

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

(213) 576-6911

FILED
AUG 22 2000
DEPARTMENT OF REAL ESTATE

By Laura B. Crane

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	DRE NO. H-28052 LA
S J HERITAGE, INC. and,)	
JOHN EDWARD MAQUAR,)	
individually and as)	
designated officer of,)	<u>STIPULATION AND AGREEMENT</u>
S J Heritage, Inc.)	
Respondents.)	

It is hereby stipulated by and between S J HERITAGE, INC., and JOHN EDWARD MAQUAR, individually and as designated officer of S J Heritage, Inc. (sometimes collectively referred to as Respondents), 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 April 15, 1999, in this matter:

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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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 submitted solely on the basis of the provisions of this Stipulation and Agreement (Stipulation).

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

3. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve



1 as a prima facie basis for the disciplinary action stipulated to
2 herein. The Real Estate Commissioner shall not be required to
3 provide further evidence to prove said factual allegations.

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

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

26 7. The Order or any subsequent Order of the Real Estate
27 Commissioner made pursuant to this Stipulation shall not



1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for accusation in this proceeding.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, it is
7 stipulated and agreed that the following determination of issues
8 shall be made:

9 I

10 The conduct of S J HERITAGE, INC., and JOHN EDWARD
11 MAQUAR, as described in Paragraph 4, is in violation of Section
12 10145 of the Business and Professions Code (Code) and Section
13 2831.2 of Title 10, Chapter 6 of the California Code of
14 Regulations and is a basis for the suspension or revocation of
15 Respondent's license and license rights as a violation of the Real
16 Estate Law pursuant to Section 10177(d) of the Code.

17 ORDER

18 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
19 TO THE WRITTEN STIPULATION OF THE PARTIES:

20 I

21 The Accusation of April 15, 1999, is terminated without
22 imposition of discipline.

23 II

24 Pursuant to Section 10148 of the Code, Respondents, or
25 either of them shall pay the Commissioner's reasonable cost for an
26 audit to determine if S J HERITAGE, INC. is in compliance with the
27



1 Real Estate Law. In calculating the amount of the Commissioner's
 2 reasonable cost, the Commissioner may use the estimated average
 3 hourly salary for all persons performing audits of real estate
 4 brokers, and shall include an allocation for travel time to and
 5 from the auditor's place of work. Respondents shall pay such
 6 cost, not to exceed \$1,300, within 60 days of receiving an invoice
 7 from the Commissioner detailing the activities performed during
 8 the audit and the amount of time spent performing those
 9 activities.

10 * * * *

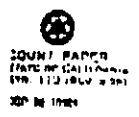
11 We have read the Stipulation and Agreement and its terms
 12 are understood by us and are agreeable and acceptable to us. We
 13 understand that we are waiving rights given to us by the
 14 California Administrative Procedure Act (including but not limited
 15 to Sections 11506, 11508, 11509 and 11513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

21 DATED: Sept. 17, 1999

John Edward Maquar
 S J HERITAGE, INC., Respondent
 BY: JOHN EDWARD MAQUAR

23 DATED: Sept. 17, 1999

John Edward Maquar
 JOHN EDWARD MAQUAR
 individually and as designated
 officer of S J Heritage, Inc.
 Respondent



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DATED: 9-16-99

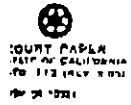
Frank Buda
FRANK BUDA, Attorney for Respondents

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o'clock noon on September 12, 2000.

IT IS SO ORDERED July 7, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
AUG 18 1999
DEPARTMENT OF REAL EST.
By Jane B. Crow

[Handwritten signature]

In the Matter of the Accusation of) Case No. H-28052 LA
) OAH No. L-1999040576
SJ HERITAGE INC., &)
JOHN EDWARD MAQUAR,)
)
Respondents.)

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on SEPTEMBER 20, 1999, 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: AUG 18 1999

DEPARTMENT OF REAL ESTATE

By: [Signature]
ELLIOTT MAC LENNAN, Counsel

cc: SJ Heritage Inc.
John Edward Maquar
Lawrence, Allen, Esq.,
Sacto.
OAH.
Audit Section

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
S J HERITAGE INC., et al.,)
Respondents.)

Case No. H-28052LA
OAH No. L-1999040576

FILED
JUN 18 1999
DEPARTMENT OF REAL ESTATE

By Lama B. Come

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on AUGUST 12, 1999, 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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.

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Dated: JUN 18 1999

DEPARTMENT OF REAL ESTATE

By: E L L
ELLIOTT MAC LENNAN, Counsel

cc: SJ Heritage Inc.
John Edward Maquar
Sacto., OAH
Audit Section

Sacto
Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUN 2 1999
DEPARTMENT OF REAL ESTATE
By Laura B. Lennan

In the Matter of the Accusation of)
Case No. H-28052 LA)
SJ HERITAGE INC., et al.,)
OAH No. L-1999040576)
)
)
Respondents.)

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JUNE 24, 1999, at the hour of 9 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: JUN 2 1999

DEPARTMENT OF REAL ESTATE

By: *Elliott MacLennan*
ELLIOTT MAC LENNAN, Counsel

cc: SJ Heritage Inc.
John Edward Maquar
Sacto, OAH

*Sacto
Jury*

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
320 West Fourth St., Ste. 350
Los Angeles, California 90013-1105

Telephone (213) 576-6911

FILED
APR 15 1999
DEPARTMENT OF REAL ESTATE

By *Laura B. Aron*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
S J HERITAGE INC.;)	
and, JOHN EDWARD MAQUAR,)	
individually and as designated)	No. H-28052 LA
officer of S J Heritage Inc.,)	A C C U S A T I O N
)	
)	
Respondents.)	

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of accusation against S J HERITAGE INC., and JOHN EDWARD MAQUAR, individually and as designated officer of S J Heritage Inc., is informed and alleges as follows:

1

S J HERITAGE INC. (HERITAGE) and JOHN EDWARD MAQUAR, (MAQUAR) sometimes collectively referred to as Respondents, are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

5 Since March 17, 1981, HERITAGE was licensed by the
6 Department of Real Estate of the State of California (Department)
7 as a corporate real estate broker by and through MAQUAR as
8 designated officer.
9

10 At all times mentioned, MAQUAR was licensed by the
11 Department as designated officer of HERITAGE to qualify HERITAGE
12 and to act for HERITAGE as a real estate broker and, as provided
13 by Section 10159.2 of the Code, was responsible for the
14 supervision and control of the activities conducted on behalf of
15 HERITAGE by its officers, managers and employees as necessary to
16 secure full compliance with the provisions of the Real Estate Law
17 including the supervision of the salespersons licensed to the
18 corporation in the performance of acts for which a real estate
19 license is required. MAQUAR was originally licensed as a real
20 estate broker on August 10, 1977.
21

22 Whenever reference is made in an allegation in the
23 accusation to an act or omission of HERITAGE such allegation shall
24 be deemed to mean that the officers, directors, managers,
25 employees, agents and real estate licensees employed by or
26 associated with HERITAGE committed such act or omission while
27



1 engaged in the furtherance of the business or operation of
2 HERITAGE and while acting within the course and scope of its
3 corporate authority, agency and employment.

4 6

5 At all times mentioned, in the City of Northridge,
6 Los Angeles County, HERITAGE acted as a real estate broker within
7 the meaning of Section 10131(a) of the Code, including the
8 operation residential resale property brokerage.

9 7

10 On July 20, 1998, the Department completed a field audit
11 examination of the books and records of HERITAGE pertaining to its
12 residential resale activities. The audit examination covered a
13 period of time beginning on January 1, 1998 to May 31, 1998. The
14 audit examination revealed violations of the Code and the
15 Regulations as set forth in the following paragraphs.

16 8

17 At all times mentioned, in connection with the
18 activities described in Paragraph 7, above, HERITAGE accepted or
19 received funds in trust (trust funds) from or on behalf of actual
20 or prospective borrowers and lenders. Thereafter HERITAGE made
21 disposition of such funds. Occasionally, the trust account was
22 used for lease transactions and for earnest money deposits.
23 HERITAGE maintained the following trust account during the audit
24 period except as set forth below:

25 "S J Heritage Inc.
26 dba The Prudential California Realty Trust Account.
27 Account Number 8941003199"
Commercia Bank



1 With respect to the trust funds referred to in Paragraph
2 8, HERITAGE:

3 (a) Failed to maintain an adequate control record in
4 the form of a columnar record in chronological order of all trust
5 funds received, as required by Sections 2831 of the Regulations;
6 and,

7 (b) Failed to perform a monthly reconciliation of the
8 balance of all separate beneficiary or transaction records
9 maintained pursuant to Section 2831.1 of the Regulations with the
10 record of all trust funds received and disbursed by the trust
11 account, as required by Section 2831.2 of the Regulations.

12 10

13 The conduct of HERITAGE, described in Paragraph 9,
14 violated the Code and the Regulations now set forth:

15 PARAGRAPH

PROVISIONS VIOLATED

16 9(a) Section 10145 of the Code, and
17 Section 2831 of the Regulations

18 9(b) Section 10145 of the Code, and
19 Section 2831.2 of the Regulations

20
21 Each of the foregoing violations separately constitutes cause for
22 the suspension or revocation of the real estate license and
23 license rights of HERITAGE under Section 10177(d) of the Code.

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PRIOR DISCIPLINE

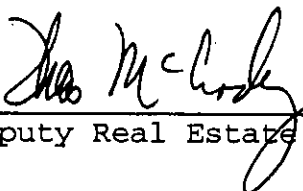
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2 On September 30, 1986, in Case No. H-22693 LA, an ORDER
3 TO DESIST AND REFRAIN was filed against HERITAGE and MAQUAR under
4 Section 10086 of the Code (Engaging in Prohibited Activity, Order
5 to Desist and Refrain) for violations of Sections 2725, 2726,
6 2752, 2753, 2831, and 2832 of the Regulations.

7 WHEREFORE, Complainant prays that a hearing be conducted
8 on the allegations of this Accusation and that upon proof thereof,
9 a decision be rendered imposing disciplinary action against the
10 licenses and license rights of Respondents S J HERITAGE INC. and
11 JOHN EDWARD MAQUAR, individually and as designated officer of S J
12 Heritage Inc., under the Real Estate Law (Part 1 of Division 4 of
13 the Business and Professions Code) and for such other and further
14 relief as may be proper under other applicable provisions of law.
15

16 Dated at Los Angeles, California

17 this APR 15 1999

18 
19 Deputy Real Estate Commissioner
20
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22
23

24 cc John Edward Maquar D.O.
25 c/o S J Heritage Inc.
26 Sacto
27 DB