

1 John Van Driel, Counsel (SBN 84056)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0787

FILED

MAR 16 2010

DEPARTMENT OF REAL ESTATE



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

HIDDEN VALLEY LAKE REALTY INC.,)
JOHN GILMORE LARKIN,)
ERICA BERGSTROM, and)
LORRIE BETH MCMURRAY,)

Respondents.)

NO. H- 5179 SAC

AMENDMENT TO
STIPULATION AND AGREEMENT

A Stipulation and Agreement based on the Accusation filed in this case against
HIDDEN VALLEY LAKE REALTY INC., JOHN GILMORE LARKIN, ERICA
BERGSTROM, and LORRIE BETH MCMURRAY was executed by the parties and their
attorney, Mark Tratten, and filed on October 30, 2009. A true and correct copy of that
Stipulation and Agreement is attached hereto and incorporated as if fully set forth herein.

The Stipulation and Agreement referred to above is amended by changing
paragraph "I" of the "Determination of Issues" on page 4, lines 12 through 19, to read as follows:

"I

The acts and omissions of Respondents HIDDEN VALLEY, BERGSTROM, and
MCMURRAY, as described in the Accusation, are grounds for the suspension or revocation of
their licenses and license rights under the provisions of Sections 10176(a) and 10176.5 of the
Code.

1 The acts and omissions of Respondent LARKIN, as described in the Accusation, are
2 grounds for the suspension or revocation of his licenses and license rights under the provisions of
3 Section 2725 of Title 10, California Code of Regulations and Sections 10177(d) and 10177(h) of
4 the Code.

5 ORDER

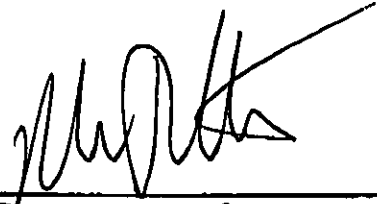
6 The Stipulation and Agreement referred to above is also amended by changing the
7 paragraph on page 13, lines 19 through 22, to read as follows:

8 "The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this
9 matter as to Respondents HIDDEN VALLEY LAKE REALTY, INC., JOHN GILMORE
10 LARKIN, ERICA BERGSTROM, and LORRIE BETH McMURRAY and shall become
11 effective at 12 o'clock noon on November 19, 2009."

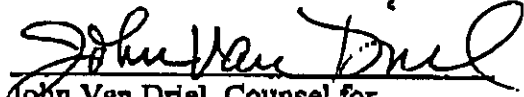
12 In all other respects, including the effective date of the decision, the Stipulation
13 and Agreement shall remain unchanged.

14
15 Approved as to form and content.

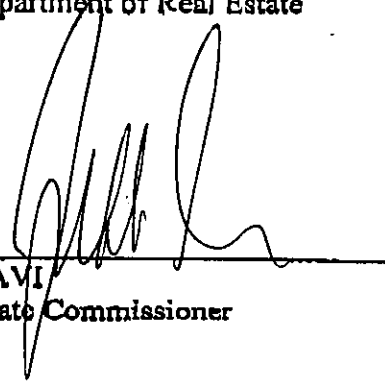
16
17 1/26/10
18 Dated


19
20 Mark Tratten, attorney for Respondents

21
22 1-25-10
23 Dated


24
25 John Van Driel, Counsel for
26 the Department of Real Estate

27
28 IT IS SO ORDERED 2/3/2010, 2010


29
30 JEFF DAVI
31 Real Estate Commissioner

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED

OCT 30 2009

DEPARTMENT OF REAL ESTATE
By L. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-5179 SAC
HIDDEN VALLEY LAKE REALTY INC.,)	
JOHN GILMORE LARKIN, ERICA)	
BERGSTROM and)	
LORRIE BETH McMURRAY)	
Respondents.)	<u>STIPULATION AND AGREEMENT</u>

It is hereby stipulated by and between Respondents HIDDEN VLLEY LAKE REALTY INC. (herein "HIDDEN VALLEY"), JOHN GILMORE LARKIN (herein "LARKIN"), ERICA BRERGSTROM (herein "BERGSTROM") and LORRIE BETH McMURRAY (herein "McMURRAY") by and through Mark Tratten, Esq., Respondents' attorney of record herein, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 18, 2009, in this matter (herein "the Accusation"):

H-5179 SAC

HIDDEN VALLEY LAKE REALTY, INC. et al.

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 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 April 1, 2009, Respondents filed a Notice 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 hereby freely and voluntarily withdraw
15 said Notice of Defense. Respondents acknowledge that Respondents
16 understand that by withdrawing said Notice of Defense Respondents
17 will thereby waive Respondents' right to require the Real Estate
18 Commissioner (herein "the Commissioner") to prove the allegations
19 in the Accusation at a contested hearing held in accordance with
20 the provisions of the APA and that Respondents will waive other
21 rights afforded to Respondents in connection with the hearing
22 such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.

25 4. This stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 expediency and economy, Respondents choose not to contest these
2 factual allegations, but to remain silent and understand that, as
3 a result thereof, these factual statements will serve as a prima
4 facie basis for the "Determination of Issues" and "Order" set
5 forth below. The Real Estate Commissioner shall not be required
6 to provide further evidence to prove such allegations.

7 5. This Stipulation and Respondents' decision not to
8 contest the Accusation are made for the purpose of reaching an
9 agreed disposition of this proceeding and are expressly limited
10 to this proceeding and any other proceeding or case in which the
11 Department of Real Estate (herein "the Department"), the state or
12 federal government, an agency of this state, or an agency of
13 another state is involved.

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

24 7. This Stipulation and Agreement shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department with

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HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 respect to any matters which were not specifically alleged to be
2 causes for accusation in this proceeding. This Stipulation and
3 Agreement shall constitute an estoppel, merger and bar to any
4 further administrative or civil proceedings by the Department
5 with respect to any events which were specifically alleged to be
6 causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations, admissions and
9 waivers and solely for the purpose of settlement of the pending
10 Accusation without hearing, it is stipulated and agreed that the
11 following Determination of Issues shall be made:

12 I

13 The acts and omissions of Respondent HIDDEN VALLEY, LARKIN,
14 BERGSTROM and McMURRAY as described in the Accusation are grounds
15 for the suspension or revocation of the licenses and license
16 rights of Respondent PRIME-VEST under the provisions of Sections
17 10176(a) and 10176.5 the California Business and Professions Code
18 (herein "the Code") in conjunction with Section 10177(d) of the
19 Code.

20 I

21 A. All licenses and licensing rights of Respondent
22 HIDDEN VALLEY under the Real Estate Law are suspended for a
23 period of eighty (80) days from the effective date of the
24 Decision herein; provided, however:

25 1. If Respondent HIDDEN VALLEY petitions, forty (40)
26 days of said eighty (80) day suspension (or a portion thereof)

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 shall be stayed upon condition that:

2 (a) Respondent HIDDEN VALLEY pays a monetary penalty
3 pursuant to Section 10175.2 of the Code at the rate of \$50.00 for
4 each day of the suspension for a total monetary penalty of
5 \$2,000.00.

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

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

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

26 (e) If Respondent HIDDEN VALLEY pays the monetary

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HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 penalty and if no further cause for disciplinary action against
2 the real estate license of Respondent occurs within two (2) years
3 from the effective date of the Decision herein, then the stay
4 hereby granted shall become permanent.

5 2. Forty (40) days of said eighty (80) day
6 suspension shall be stayed upon condition that:

7 (a) No final subsequent determination be made, after
8 hearing or upon stipulation, that cause for disciplinary action
9 against Respondent occurred within two (2) years of the
10 effective date of the Decision herein.

11 (b) Should such a determination be made, the
12 Commissioner may, in his or her discretion, vacate and set
13 aside the stay order, and order the execution of all or any
14 part of the stayed suspension.

15 (c) If no further cause for disciplinary action
16 against the real estate license of Respondent occurs within two
17 (2) years from the effective date of the Decision herein, then
18 the stay hereby granted shall become permanent.

19 II

20 A. All licenses and licensing rights of Respondent
21 LARKIN under the Real Estate Law are suspended for a period of
22 eighty (80) days from the effective date of the Decision herein;
23 provided, however:

24 1. If Respondent LARKIN petitions, forty (40) days
25 of said eighty (80) day suspension (or a portion thereof) shall
26 be stayed upon condition that:

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 (a) Respondent LARKIN pays a monetary penalty pursuant
2 to Section 10175.2 of the Code at the rate of \$50.00 for each day
3 of the suspension for a total monetary penalty of \$2,000.00.

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

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

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

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

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 effective date of the Decision herein, then the stay hereby
2 granted shall become permanent.

3 2. Forty (40) days of said eighty (80) day
4 suspension shall be stayed upon condition that:

5 (a) No final subsequent determination be made, after
6 hearing or upon stipulation, that cause for disciplinary action
7 against Respondent occurred within two (2) years of the
8 effective date of the Decision herein.

9 (b) Should such a determination be made, the
10 Commissioner may, in his or her discretion, vacate and set
11 aside the stay order, and order the execution of all or any
12 part of the stayed suspension.

13 (c) If no further cause for disciplinary action against
14 the real estate license of Respondent occurs within two (2) years
15 from the effective date of the Decision herein, then the stay
16 hereby granted shall become permanent.

17 III

18 A. All licenses and licensing rights of Respondent
19 BERGSTROM under the Real Estate Law are suspended for a period of
20 eighty (80) days from the effective date of the Decision herein;
21 provided, however:

22 1. If Respondent BERGSTROM petitions, forty (40)
23 days of said eighty (80) day suspension (or a portion thereof)
24 shall be stayed upon condition that:

25 (a) Respondent BERGSTROM pays a monetary penalty
26 pursuant to Section 10175.2 of the Code at the rate of \$50.00 for

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 each day of the suspension for a total monetary penalty of
2 \$2,000.00.

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

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

13 (d) No final subsequent determination be made, after
14 hearing or upon stipulation, that cause for disciplinary action
15 against Respondent BERGSTROM 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, and order the
19 execution of all or any part of the stayed suspension, in which
20 event the Respondent BERGSTROM shall not be entitled to any
21 repayment nor credit, prorated or otherwise, for money paid to
22 the Department under the terms of this Decision.

23 (e) If Respondent BERGSTROM pays the monetary penalty
24 and if no further cause for disciplinary action against the real
25 estate license of Respondent occurs within two (2) years from the
26 effective date of the Decision herein, then the stay hereby

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 granted shall become permanent.

2 2. Forty (40) days of said eighty (80) day
3 suspension shall be stayed upon condition that:

4 (a) No final subsequent determination be made, after
5 hearing or upon stipulation, that cause for disciplinary action
6 against Respondent occurred within two (2) years of the
7 effective date of the Decision herein.

8 (b) Should such a determination be made, the
9 Commissioner may, in his or her discretion, vacate and set
10 aside the stay order, and order the execution of all or any
11 part of the stayed suspension.

12 (c) If no further cause for disciplinary action against
13 the real estate license of Respondent occurs within two (2) years
14 from the effective date of the Decision herein, then the stay
15 hereby granted shall become permanent.

16 IV

17 A. All licenses and licensing rights of Respondent
18 MCMURRAY under the Real Estate Law are suspended for a period of
19 eighty (80) days from the effective date of the Decision herein;
20 provided, however:

21 1. If Respondent McMURRAY petitions, forty (40) days
22 of said eighty (80) day suspension (or a portion thereof) shall
23 be stayed upon condition that:

24 (a) Respondent McMURRAY pays a monetary penalty
25 pursuant to Section 10175.2 of the Code at the rate of \$50.00 for
26 each day of the suspension for a total monetary penalty of

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 \$2,000.00.

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 Respondent McMURRAY 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, and order the immediate execution of all or
11 any part of the stayed suspension.

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

22 (e) If Respondent McMURRAY pays the monetary penalty
23 and if no further cause for disciplinary action against the real
24 estate license of Respondent occurs within two (2) years from the
25 effective date of the Decision herein, then the stay hereby
26 granted shall become permanent.

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

1 2. Forty (40) days of said eighty (80) day
2 suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension.

11 (c) If no further cause for disciplinary action against
12 the real estate license of Respondent occurs within two (2) years
13 from the effective date of the Decision herein, then the stay
14 hereby granted shall become permanent.

15 10-8-09
16 DATED

17 
18 JAMES L. BEAVER, Counsel
19 Department of Real Estate

20 * * *

21 I have read the Stipulation and Agreement and its terms
22 are understood by me and are agreeable and acceptable to me. I
23 understand that I am waiving rights given to me by the California
24 Administrative Procedure Act (including but not limited to
25 Sections 11506, 11508, 11509, and 11513 of the Government Code),
26 and I willingly, intelligently, and voluntarily waive those
27 rights, including the right of requiring the Commissioner to
prove the allegations in the Accusation at a hearing at which I

H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

Oct 08 09 04:25p Dea Silverman

415-332-4222

P.1

10/05/2008 15:33 FAX
10/05/2008 15:21 FAX 816227845A

DRE LEGAL/RECOVERY

011
10/07/08

1 would have the right to cross-examine witnesses against me and to
2 present evidence in defense and mitigation of the charges.

3 10/05/2009
4 DATED

HIDDEN VALLEY LAKE REALTY, INC.
Respondent

5 BY [Signature]
6 JOHN GILMORE LARKIN
Designated Officer - Broker

7 10/05/2009
8 DATED

JOHN GILMORE LARKIN
Respondent

9 DATED

ERICA BERGSTROM
Respondent

11 DATED

LORRIE BETH McMURRAY
Respondent

13 * * *

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

16 DATED

17 Mark Tratten
Attorney for Respondents

18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted by me as my Decision in this matter as to Respondent
21 PRIME-VEST and shall become effective at 12 o'clock noon on
22 _____, 2009.

23 IT IS SO ORDERED _____, 2009.

24 JEFF DAVY
Real Estate Commissioner

27 H-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

- 13 -

10/05/2008 MON 15:05 [TX/RX NO 8007] 014

10/05/2009 15:35 FAX
10/05/2009 15:21 FAX 5162275489

DRE LEGAL/RECOVERY

011

1 would have the right to cross-examine witnesses against me and to
2 present evidence in defense and mitigation of the charges.

3 _____
4 **DATED**

HIDDEN VALLEY LAKE REALTY, INC.
Respondent

5 _____
6 **By**

JOHN GILMORE LARKIN
Designated Officer - Broker

7 _____
8 **DATED**

JOHN GILMORE LARKIN
Respondent

10-6-2009

Eric Bergstrom

9 _____
10 **DATED**

ERICA BERGSTROM
Respondent

11 _____
12 **DATED**

LORRIE BETH McMURRAY
Respondent

13 * * *
14 I have reviewed the stipulation and Agreement as to
15 form and content and have advised my clients accordingly.

16 10/7/09

Mark Tratten FOR MST

17 _____
18 **DATED**

Mark Tratten
Attorney for Respondents

19 * * *
20 The foregoing stipulation and Agreement is hereby
21 adopted by me as my Decision in this matter as to Respondent
22 PRIME-VEST and shall become effective at 12 o'clock noon on
23 _____, 2009.

24 _____

IT IS SO ORDERED _____, 2009.

25 _____

JEFF DAVY
Real Estate Commissioner

26
27 R-5179 SAC

HIDDEN VALLEY LAKE REALTY,
INC. et al.

10/05/2009 15:35 FAX
10/05/2009 15:21 FAX E182278458

DRE LEGAL/RECOVERY

014

1 would have the right to cross-examine witnesses against me and to
2 present evidence in defense and mitigation of the charges.

3 _____ HIDDEN VALLEY LAKE REALTY, INC.
4 DATED Respondent

5 _____
6 BY JOHN GILMORE LARKIN
7 Designated Officer - Broker

8 _____
9 DATED JOHN GILMORE LARKIN
10 Respondent

11 _____
12 DATED ERICA BERGSTROM
13 Respondent
14 10/6/09
15 DATED Lorrie Beth McMurray
16 LORRIE BETH MCMURRAY
17 Respondent

18 * * *
19 I have reviewed the Stipulation and Agreement as to
20 form and content and have advised my clients accordingly.

21 _____
22 DATED Mark Tratten
23 Attorney for Respondents

24 * * *
25 The foregoing Stipulation and Agreement is hereby
26 adopted by me as my Decision in this matter as to Respondent
27 PRIME-VEST and shall become effective at 12 o'clock noon on
28 NOV 19 2009

29 IT IS SO ORDERED 10/29, 2009.
30 JEFF DAVI
31 Real Estate Commissioner

32 _____
33 BY: Barbara J. Bigby
34 Chief Deputy Commissioner
35 HIDDEN VALLEY LAKE REALTY,
36 INC. et al.

37 H-5179 SAC

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0791
6 -or- (916) 227-0792 (Direct)

FILED

MAR 1 8 2009

DEPARTMENT OF REAL ESTATE

By H. Mar

7
8
9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of)
14)
15 HIDDEN VALLEY LAKE REALTY INC.,)
16 JOHN GILMORE LARKIN,)
17 ERICA BERGSTROM, and)
18 LORRIE BETH MCMURRAY,)
19 Respondents.)

NO. H- 5179 SAC

ACCUSATION

20 The Complainant, Joe E. Carrillo, a Deputy Real Estate Commissioner of the
21 State of California for cause of Accusation against HIDDEN VALLEY LAKE REALTY INC.
22 (hereinafter Respondent "HVLR"), JOHN GILMORE LARKIN (hereinafter Respondent
23 "LARKIN"), ERICA BERGSTROM (hereinafter Respondent "BERGSTROM"), and LORRIE
24 BETH MCMURRAY (hereinafter Respondent "MCMURRAY") is informed and alleges as
25 follows:

26 1

27 The Complainant makes this Accusation in his official capacity.

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2

Respondent HVLR is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter the "Code") as a corporate real estate broker. At all times mentioned herein Respondent LARKIN was and is the Designated Officer of Respondent HVLR.

3

Respondent LARKIN is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker and at all times mentioned herein was and is the Designated Officer of Respondent HVLR.

4

Respondent BERGSTROM is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate salesperson and at all times mentioned herein was in the employ of Respondent HVLR.

5

Respondent MCMURRAY is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate salesperson and at all times mentioned herein was in the employ of Respondent HVLR.

6

On or about July 9, 2006, Respondent MCMURRAY, on behalf of her client, Jennifer Granucci (hereinafter the "Buyer"), prepared an offer to purchase the real property located at 20158 Gold Flat Court, Hidden Valley, CA (hereinafter the "Property") and caused the offer to be presented to the owners of the Property, SKLT Enterprises, who were represented by Respondent BERGSTROM.

7

Earlier, on the day the offer discussed in Paragraph 6 was prepared, Respondent MCMURRAY disclosed to the Buyer that the Property was in a flood zone. However, when asked by the Buyer whether the Property had flooded Respondent MCMURRAY said it had not.

1 In reliance on these representations by Respondent MCMURRAY, the Buyer asked her to make
2 the offer on the Property as discussed immediately above.

3 8

4 On or about July 11, 2006, after incorporating an addendum into the purchase
5 offer, both documents were signed by the Buyer and SKLT Enterprises.

6 9

7 On or about August 7, 2006, escrow closed on the Property.

8 10

9 On or about August 13, 2006, a few days after the Buyer moved into the Property,
10 a neighbor from across the street revealed to the Buyer's boyfriend that on New Year's Eve there
11 was at least 8 to 12 inches of water up to the garage of the Property. The neighbor also indicated
12 that he and another neighbor sandbagged the Buyer's driveway and that the front of the house
13 was under water.

14 11

15 On or about August 15, 2006, the Buyer called Respondent MCMURRAY to
16 discuss what the Buyer learned as discussed in Paragraph 10. Respondent MCMURRAY then
17 asked the Buyer if she had received a Transfer Disclosure Statement. She indicated she had not.

18 12

19 From on or about August 15 through September 6, 2006, the Buyer attempted to
20 work out a resolution to her problems regarding the Property and obtain a copy of the Transfer
21 Disclosure Statement through Carson Underwood, a licensed real estate salesperson and the
22 owner of Respondent HVLR, to no avail.

23 13

24 On or about September 9, 2006, the Buyer received a letter from Carson
25 Underwood dated September 6, 2006, a copy of the Transfer Disclosure Statement with a cover
26 letter from Respondent HVLR sent to the Buyer at an address on Rainsville Road in Petaluma,

27 ///

1 dated August 11, 2006 and requesting that she review, sign, date and initial the Transfer
2 Disclosure Statement in the appropriate places.

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4 The Transfer Disclosure Statement received by the Buyer on September 9, 2006
5 did indicate that the Property was built-up because it was in a flood zone and that during heavy
6 rains on December 31, 2005 there was water a "couple inches" high in the garage and standing
7 water underneath the house.

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9 In truth and fact, Respondents HVLR, MCMURRAY, and BERGSTROM knew
10 or should have known of the flooding of the Property, their failure to reveal the true facts about
11 the flooding of the Property was for the purpose of inducing the Buyer to purchase the Property,
12 and the Buyer did purchase the Property, to her detriment, in reliance on the representations or
13 lack thereof by Respondents HVLR, MCMURRAY, and BERGSTROM, in violation of
14 Sections 10176(a) and 10176(i) or 10177(g) of the Code.

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16 The failure of Respondents HVLR, MCMURRAY, and BERGSTROM, to
17 provide the Buyer with a timely Transfer Disclosure Statement is a violation of Section 10176.5
18 of the Code in conjunction with Section 1102.3 of the California Civil Code.

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20 At all times mentioned herein, Respondent LARKIN failed to exercise reasonable
21 supervision over the activities of Respondents HVLR, MCMURRAY, and BERGSTROM, and
22 permitted, ratified and/or caused the conduct described above. Respondent LARKIN failed to
23 reasonably or adequately review, oversee, inspect and manage the personnel and activities of
24 Respondents HVLR, MCMURRAY, and BERGSTROM, and/or to establish reasonable policies,
25 rules, procedures and systems for such review, oversight, inspection and management.

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The acts and/or omissions of Respondents described above are grounds for the revocation or suspension of Respondents' licenses under the following sections of the Business and Professions Code and the Regulations:

- (a) As to Respondents HVLRL, MCMURRAY, and BERGSTROM under Sections 10176(a) and 10176(i) or 10177(j) of the Code and Section 10176.5 of the Code in conjunction with Section 1102.3 of the California Civil Code, and
- (b) As to Respondent LARKIN under Section 10177(h) of the Code and Section 2725, Title 10, California Code of Regulations 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 Respondents 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.



 JOE E. CARRILLO
 Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 11 day of March, 2009.