All licenses and licensing rights of Respondent  
6 VICTORIA ANN SILVA under the Real Estate Law are suspended for a  
7 period of sixty (60) days from the effective date of the Decision  
8 herein; provided, however, if such Respondent petitions, sixty  
9 (60) days of said sixty (60) day suspension (or a portion  
10 thereof) imposed on such Respondent shall be stayed upon  
11 condition that:

12 (a) such Respondent pays a monetary penalty pursuant  
13 to Section 10175.2 of the Code at the rate of \$100.00 for each  
14 day of the suspension for a total monetary penalty of \$6,000.00  
15 with respect to such Respondent.

16 (b) Said payment shall be in the form of a cashier's  
17 check or certified check made payable to the Recovery Account of  
18 the Real Estate Fund. Said check must be received by the  
19 Department prior to the effective date of the Decision in this  
20 matter.

21 (c) If such Respondent fails to pay the monetary  
22 penalty in accordance with the terms and conditions of the  
23 Decision, the Commissioner may, without a hearing, vacate and set  
24 aside the stay order with respect to such Respondent, and order  
25 the immediate execution of all or any part of the stayed  
26 suspension.

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

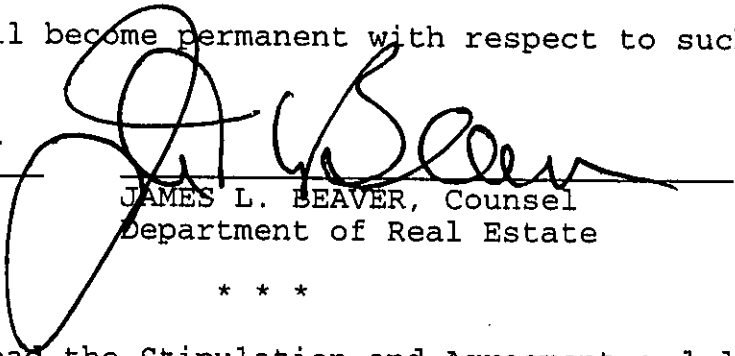


1 (d) No final subsequent determination be made, after  
2 hearing or upon stipulation, that cause for disciplinary action  
3 against such Respondent occurred within two (2) years of the  
4 effective date of the Decision herein. Should such a  
5 determination be made, the Commissioner may, in his or her  
6 discretion, vacate and set aside the stay order with respect to  
7 such Respondent, and order the execution of all or any part of  
8 the stayed suspension, in which event such Respondent shall not  
9 be entitled to any repayment nor credit, prorated or otherwise,  
10 for money paid to the Department under the terms of this  
11 Decision.

12 (e) If such Respondent pays the monetary penalty and  
13 if no further cause for disciplinary action against the real  
14 estate license of such Respondent occurs within two (2) years  
15 from the effective date of the Decision herein, then the stay  
16 hereby granted shall become permanent with respect to such  
17 Respondent.

18 April 24, 2003

DATED



JAMES L. BEAVER, Counsel  
Department of Real Estate

\* \* \*

21 I have read the Stipulation and Agreement and discussed  
22 it with my attorney and its terms are understood by me and are  
23 agreeable and acceptable to me. I understand that I am waiving  
24 rights given to me by the California Administrative Procedure Act  
25 (including but not limited to Sections 11506, 11508, 11509, and  
26 11513 of the Government Code), and I willingly, intelligently,

27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 and voluntarily waive those rights, including the right of  
2 requiring the Commissioner to prove the allegations in the  
3 Accusation at a hearing at which I would have the right to cross-  
4 examine witnesses against me and to present evidence in defense  
5 and mitigation of the charges.

6 04-24-03  
7 DATED

RANCH AND COAST PROPERTIES  
Respondent

8 By [Signature]  
9 THOMAS HENRY ERSKINE  
10 Designated Officer - Broker

11 04-24-03  
12 DATED

[Signature]  
THOMAS HENRY ERSKINE  
Respondent

13 04-24-03  
14 DATED

[Signature]  
VICTORIA ANN SILVA  
Respondent

\* \* \*

15 I have reviewed the Stipulation and Agreement as to  
16 form and content and have advised my clients accordingly.

17 04-24-2003  
18 DATED

[Signature]  
STEVEN A. SOKOL  
Attorney for Respondents  
RANCH, ERSKINE and SILVA

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27 DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

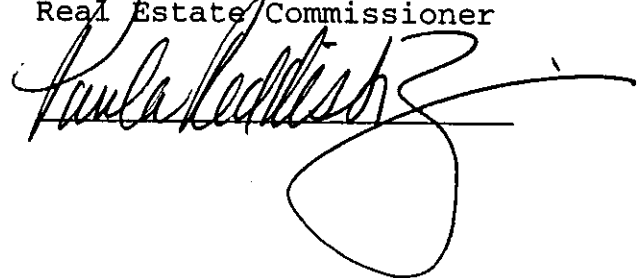
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The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondents  
RANCH AND COAST PROPERTIES, THOMAS HENRY ERSKINE, and VICTORIA  
ANN SILVA, and shall become effective at 12 o'clock noon on  
JULY 1, 2003.

IT IS SO ORDERED May 8, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



DRE No. H-1568 FRESNO

RANCH AND COAST PROPERTIES,  
et al. (susp)

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAY 15 2003

DEPARTMENT OF REAL ESTATE

By Laurel B. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) DRE No. H-1568 FR  
12 )  
13 SHERYLE ANN MACHADO, ) OAH No. N-2003010157  
14 )  
15 Respondent. ) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondent  
17 SHERYLE ANN MACHADO ("MACHADO") and the Complainant, acting by  
18 and through James L. Beaver, Counsel for the Department of Real  
19 Estate ("the Department"), as follows for the purpose of settling  
20 and disposing of the Accusation filed on November 27, 2002 in  
21 this matter ("the Accusation"):

22 1. All issues which were to be contested and all  
23 evidence which was to be presented by Complainant and Respondent  
24 MACHADO ("Respondent") at a formal hearing on the Accusation,  
25 which hearing was to be held in accordance with the provisions of  
26 the Administrative Procedure Act (APA), shall instead and in

27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

1 place thereof be submitted solely on the basis of the provisions  
2 of this Stipulation and Agreement.

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

6 3. On December 13, 2002, Respondent filed a Notice  
7 of Defense pursuant to Section 11505 of the Government Code for  
8 the purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws  
10 said Notice of Defense. Respondent acknowledges that Respondent  
11 understands that by withdrawing said Notice of Defense Respondent  
12 will thereby waive Respondent's right to require the Real Estate  
13 Commissioner ("the Commissioner") to prove the allegations in the  
14 Accusation at a contested hearing held in accordance with the  
15 provisions of the APA and that Respondent will waive other rights  
16 afforded to Respondent in connection with the hearing such as the  
17 right to present evidence in defense of the allegations in the  
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on Respondent's decision  
20 not to contest the allegations set forth in the Accusation as a  
21 result of the agreement negotiated between the parties. This  
22 Stipulation is expressly limited to this proceeding and any  
23 further proceeding initiated by or brought before the Department  
24 of Real Estate based upon the facts and circumstances alleged in  
25 the Accusation and is made for the sole purpose of reaching an  
26

27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

1 agreed disposition of this proceeding without a hearing. The  
2 decision of Respondent not to contest the allegations is made  
3 solely for the purpose of effectuating this Stipulation. It is  
4 the intent and understanding of the parties that this Stipulation  
5 shall not be binding or admissible against Respondent in any  
6 actions against Respondent by third parties.

7           5. It is understood by the parties that the  
8 Commissioner may adopt the Stipulation and Agreement as her  
9 decision in this matter, thereby imposing the penalty and  
10 sanctions on Respondent's real estate license and license rights  
11 as set forth in the "Order" below. In the event that the  
12 Commissioner in her discretion does not adopt the Stipulation and  
13 Agreement, it shall be void and of no effect, and Respondent  
14 shall retain the right to a hearing and proceeding on the  
15 Accusation under all the provisions of the APA and shall not be  
16 bound by any admission or waiver made herein.

17           6. This Stipulation and Agreement shall not  
18 constitute an estoppel, merger or bar to any further  
19 administrative or civil proceedings by the Department with  
20 respect to any matters which were not specifically alleged to be  
21 causes for accusation in this proceeding.

22                           DETERMINATION OF ISSUES

23           By reason of the foregoing stipulations, admissions and  
24 waivers and solely for the purpose of settlement of the pending  
25 Accusation without hearing, it is stipulated and agreed that the  
26

27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

1 following Determination of Issues shall be made:

2 I

3 The acts and omissions of Respondent SHERYLE ANN  
4 MACHADO as described in the Accusation are grounds for the  
5 suspension or revocation of the licenses and license rights of  
6 Respondent MACHADO under the following provisions of the  
7 California Business and Professions Code ("the Code"):

8 (a) as to Paragraphs XV and XVI of the Accusation  
9 under Section 11018.2 of the Code in conjunction with Section  
10 10177(d) of the Code; and

11 (b) as to Paragraph XVII of the Accusation under under  
12 Section 11018.1(a) of the Code and Section 2795.1 of Chapter 6,  
13 Title 10, California Code of Regulations in conjunction with  
14 Section 10177(d) of the Code.

15 ORDER

16 I

17 All licenses and licensing rights of Respondent SHERYLE  
18 ANN MACHADO under the Real Estate Law are suspended for a period  
19 of sixty (60) days from the effective date of the Decision  
20 herein; provided, however, if such Respondent petitions, sixty  
21 (60) days of said sixty (60) day suspension (or a portion  
22 thereof) imposed on such Respondent shall be stayed upon  
23 condition that:

24 (a) such Respondent pays a monetary penalty pursuant  
25 to Section 10175.2 of the Code at the rate of \$100.00 for each  
26 day of the suspension for a total monetary penalty of \$6,000.00

27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

1 with respect to such Respondent.

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

7 (c) If such Respondent fails to pay the monetary  
8 penalty in accordance with the terms and conditions of the  
9 Decision, the Commissioner may, without a hearing, vacate and set  
10 aside the stay order with respect to such Respondent, and order  
11 the immediate execution of all or any part of the stayed  
12 suspension.

13 (d) No final subsequent determination be made, after  
14 hearing or upon stipulation, that cause for disciplinary action  
15 against such Respondent occurred within two (2) years of the  
16 effective date of the Decision herein. Should such a  
17 determination be made, the Commissioner may, in his or her  
18 discretion, vacate and set aside the stay order with respect to  
19 such Respondent, and order the execution of all or any part of  
20 the stayed suspension, in which event such Respondent shall not  
21 be entitled to any repayment nor credit, prorated or otherwise,  
22 for money paid to the Department under the terms of this  
23 Decision.

24 (e) If such Respondent pays the monetary penalty and  
25 if no further cause for disciplinary action against the real  
26 estate license of such Respondent occurs within two (2) years

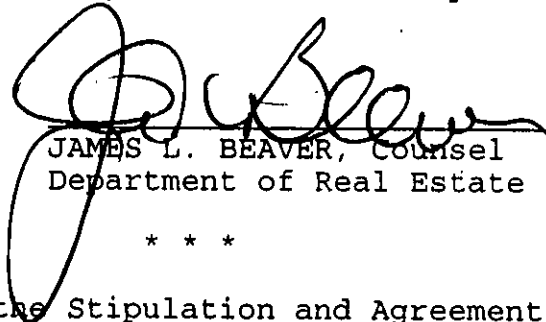
27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)



1 from the effective date of the Decision herein, then the stay  
2 hereby granted shall become permanent with respect to such  
3 Respondent.

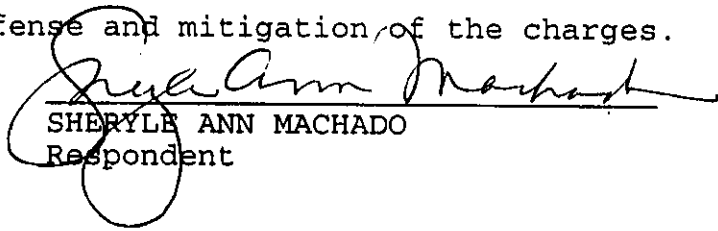
4 April 24, 2003  
DATED

  
JAMES L. BEAVER, Counsel  
Department of Real Estate

\* \* \*

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

17 4-24-2003  
DATED

  
SHERYLE ANN MACHADO  
Respondent

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27 DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

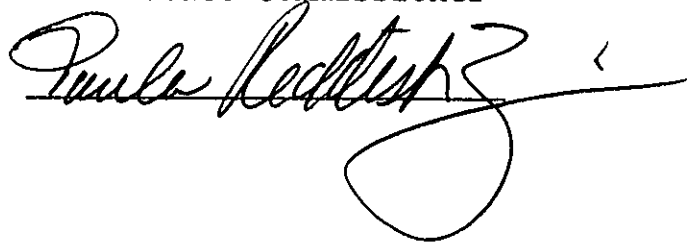
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent  
SHERYLE ANN MACHADO and shall become effective at 12 o'clock noon  
on JULY 1, 2003.

IT IS SO ORDERED May 8, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



DRE No. H-1568 FRESNO

SHERYLE ANN MACHADO (susp)

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAY 15 2003

DEPARTMENT OF REAL ESTATE

By Laurie B.

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11  
12 In the Matter of the Accusation of ) DRE No. H-1568 FR  
13 MICHELE LOUISE SMITH, ) OAH No. N-2003010157  
14 Respondent. ) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between Respondent  
16 MICHELE LOUISE SMITH ("SMITH") and the Complainant, acting by and  
17 through James L. Beaver, Counsel for the Department of Real  
18 Estate ("the Department"), as follows for the purpose of settling  
19 and disposing of the Accusation filed on November 27, 2002 in  
20 this matter ("the Accusation"):

21 1. All issues which were to be contested and all  
22 evidence which was to be presented by Complainant and Respondent  
23 SMITH ("Respondent") at a formal hearing on the Accusation, which  
24 hearing was to be held in accordance with the provisions of the  
25 Administrative Procedure Act (APA), shall instead and in place

26  
27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 thereof be submitted solely on the basis of the provisions of  
2 this Stipulation and Agreement.

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

6 3. On December 13, 2002, Respondent filed a Notice  
7 of Defense pursuant to Section 11505 of the Government Code for  
8 the purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws  
10 said Notice of Defense. Respondent acknowledges that Respondent  
11 understands that by withdrawing said Notice of Defense Respondent  
12 will thereby waive Respondent's right to require the Real Estate  
13 Commissioner ("the Commissioner") to prove the allegations in the  
14 Accusation at a contested hearing held in accordance with the  
15 provisions of the APA and that Respondent will waive other rights  
16 afforded to Respondent in connection with the hearing such as the  
17 right to present evidence in defense of the allegations in the  
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on Respondent's decision  
20 not to contest the allegations set forth in the Accusation as a  
21 result of the agreement negotiated between the parties. This  
22 Stipulation is expressly limited to this proceeding and any  
23 further proceeding initiated by or brought before the Department  
24 of Real Estate based upon the facts and circumstances alleged in  
25 the Accusation and is made for the sole purpose of reaching an  
26

27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 agreed disposition of this proceeding without a hearing. The  
2 decision of Respondent not to contest the allegations is made  
3 solely for the purpose of effectuating this Stipulation. It is  
4 the intent and understanding of the parties that this Stipulation  
5 shall not be binding or admissible against Respondent in any  
6 actions against Respondent by third parties.

7 5. It is understood by the parties that the  
8 Commissioner may adopt the Stipulation and Agreement as her  
9 decision in this matter, thereby imposing the penalty and  
10 sanctions on Respondent's real estate license and license rights  
11 as set forth in the "Order" below. In the event that the  
12 Commissioner in her discretion does not adopt the Stipulation and  
13 Agreement, it shall be void and of no effect, and Respondent  
14 shall retain the right to a hearing and proceeding on the  
15 Accusation under all the provisions of the APA and shall not be  
16 bound by any admission or waiver made herein.

17 6. This Stipulation and Agreement shall not  
18 constitute an estoppel, merger or bar to any further  
19 administrative or civil proceedings by the Department with  
20 respect to any matters which were not specifically alleged to be  
21 causes for accusation in this proceeding.

22 DETERMINATION OF ISSUES

23 By reason of the foregoing stipulations, admissions and  
24 waivers and solely for the purpose of settlement of the pending  
25 Accusation without hearing, it is stipulated and agreed that the  
26

27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 following Determination of Issues shall be made:

2 I

3 The acts and omissions of Respondent MICHELE LOUISE  
4 SMITH as described in the Accusation are grounds for the  
5 suspension or revocation of the licenses and license rights of  
6 Respondent SMITH under the following provisions of the California  
7 Business and Professions Code ("the Code"):

8 (a) as to Paragraphs XV and XVI of the Accusation  
9 under Section 11018.2 of the Code in conjunction with Section  
10 10177(d) of the Code; and

11 (b) as to Paragraph XVII of the Accusation under under  
12 Section 11018.1(a) of the Code and Section 2795.1 of Chapter 6,  
13 Title 10, California Code of Regulations in conjunction with  
14 Section 10177(d) of the Code.

15 ORDER

16 I

17 All licenses and licensing rights of Respondent MICHELE  
18 LOUISE SMITH under the Real Estate Law are suspended for a period  
19 of sixty (60) days from the effective date of the Decision  
20 herein; provided, however, if such Respondent petitions, sixty  
21 (60) days of said sixty (60) day suspension (or a portion  
22 thereof) imposed on such Respondent shall be stayed upon  
23 condition that:

24 (a) such Respondent pays a monetary penalty pursuant  
25 to Section 10175.2 of the Code at the rate of \$100.00 for each  
26 day of the suspension for a total monetary penalty of \$6,000.00

27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 with respect to such Respondent.

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

7 (c) If such Respondent fails to pay the monetary  
8 penalty in accordance with the terms and conditions of the  
9 Decision, the Commissioner may, without a hearing, vacate and set  
10 aside the stay order with respect to such Respondent, and order  
11 the immediate execution of all or any part of the stayed  
12 suspension.

13 (d) No final subsequent determination be made, after  
14 hearing or upon stipulation, that cause for disciplinary action  
15 against such Respondent occurred within two (2) years of the  
16 effective date of the Decision herein. Should such a  
17 determination be made, the Commissioner may, in his or her  
18 discretion, vacate and set aside the stay order with respect to  
19 such Respondent, and order the execution of all or any part of  
20 the stayed suspension, in which event such Respondent shall not  
21 be entitled to any repayment nor credit, prorated or otherwise,  
22 for money paid to the Department under the terms of this  
23 Decision.

24 (e) If such Respondent pays the monetary penalty and  
25 if no further cause for disciplinary action against the real  
26 estate license of such Respondent occurs within two (2) years

27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 from the effective date of the Decision herein, then the stay  
2 hereby granted shall become permanent with respect to such  
3 Respondent.

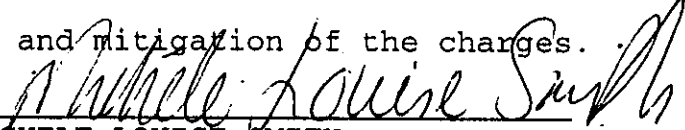
4 April 24, 2003  
DATED

  
JAMES L. BEAVER, Counsel  
Department of Real Estate

5 \* \* \*

6  
7 I have read the Stipulation and Agreement and its terms  
8 are understood by me and are agreeable and acceptable to me. I  
9 understand that I am waiving rights given to me by the California  
10 Administrative Procedure Act (including but not limited to  
11 Sections 11506, 11508, 11509, and 11513 of the Government Code),  
12 and I willingly, intelligently, and voluntarily waive those  
13 rights, including the right of requiring the Commissioner to  
14 prove the allegations in the Accusation at a hearing at which I  
15 would have the right to cross-examine witnesses against me and to  
16 present evidence in defense and mitigation of the charges.

17 4-24-03.  
DATED

  
MICHELE LOUISE SMITH  
Respondent

18  
19 ///  
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27 DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)



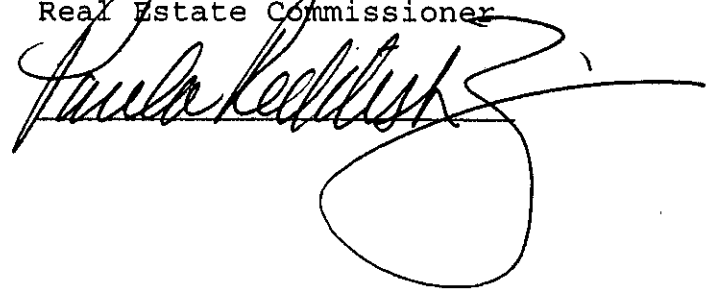
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent  
MICHELE LOUISE SMITH and shall become effective at 12 o'clock  
noon on JULY 1, 2003.

IT IS SO ORDERED May 8, 2003.

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner



DRE No. H-1568 FRESNO

MICHELE LOUISE SMITH (susp)

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAY 15 2003

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11  
12 In the Matter of the Accusation of ) DRE No. H-1568 FR  
13 )  
14 STEMPER-BROWN REALTY, ) OAH No. N-2003010157  
15 a California Corporation, and )  
16 JAMES E. SALVATORE, )  
17 )  
18 Respondents. ) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondents  
17 STEMPER-BROWN REALTY, a California corporation ("STEMPER"), and  
18 JAMES E. SALVATORE ("SALVATORE"), individually and by and through  
19 Rose Pothier, Esq., attorney of record herein for Respondents  
20 STEMPER and SALVATORE, and the Complainant, acting by and through  
21 James L. Beaver, Counsel for the Department of Real Estate ("the  
22 Department"), as follows for the purpose of settling and  
23 disposing of the Accusation filed on November 27, 2002 in this  
24 matter ("the Accusation"):

25 ///

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

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

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

11           3. Between December 3, 2002 and December 9, 2002,  
12 Respondents filed Notices of Defense pursuant to Section 11505 of  
13 the Government Code for the purpose of requesting a hearing on  
14 the allegations in the Accusation. Respondents each hereby  
15 freely and voluntarily withdraw said Notice of Defense.  
16 Respondents acknowledge that Respondents understand that by  
17 withdrawing said Notice of Defense Respondents will thereby waive  
18 Respondents' right to require the Real Estate Commissioner ("the  
19 Commissioner") to prove the allegations in the Accusation at a  
20 contested hearing held in accordance with the provisions of the  
21 APA and that Respondents will waive other rights afforded to  
22 Respondents in connection with the hearing such as the right to  
23 present evidence in defense of the allegations in the Accusation  
24 and the right to cross-examine witnesses.

25           4. This Stipulation is based on Respondents' decision  
26 not to contest the allegations set forth in the Accusation as a

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

1 result of the agreement negotiated between the parties. This  
2 Stipulation is expressly limited to this proceeding and any  
3 further proceeding initiated by or brought before the Department  
4 of Real Estate based upon the facts and circumstances alleged in  
5 the Accusation and is made for the sole purpose of reaching an  
6 agreed disposition of this proceeding without a hearing. The  
7 decision of Respondents not to contest the allegations is made  
8 solely for the purpose of effectuating this Stipulation. It is  
9 the intent and understanding of the parties that this Stipulation  
10 shall not be binding or admissible against Respondents in any  
11 actions against Respondents by third parties.

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

22           6. This Stipulation and Agreement shall not  
23 constitute an estoppel, merger or bar to any further  
24 administrative or civil proceedings by the Department with  
25 respect to any matters which were not specifically alleged to be  
26

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

1 causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and  
4 waivers and solely for the purpose of settlement of the pending  
5 Accusation without hearing, it is stipulated and agreed that the  
6 following Determination of Issues shall be made:

7 I

8 The acts and omissions of Respondents STEMPER and  
9 SALVATORE as described in the Accusation are grounds for the  
10 suspension or revocation of the licenses and license rights of  
11 Respondents STEMPER and SALVATORE under the following provisions  
12 of the California Business and Professions Code ("the Code"):

13 (a) as to Paragraphs XV and XVI of the Accusation  
14 under Section 11018.2 of the Code in conjunction with Section  
15 10177(d) of the Code; and

16 (b) as to Paragraph XVII of the Accusation under under  
17 Section 11018.1(a) of the Code and Section 2795.1 of Chapter 6,  
18 Title 10, California Code of Regulations in conjunction with  
19 Section 10177(d) of the Code.

20 ORDER

21 I

22 All licenses and licensing rights of Respondent STEMPER  
23 - BROWN REALTY under the Real Estate Law are suspended for a  
24 period of sixty (60) days from the effective date of the Decision  
25 herein; provided, however, if such Respondent petitions, sixty  
26 (60) days of said sixty (60) day suspension (or a portion

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

1 thereof) imposed on such Respondent shall be stayed upon  
2 condition that:

3 (a) such Respondent pays a monetary penalty pursuant  
4 to Section 10175.2 of the Code at the rate of \$100.00 for each  
5 day of the suspension for a total monetary penalty of \$6,000.00  
6 with respect to such Respondent.

7 (b) Said payment shall be in the form of a cashier's  
8 check or certified check made payable to the Recovery Account of  
9 the Real Estate Fund. Said check must be received by the  
10 Department prior to the effective date of the Decision in this  
11 matter.

12 (c) If such Respondent fails to pay the monetary  
13 penalty in accordance with the terms and conditions of the  
14 Decision, the Commissioner may, without a hearing, vacate and set  
15 aside the stay order with respect to such Respondent, and order  
16 the immediate execution of all or any part of the stayed  
17 suspension.

18 (d) No final subsequent determination be made, after  
19 hearing or upon stipulation, that cause for disciplinary action  
20 against such Respondent occurred within two (2) years of the  
21 effective date of the Decision herein. Should such a  
22 determination be made, the Commissioner may, in his or her  
23 discretion, vacate and set aside the stay order with respect to  
24 such Respondent, and order the execution of all or any part of  
25 the stayed suspension, in which event such Respondent shall not  
26 be entitled to any repayment nor credit, prorated or otherwise,

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

1 for money paid to the Department under the terms of this  
2 Decision.

3 (e) If such Respondent pays the monetary penalty and  
4 if no further cause for disciplinary action against the real  
5 estate license of such Respondent occurs within two (2) years  
6 from the effective date of the Decision herein, then the stay  
7 hereby granted shall become permanent with respect to such  
8 Respondent.

9 II

10 All licenses and licensing rights of Respondent JAMES  
11 E. SALVATORE under the Real Estate Law are suspended for a period  
12 of sixty (60) days from the effective date of the Decision  
13 herein; provided, however, if such Respondent petitions, sixty  
14 (60) days of said sixty (60) day suspension (or a portion  
15 thereof) imposed on such Respondent shall be stayed upon  
16 condition that:

17 (a) such Respondent pays a monetary penalty pursuant  
18 to Section 10175.2 of the Code at the rate of \$100.00 for each  
19 day of the suspension for a total monetary penalty of \$6,000.00  
20 with respect to such Respondent.

21 (b) Said payment shall be in the form of a cashier's  
22 check or certified check made payable to the Recovery Account of  
23 the Real Estate Fund. Said check must be received by the  
24 Department prior to the effective date of the Decision in this  
25 matter.

26 (c) If such Respondent fails to pay the monetary

27 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

1 penalty in accordance with the terms and conditions of the  
2 Decision, the Commissioner may, without a hearing, vacate and set  
3 aside the stay order with respect to such Respondent, and order  
4 the immediate execution of all or any part of the stayed  
5 suspension.

6 (d) No final subsequent determination be made, after  
7 hearing or upon stipulation, that cause for disciplinary action  
8 against such Respondent occurred within two (2) years of the  
9 effective date of the Decision herein. Should such a  
10 determination be made, the Commissioner may, in his or her  
11 discretion, vacate and set aside the stay order with respect to  
12 such Respondent, and order the execution of all or any part of  
13 the stayed suspension, in which event such Respondent shall not  
14 be entitled to any repayment nor credit, prorated or otherwise,  
15 for money paid to the Department under the terms of this  
16 Decision.

17 (e) If such Respondent pays the monetary penalty and  
18 if no further cause for disciplinary action against the real  
19 estate license of such Respondent occurs within two (2) years  
20 from the effective date of the Decision herein, then the stay  
21 hereby granted shall become permanent with respect to such  
22 Respondent.

23 Apr 24, 2003  
24 DATED

  
25 JAMES L. BEAVER, Counsel  
26 Department of Real Estate

27 ///

///

DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)



1 \* \* \*

2 I have read the Stipulation and Agreement and discussed  
3 it with my attorney and its terms are understood by me and are  
4 agreeable and acceptable to me. I understand that I am waiving  
5 rights given to me by the California Administrative Procedure Act  
6 (including but not limited to Sections 11506, 11508, 11509, and  
7 11513 of the Government Code), and I willingly, intelligently,  
8 and voluntarily waive those rights, including the right of  
9 requiring the Commissioner to prove the allegations in the  
10 Accusation at a hearing at which I would have the right to cross-  
11 examine witnesses against me and to present evidence in defense  
12 and mitigation of the charges.

13 7/24/03  
14 DATED

STEMPER - BROWN REALTY  
Respondent

15 By [Signature]  
16 PETER WILLIAM DAKIN  
Designated Officer - Broker

17 A-21-03  
18 DATED

[Signature]  
19 JAMES E. SALVATORE  
20 Respondent

21 \* \* \*

22 I have reviewed the Stipulation and Agreement as to  
23 form and content and have advised my clients accordingly.

24 4/24/03  
25 DATED

[Signature]  
26 ROSE POTHIER  
27 Attorney for Respondents  
STEMPER and SALVATORE

28 ///

29 ///

30 DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

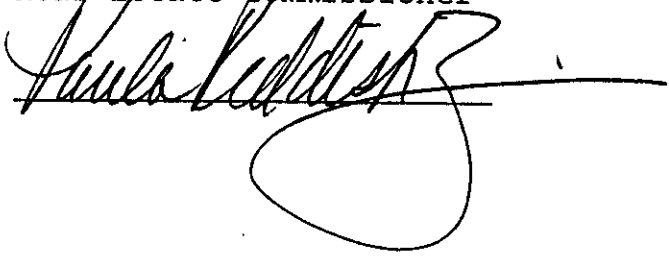
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondents  
STEMPER - BROWN REALTY and JAMES E. ALVATORE and shall become  
effective at 12 o'clock noon on JULY 1, 2003.

IT IS SO ORDERED May 8, 2003.

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner



DRE No. H-1568 FRESNO

STEMPER-BROWN REALTY, and  
JAMES E. SALVATORE (susp)

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE JAN 23 2003  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By 

In the Matter of the Accusation of  
RANCH AND COAST PROPERTIES,  
a California Corporation,  
STEMPER-BROWN REALTY,  
a California Corporation,  
THOMAS HENRY ERSKINE,  
VICTORIA ANN SILVA, et al.,

}

Case No. H-1568 FRESNO

OAH No. N-2003010157

Respondents

**NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814 on MAY 21 & 22, 2003, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: JANUARY 23, 2003

DEPARTMENT OF REAL ESTATE

By

  
JAMES L. BEAVER, Counsel

1 JAMES L. BEAVER, Counsel, (SBN 60543)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0788 (Direct)

FILED  
NOV 27 2002

DEPARTMENT OF REAL ESTATE

By *Laurie G. [Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 RANCH AND COAST PROPERTIES, ) No. H-1568 FRESNO  
13 a California Corporation, ) ACCUSATION  
14 STEMPER-BROWN REALTY, )  
15 a California Corporation, )  
16 THOMAS HENRY ERSKINE, )  
17 VICTORIA ANN SILVA, )  
18 SHERYLE ANN MACHADO, )  
19 JAMES E. SALVATORE, and )  
20 MICHELE LOUISE SMITH, )  
21 Respondents. )

22 The Complainant, Charles W. Koenig, a Deputy Real  
23 Estate Commissioner of the State of California, as and for an  
24 Accusation against RANCH AND COAST PROPERTIES, a California  
25 corporation (hereinafter "RANCH"), STEMPER-BROWN REALTY, a  
26 California corporation (hereinafter "STEMPER"), THOMAS HENRY  
27 ERSKINE (hereinafter "ERSKINE"), VICTORIA ANN SILVA (hereinafter  
"SILVA"), SHERYLE ANN MACHADO (hereinafter "MACHADO"), JAMES E.  
SALVATORE (hereinafter "SALVATORE"), and MICHELE LOUISE SMITH

///

1 (hereinafter "SMITH"), hereinafter collectively "Respondents",  
2 is informed and alleges as follows:

3 I

4 The Complainant, Charles W. Koenig, a Deputy Real  
5 Estate Commissioner of the State of California, makes this  
6 Accusation in his official capacity.

7 II

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

12 III

13 At all times herein mentioned, Respondent RANCH was  
14 and now is licensed by the Department of Real Estate of the  
15 State of California (hereinafter "the Department") as a  
16 corporate real estate broker by and through Respondent ERSKINE  
17 as designated officer-broker of Respondent RANCH to qualify said  
18 corporation and to act for said corporation as a real estate  
19 broker.

20 IV

21 At all times herein mentioned, Respondent ERSKINE was  
22 and now is licensed by the Department as designated officer-  
23 broker of Respondent RANCH. As said designated officer-broker,  
24 Respondent ERSKINE was at all times mentioned herein responsible  
25 pursuant to Section 10159.2 of the Code for the supervision of  
26 the activities of the officers, agents, real estate licensees

27 ///

1 and employees of Respondent RANCH for which a license is  
2 required.

3 V

4 Whenever reference is made in an allegation in this  
5 Accusation to an act or omission of Respondent RANCH, such  
6 allegation shall be deemed to mean that the officers, directors,  
7 employees, agents and real estate licensees employed by or  
8 associated with Respondent RANCH committed such act or omission  
9 while engaged in the furtherance of the business or operations  
10 of Respondent RANCH and while acting within the course and scope  
11 of their corporate authority and employment.

12 VI

13 At all times herein mentioned, Respondent STEMPER was  
14 and now is licensed by the Department of Real Estate of the  
15 State of California (hereinafter "the Department") as a  
16 corporate real estate broker.

17 VII

18 Whenever reference is made in an allegation in this  
19 Accusation to an act or omission of Respondent STEMPER, such  
20 allegation shall be deemed to mean that the officers, directors,  
21 employees, agents and real estate licensees employed by or  
22 associated with Respondent STEMPER committed such act or  
23 omission while engaged in the furtherance of the business or  
24 operations of Respondent STEMPER and while acting within the  
25 course and scope of their corporate authority and employment.

26 ///

27 ///

1 VIII

2 At all times herein mentioned:

3 (a) Respondent SILVA was licensed by the Department  
4 as a real estate broker, and was employed as a sales agent by  
5 Respondent RANCH;

6 (b) Respondents MACHADO and SMITH were licensed by  
7 the Department as real estate salespersons in the employ of  
8 Respondent RANCH; and

9 (c) Respondent SALVATORE was licensed by the  
10 Department as a real estate salesperson in the employ of  
11 Respondent STEMPER.

12 IX

13 At all times herein mentioned, Respondents RANCH and  
14 ERSKINE, and Respondents MACHADO, SILVA and SMITH acting on  
15 behalf of Respondents RANCH and ERSKINE, engaged in the business  
16 of, acted in the capacity of, advertised, or assumed to act as  
17 real estate brokers within the State of California within the  
18 meaning of Sections 10131(a) of the Code, including the  
19 operation and conduct of a real estate brokerage business with  
20 the public wherein, on behalf of others, for compensation or in  
21 expectation of compensation, Respondents sold and offered to  
22 sell, solicited prospective sellers and purchasers of, and  
23 negotiated the purchase and sale of real property.

24 X

25 At all times herein mentioned, Respondent STEMPER, and  
26 Respondent SALVATORE acting on behalf of Respondent STEMPER,  
27 engaged in the business of, acted in the capacity of,

1 advertised, or assumed to act as real estate brokers within the  
2 State of California within the meaning of Sections 10131(a) of  
3 the Code, including the operation and conduct of a real estate  
4 brokerage business with the public wherein, on behalf of others,  
5 for compensation or in expectation of compensation, Respondents  
6 sold and offered to sell, solicited prospective sellers and  
7 purchasers of, and negotiated the purchase and sale of real  
8 property.

9 XI

10 At all times mentioned herein, Respondents RANCH,  
11 ERSKINE, SILVA, MACHADO, and SMITH were the agents of the owners  
12 and/or subdividers of subdivided lands as defined in Sections  
13 11000 and/or 11004.5 of the Code.

14 XII

15 Said subdivided lands, are known as or commonly  
16 called:

17 (a) Tract 1785, a standard subdivision consisting of  
18 1.68 acres divided into 7 residential lots located in the  
19 unincorporated area of San Luis Obispo County, California, at  
20 Old County Road and Florence Street approximately 5 miles from  
21 Paso Robles, California, and identified in the records of the  
22 Department under File No. 102430 SA F00 (hereinafter "Tract  
23 1785"); and

24 (b) Tract 1926, a planned development subdivision  
25 consisting of 21.35 acres divided into 18 residential lots  
26 located in San Luis Obispo County, California, in the  
27 unincorporated town of Templeton, and identified in the records



1 of the Department under File No. 102336 SA F00 (hereinafter  
2 "Tract 1926").

3 XIII

4 At no time mentioned herein prior to December 19, 2001  
5 did there exist any conditional public report or any final  
6 public report issued by the Department authorizing any person to  
7 offer for sale or lease, negotiate the sale or lease or sell or  
8 lease any lots, units or parcels in Tract 1926.

9 XIV

10 At no time mentioned herein did there exist any  
11 conditional public report or any final public report issued by  
12 the Department authorizing any person to offer for sale or  
13 lease, negotiate the sale or lease or sell or lease any lots,  
14 units or parcels in Tract 1785.

15 XV

16 Between on or about December 1, 1999 and on or about  
17 March 26, 2001, in each of the transactions tabulated below,  
18 commencing on or about the dates tabulated below, in course of  
19 the activities described in Paragraphs IX through XI, inclusive,  
20 above, Respondents RANCH and/or STEMPER, and Respondents SILVA,  
21 SALVATORE and/or SMITH acting as agents as tabulated below for  
22 their respective employing brokers, offered for sale, negotiated  
23 for sale, and/or sold units in Tract 1926 without first  
24 obtaining any conditional public report or final public report  
25 authorizing such offering, negotiation, or sale, all in  
26 violation of Section 11018.2 of the Code:

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TRANSACTIONS

<u>DATE</u>	<u>PURCHASER</u>	<u>LOT</u>	<u>AGENTS</u>
02/21/00	Willard Martin	2	SALVATORE and SMITH
	Dora Martin		
02/21/00	Edward Alvarez	3	SALVATORE and SMITH
	Nina Alvarez		
02/08/00	Don Tarin	4	SALVATORE and SMITH
	Betty Tarin		
03/17/00	Sanjay Ganpule	5, 6,	SILVA and SMITH
	S.R. Ganpule	7, 8, 9	
		and 10	
02/23/00	Norman Bridge	11	SMITH
	Frances Bridge		
02/05/00	Jeff Holthouse	12	SALVATORE and SMITH
	Leslie Holthouse		
02/02/00	Max Bowery	13	SMITH
	Carol Bowery		
02/02/00	Alexandra Beckwith	14	SMITH
02/02/00	Jack Smith	15	SMITH
	Michele Smith		
02/02/00	Mitch Culver	16	SMITH
02/03/00	James Salvatore	17	SALVATORE and SMITH
02/21/00	Don Davis	18	SALVATORE and SMITH
	Melanie Davis		
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XVI

Between on or about December 1, 1999 and on or about March 26, 2001, in each of the transactions tabulated below, commencing on or about the dates tabulated below, in course of the activities described in Paragraphs IX and XI, above, Respondent RANCH, and Respondents MACHADO and SMITH acting as agents as tabulated below for Respondent RANCH, offered for sale, negotiated for sale, and/or sold lots in Tract 1785 without first obtaining any conditional public report or final public report authorizing such offering, negotiation, or sale, all in violation of Section 11018.2 of the Code:

**TRANSACTIONS**

<b><u>DATE</u></b>	<b><u>PURCHASER</u></b>	<b><u>LOT</u></b>	<b><u>AGENTS</u></b>
02/12/00	Seth Blackburn Chris Blackburn	2	SMITH
03/14/00	William Van Orden Patti Van Orden	3	SMITH AND MACHADO
03/26/00	Jeffrey Thomas Laurie Thomas	1	SMITH AND MACHADO

XVII

In course of each of the transactions described in Paragraphs XV and XVI, above, Respondents RANCH and/or STEMPER, and Respondents MACHADO, SILVA, SALVATORE and/or SMITH acting as agents for Respondents RANCH and/or STEMPER as tabulated above, violated Section 11018.1(a) of the Code in conjunction with Section 2795.1 of the Regulations in that Respondents failed to provide the purchasers with a copy of any conditional or final

1 public report prior to the execution of a binding contract for  
2 the sale of a lot and to obtain a receipt from the purchaser for  
3 the final public report in a form and manner as set forth in  
4 Section 2795.1 of the Regulations.

5 XVIII

6 Respondent ERSKINE failed to exercise reasonable  
7 supervision over the acts of Respondent RANCH and/or its agents  
8 and employees in such a manner as to cause, suffer and permit  
9 the acts and omissions described in Paragraphs XV through XVII,  
10 inclusive, above, to occur.

11 XIX

12 The facts described in Paragraphs XV through XVII,  
13 inclusive, above, constitute cause for the suspension or  
14 revocation of the licenses and license rights of Respondents  
15 RANCH, STEMPER, SILVA, MACHADO, SALVATORE, and SMITH under the  
16 following provisions of the Code and/or the Regulations:

17 (a) As to Paragraphs XV and XVI, under Section  
18 11018.2 of the Code in conjunction with Section 10177(d) of the  
19 Code; and

20 (b) As to Paragraph XVII, under Section 11018.1(a) of  
21 the Code and Section 2795.1 of the Regulations in conjunction  
22 with Section 10177(d) of the Code.

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The facts alleged in Paragraph XVIII, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent ERSKINE under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

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

  
CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 27<sup>th</sup> day of November, 2002.