

FILED
SEP 21 2000

DEPARTMENT OF REAL ESTATE

By Shelly Ely

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
TRUMAN GLENN SIPES,)	No. H-27454 LA
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On March 12, 1998, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on April 7, 1998, and Respondent has operated as a restricted licensee since that time.

On March 11, 1999, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///
///

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has failed
3 to demonstrate to my satisfaction that he has undergone
4 sufficient rehabilitation to warrant the reinstatement of his
5 real estate broker license in that an audit of Respondent
6 conducted in May 1999 indicated the following violations:

- 7 a. A trust account shortage of \$588.36.
8 b. Control records were not complete.
9 c. Separate beneficiary records were not complete or
10 accurate.
11 d. The reconciliation of records was not complete or
12 accurate.
13 e. Respondent used a fictitious business name without
14 having obtained a license bearing that fictitious business name.

15 The disciplinary action originally taken in this matter
16 was based upon Respondent's improper handling of trust funds.
17 The May 1999 audit described above demonstrates that Respondent
18 has not corrected his business practices nor learned from the
19 disciplinary action taken against his real estate broker license.
20 Additional time and evidence of correction is necessary to
21 establish that Respondent will conduct his real estate brokerage
22 business in accordance with the requirements of law.

23 NOW, THEREFORE, IT IS ORDERED that Respondent's
24 petition for reinstatement of his real estate broker license is
25 denied.

26 ///

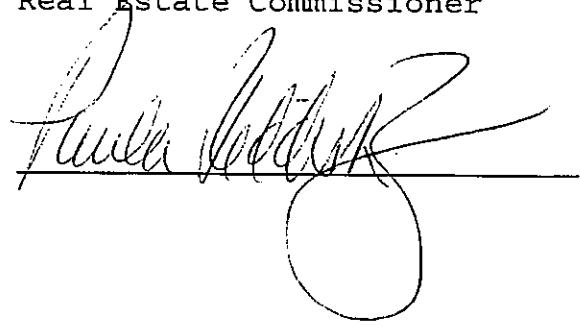
27 ///

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

This Order shall become effective at 12 o'clock
noon on October 11, 2000.

DATED: August 18, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



A handwritten signature in cursive script, reading "Paula Reddish Zinnemann", is written over a horizontal line. The signature is positioned to the right of the typed name and title.

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

Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
MAR 17 1998
DEPARTMENT OF REAL ESTATE

By K. Stubbins

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-27454 LA
)	
TRUMAN GLENN SIPES,)	<u>STIPULATION AND AGREEMENT</u>
)	
)	
Respondent.)	
_____)	

It is hereby stipulated by and between TRUMAN GLENN SIPES (sometimes referred to as Respondent), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on December 2, 1997, in this matter:

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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement (Stipulation).

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 of Real Estate in this
6 proceeding.

7 3. Respondent timely filed a Notice of Defense,
8 pursuant to Section 11506 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense he thereby waives his right to
13 require 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 he will waive other rights afforded
16 to him in connection with the hearing such as the right to present
17 evidence in his defense and the right to cross-examine witnesses.

18 4. This Stipulation is based on the factual allegations
19 contained in the Accusation. In the interest of expedience and
20 economy, Respondent chooses not to contest these allegations, but
21 to remain silent and understands that, as a result thereof, these
22 factual allegations, without being admitted or denied, will serve
23 as a prima facie basis for the disciplinary action stipulated to
24 herein. The Real Estate Commissioner shall not be required to
25 provide further evidence to prove said factual allegations.

26 5. This Stipulation is based on Respondent's decision
27 not to contest the allegations set forth in the Accusation as a



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, for the sole purpose of reaching an agreed
6 disposition of this proceeding. The decision of Respondent not to
7 contest the allegations, is made solely for the purpose of
8 effectuating this Stipulation. It is the intent and understanding
9 of the parties that this Stipulation shall not be binding or
10 admissible against Respondent in any actions against Respondent by
11 third parties.

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

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

27 /



DETERMINATION OF ISSUES

By reason of the foregoing stipulations and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

I

The conduct of Respondent TRUMAN GLENN SIPES, as described in Paragraph 4, above, is in violation of Sections 10145 and 10163 of the California Business and Professions Code (Code) and Section 2832 of Title 10, Chapter 6 of the California Code of Regulations, and are a basis for the suspension or revocation of said Respondent's licenses and license rights pursuant to Section 10177(d) of the Code.

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

1 of the Real Estate Commissioner or conditions attaching to said
2 restricted license.

3 C. Respondent shall obey all laws of the United States,
4 the State of California and its political subdivisions, and shall
5 further obey and comply with all rules and regulations of the Real
6 Estate Commissioner.

7 D. Respondent shall, within twelve (12) months from the
8 effective date of this Order, present evidence satisfactory to the
9 Real Estate Commissioner that Respondent has, since the most
10 recent issuance of an original or renewal real estate license,
11 taken and successfully completed the continuing education
12 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
13 for renewal of a real estate license. If Respondent fails to
14 satisfy this condition, the Commissioner may order the suspension
15 of the restricted license until the Respondent presents such
16 evidence. The Commissioner shall afford Respondent an opportunity
17 for a hearing pursuant to the APA to present such evidence.

18 E. Respondent shall within six months from the
19 effective date of the Order, take and pass the Professional
20 Responsibility Examination administered by the Department
21 including the payment of the appropriate examination fee. If
22 Respondent fails to satisfy this condition, the Commissioner may
23 order suspension of the restricted license until Respondent passes
24 the examination.

25 F. Respondent shall not be eligible for the issuance of
26 an unrestricted real estate license nor the removal of any of the
27 conditions, limitations or restrictions of the restricted license



1 until at least one year has elapsed from the issuance of any
2 restricted real estate license.

3 II

4 A. Respondent TRUMAN GLENN SIPES shall pay, pursuant to
5 Section 10148 of the Business and Professions Code, the
6 Commissioner's reasonable cost for an audit to determine if
7 respondent is presently in compliance with the Real Estate Law.
8 In calculating the amount of the Commissioner's reasonable costs,
9 the Commissioner may use the estimated average hourly salary for
10 all Department Audit Section personnel performing audits of real
11 estate brokers, and shall include an allocation for travel costs,
12 including mileage, time to and from the auditor's place of work,
13 and per diem in the total amount not to exceed \$3,000. Respondent
14 shall pay such cost within 45 days of receipt of an invoice from
15 the Commissioner detailing the activities performed during the
16 audit and the amount of time spent performing those activities.

17
18 (1) Notwithstanding the provisions of paragraph "A"
19 herein, if respondent fails to pay, within forty-five (45) days
20 from receipt of the invoice specified above, the Commissioner's
21 reasonable costs for an audit to determine if respondent is in
22 compliance with the Real Estate Law, the Commissioner may order
23 the indefinite suspension of respondent's real estate licenses and
24 license rights. The suspension shall remain in effect until
25 payment is made in full, or until respondent enters into an
26 agreement satisfactory to the Commissioner to provide for such
27 payment. The Commissioner may impose further reasonable



1 disciplinary terms and conditions upon respondent's real estate
2 license and license rights as part of any such agreement.

3
4 DATED: 1-26-18

E. J. W.
5 ELLIOTT MAC LENNAN
6 Counsel for Complainant

7 /
8 /
9 /
10 /
11 /
12 /
13 /
14 /
15 /
16 /
17 /
18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /

27




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

* * * *

EXECUTION

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

DATED: 2-3-98


TRUMAN GLENN SIPES,
Respondent

DATED: _____

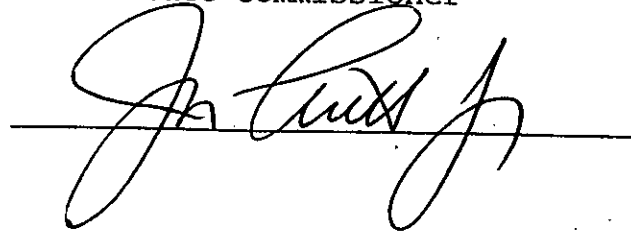
BRENNAN LYNCH, ESQ.
Counsel for Respondent

* * * *

The foregoing Stipulation and Agreement is hereby adopted as my Order and shall become effective at 12 o' clock noon on April 7, 1998

IT IS SO ORDERED 3/12, 1998

JIM ANTT JR.
Real Estate Commissioner



Sacto file

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN - 5 1998
DEPARTMENT OF REAL ESTATE

By *R. H. H. H. H.*

In the Matter of the Accusation of

TRUMAN GLENN SIPES,

Respondent

}

Case No. H-27454 LA

OAH No. L-1997120296

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on January 23, 1998, at the hour of 1:30 p.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.

DEPARTMENT OF REAL ESTATE

Dated: January 5, 1997

By *[Signature]* Counsel

cc: Truman Glenn Sipes
Sacto
OAH
AK

Handwritten initials/signature

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

Telephone (213) 897-3937

FILED
DEC - 2 1997

DEPARTMENT OF REAL ESTATE

By *K. Kuderhelt*

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

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
TRUMAN GLENN SIPES,	No. H-27454 LA
	A C C U S A T I O N
Respondent.	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against TRUMAN GLENN SIPES dba Re/Max Gold Coast Realtors and Gold Coast Financial, is informed and alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

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

II

TRUMAN GLENN SIPES (SIPES), sometimes referred to as Respondent, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

III

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

IV

At all times mentioned, SIPES was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. SIPES was initially licensed by the Department on April 26, 1985.

V

At all times mentioned, in the City and County of Ventura, California, for compensation or in expectation of compensation, Respondent SIPES acted as a real estate broker in the State of California, as that term is defined by, and within, the meaning of:

A. Section 10131(b) of the Code, including the operation of a real property management business. In the operation of said real property management business, services were rendered in connection with certain real property owned by third parties. Services included but were not limited to, leasing or renting properties and collecting rentals from tenants residing on properties, and making payments in connection with the mortgage



1 owed on said properties; and

2 B. Section 10131(d) of the Code, including the
3 operation of a mortgage loan business with the public wherein
4 lenders and borrowers were solicited for loans secured directly or
5 collaterally by liens on real property, wherein such loans were
6 arranged, negotiated, processed, and consummated on behalf of
7 others for fees often collected in advance.

8 C. In addition SIPES conducted broker controlled
9 escrows under the exemption set forth in Section 17006((a)(4) of
10 the California Financial Code.

11 VI

12 On April 10, 1997, the Department completed a field
13 audit examination of the books and records SIPES dba RE/MAX Gold
14 Coast Realtors and Gold Coast Financial, pertaining to the
15 activities described in Paragraph IV. The audit examination
16 covered the period of time beginning on January 1, 1996 and ending
17 on January 31, 1997. The audit examination revealed violations of
18 the Code and the Regulations now set forth.

19 VII

20 At all times mentioned, in connection with the real
21 estate activities described in Paragraph IV, SIPES accepted or
22 received funds in trust (trust funds) from or on behalf of actual
23 or prospective lessors and lessees, and borrowers and lenders, and
24 thereafter made disposition of such funds. SIPES maintained the
25 following trust accounts as the depository of said funds:

26 /
27 /

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

Re/Max Gold Coast Realtors Escrow Division (T/A # 1)
Account Number 0693-653594
Wells Fargo Bank
Ventura, California

Re/Max Gold Coast Realtors Escrow Division (T/A # 2)
Account Number 300011822
City National Bank
Ventura, California

VIII

With respect to the trust funds referred to in Paragraph VII, it is alleged that SIPES:

(a) Failed to maintain T/A #1 and T/A #2 in his name as broker; and, T/A #1 was not designated as a trust account on the bank signature account, as required by Section 2832 of the Regulations;

(b) Failed to perform a monthly reconciliation of all trust funds deposited in T/A #1 and T/A #2 with separate beneficiary or transaction records, as required by Section 2831.2, 2950(d) and 2951 of the Regulations; and

(c) Permitted an unlicensed person who was not bonded, Carolyn Campbell, to be an signatory on T/A #1; the fidelity bond for T/A #2 was not adequate; and, signatories Frederick Evans, a real estate salesperson, and Carolyn Campbell did not have written authorization from SIPES to sign on T/A #1 and T/A #2, in violation of Section 2834 of the Regulations.

/

/

/

/

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

IX

The conduct of Respondent SIPES, described in Paragraph VIII, violated the Code and the Regulations as set forth:

<u>Paragraph</u>	<u>Provisions Violated</u>
VIII(a)	Section 1045 of the Code, and Section 2832 of the Regulations
VIII(b)	Section 1045 of the Code, and Section 2831.2, 2950(d) and 2951 of the Regulations
VIII(c)	Section 1045 of the Code, and Section 2834 of the Regulations

Each of the foregoing violation separately constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent SIPES under Section 10177(d) of the Code.

X

The audit investigation revealed that SIPES failed to provide and retain signed statements in writing containing all the information required by Section 10241 of the Code, including timely delivery of said statements to borrowers Capelouto, Cannon and Birch, before these borrowers became obligated to perform under the terms of their loans. This conduct constitutes a violation of Section 10240 of the Code and Section 2840 of the Regulations and is cause to suspend or revoke the real estate

1 license and license rights of SIPES under Section 10177(d) of the
2 Code.

3 XI

4 The audit investigation revealed that that S. E.
5 Financial, Inc., a corporate real estate broker with SIPES
6 licensed as designated officer, used SIPE's individual broker
7 license number on mortgage loan disclosure statements of borrowers
8 Salinas, Martinez and Robinson HUD loan transactions. This
9 conduct constitutes a violation of Section 10240 of the Code and
10 Section 2840 of the Regulations and is cause to suspend or revoke
11 the real estate license and license rights of SIPES under Section
12 10177(d) of the Code.

13 XII

14 The investigative audit also revealed that the escrow
15 instructions for Re/Max Gold Coast Realtors, Escrow Division's
16 activities failed to contain a statement which included SIPE's
17 name as the licensee. Instead, on the sales escrow instructions
18 for the Duarte/Stinson, Alderson/Huffman, Fancher/Smith,
19 Owczarski/Tam and Dominguez/Chavez escrow transactions, SIPES used
20 the name of Re/Max Gold Coast Realtors, Escrow Division. This
21 conduct constitutes a violation of Section 17403.4 of the
22 California Financial Code and is cause to suspend or revoke
23 Respondent SIPES real estate license and license rights under
24 Sections 10177(d) and 10177(f) of the Code.

25 /
26 /
27 /

1 XIII

2 The audit investigation moreover revealed that SIPES
3 used the 601 Daily Drive, #102, Camarillo, California, 1300
4 Eastman Avenue #103, Ventura, California, and 567 Sespe Avenue,
5 Fillmore, California, addresses as branch offices to conduct
6 activities requiring a real estate license without having obtained
7 licenses for said branch offices. The conduct of Respondent SIPES
8 in failing to obtain licenses for use of the branch offices is in
9 violation of Section 10163 of the Code and is cause to suspend or
10 revoke Respondent's real estate license and license rights under
11 Section 10177(d) of the Code.

12 XIV

13 The audit investigation further revealed that Respondent
14 SIPES did not have a system in place for regularly monitoring the
15 licensed activities of Re/Max Gold Coast Realtors, including the
16 Escrow Division, and Gold Coast Financial, including the
17 salespersons licensed thereunder, to effect compliance with the
18 Real Estate Law in properly handling the trust funds of others,
19 and including the filing, storage and maintenance of documents
20 that have a material effect upon property owners of properties
21 under management and upon borrowers and lenders. Additionally,
22 escrow instructions and escrow closing statements during a portion
23 of the audit period, from January 1, 1996 through December 31,
24 1996, were not initialed or dated by SIPES, including the
25 Duarte/Stinson, Alderson/Huffman, Owzarski/Tam, Dominguez/Chavez
26 and Fancher/Smith escrow instructions and escrow closing
27 statements. The conduct of Respondent SIPES is in violation of



1 Section 2725 of the Regulations and is cause to suspend or revoke
2 Respondent's real estate license and license rights under Section
3 10177(d) of the Code.

4 XV

5 The overall conduct of Respondent SIPES, in reference to
6 his licensed activities, constitutes negligence and/or
7 incompetence. This conduct and violations are cause to suspend or
8 revoke the real estate license and license rights of Respondent
9 SIPES under Section 10177(g) of the Code.

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

17 Dated at Los Angeles, California
18 this 2nd day of December, 1997.

19
20 THOMAS MC CRADY
21 Deputy Real Estate Commissioner

22
23
24
25 cc: Truman Glenn Sipes
26 Sacto
AK

27

