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**FILED**  
JAN - 7 2004  
DEPARTMENT OF REAL ESTATE

*Sandra B. Brown*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
ARA TATAVOUS HARITUNIANS, )	No. H-28818 LA
Respondent. )	

ORDER GRANTING REINSTATEMENT OF LICENSE

On February 6, 2001, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on March 12, 2001, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

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1           On April 15, 2003, Respondent petitioned for  
2 reinstatement of his real estate broker license, and the  
3 Attorney General of the State of California has been given  
4 notice of the filing of said petition.

5           I have considered the petition of Respondent and the  
6 evidence and arguments in support thereof including Respondent's  
7 record as a restricted licensee. Respondent has demonstrated to  
8 my satisfaction that Respondent meets the requirements of law  
9 for the issuance to Respondent of an unrestricted real estate  
10 broker license and that it would not be against the public  
11 interest to issue said license to Respondent.

12           NOW, THEREFORE, IT IS ORDERED that Respondent's  
13 petition for reinstatement is granted and that a real estate  
14 broker license be issued to Respondent if Respondent satisfies  
15 the following conditions prior to and as a condition of issuance  
16 of the license within nine months from the date of this Order:

17           1. Submittal of a completed application and payment  
18 of the fee for a real estate broker license.

19           2. Submittal of evidence of having, since the most  
20 recent issuance of an original or renewal real estate license,  
21 taken and successfully completed the continuing education  
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
23 for renewal of a real estate license.

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3. Submittal of proof satisfactory to the Commissioner  
of having taken and completed the trust fund accounting and  
handling course specified in paragraph (3), subdivision (a) of  
Section 10170.5 of the Business and Professions Code.

This Order shall be effective immediately.

DATED: December 19, 2003

JOHN R. LIBERATOR  
Chief Deputy Commissioner

  
\_\_\_\_\_

cc: Ara Tatavous Haritunians  
1484 Third Street, # A  
La Verne, CA 91750

By Jana B. Cron

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)  
Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982 (Office)  
4 -or- (213) 576-6911 (Direct)  
5  
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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-28818 LA
12	ARA TATAVOUS HARITUNIANS,	)	<u>STIPULATION</u>
13	Respondent.	)	<u>AND AGREEMENT</u>
14		)	

15 It is hereby stipulated by and between Respondent  
16 ARA TATAVOUS HARITUNIANS (sometimes referred to herein as  
17 "Respondent") represented by Frank M. Buda, Esq., and the  
18 Complainant, acting by and through Elliott Mac Lennan, Counsel  
19 for the Department of Real Estate, as follows for the purpose of  
20 settling and disposing of the Accusation filed on October 11,  
21 2000, in this matter.

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

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

7           3. On October 25, 2000, Respondent filed a Notice of  
8 Defense pursuant to Section 11506 of the Government Code for the  
9 purpose of requesting a hearing on the allegations in the  
10 Accusation. Respondent hereby freely and voluntarily withdraws  
11 said Notice of Defense. Respondent acknowledges that he  
12 understands that by withdrawing said Notice of Defense, he will  
13 thereby waive his right to require the Commissioner to prove the  
14 allegations in the Accusation at a contested hearing held in  
15 accordance with the provisions of the APA and that he will waive  
16 other rights afforded to him in connection with the hearing, such  
17 as the right to present evidence in defense of the allegations in  
18 the Accusation and the right to cross-examine witnesses.

19           4. This Stipulation and Agreement is based on the  
20 factual allegations contained in the Accusation filed in this  
21 proceeding. In the interest of expedience and economy,  
22 Respondent chooses not to contest these factual allegations, but  
23 to remain silent and understands that, as a result thereof, these  
24 factual statements, without being admitted or denied, will serve  
25 as a prima facie basis for the disciplinary action stipulated to  
26 herein. This Stipulation and Respondent's decision not to  
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1 contest the Accusation are hereby expressly limited to this  
2 proceeding and made for the sole purpose of reaching an agreed  
3 disposition of this proceeding. Respondent's decision not to  
4 contest the factual allegations is made solely for the purpose of  
5 effectuating this Stipulation and is intended by Respondent to be  
6 non-binding upon Respondent in any actions against Respondent by  
7 third parties. The Real Estate Commissioner shall not be  
8 required to provide further evidence to prove such allegations.

9           5. This Stipulation and any Order made pursuant to  
10 this Stipulation shall have no collateral estoppel or res  
11 judicata effect in any proceedings in which the Respondent and  
12 the Department (or the Department's representative) are not  
13 parties. This Stipulation is made by Respondent and received  
14 by the Commissioner and the Department, with the express  
15 understanding and agreement that it is for the purpose of  
16 settling these proceedings only, and that this Stipulation is  
17 not intended as, and shall not be deemed, used, or accepted as  
18 an acknowledgment or admission of fact in any other judicial,  
19 administrative, or other proceeding to which the Department is  
20 not a party.

21           6. It is understood by the parties that the Real  
22 Estate Commissioner may adopt the Stipulation as her decision  
23 in this matter, thereby imposing the penalty and sanctions on  
24 Respondent's real estate license and license rights as set forth  
25 in the below "Order." In the event that the Commissioner in her  
26 discretion does not adopt the Stipulation, the Stipulation shall  
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1                   3. Respondent shall not be eligible to apply for the  
2 issuance of an unrestricted real estate license nor for the  
3 removal of any of the conditions, limitations or restrictions of  
4 a restricted license until two (2) years have elapsed from the  
5 effective date of this Decision.

6                   4. Respondent shall, within six (6) months from the  
7 effective date of this Decision, present evidence satisfactory to  
8 the Real Estate Commissioner that Respondent has, since the most  
9 recent issuance of an original or renewal real estate license,  
10 taken and successfully completed the continuing education  
11 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
12 for renewal of a real estate license. If Respondent fails to  
13 satisfy this condition, the Commissioner may order the suspension  
14 of the restricted license until the Respondent presents such  
15 evidence. The Commissioner shall afford Respondent the  
16 opportunity for a hearing pursuant to the Administrative  
17 Procedure Act to present such evidence.

18                   5. Respondent shall within six (6) months from the  
19 effective date of the restricted license, take and pass the  
20 Professional Responsibility Examination administered by the  
21 Department including the payment of the appropriate examination  
22 fee. If respondent fails to satisfy this condition, the  
23 Commissioner may order suspension of the restricted license  
24 until respondent passes the examination.

25                   6. Respondent shall submit with any application for  
26 license under an employing broker, or any application for  
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1 transfer to a new employing broker, a statement signed by the  
2 prospective employing real estate broker on a form approved by  
3 the Department of Real Estate which shall certify:

4 (a) That the employing broker has read the  
5 Decision of the Commissioner which granted  
6 the right to a restricted license; and

7  
8 (b) That the employing broker will exercise  
9 close supervision over the performance by  
10 the restricted licensee relating to activities  
11 for which a real estate license is required.

12  
13 DATED: 12-21-00

E. J. L.  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

14  
15 \* \* \*

16 EXECUTION OF THE STIPULATION

17 I have read the Stipulation and Agreement, and have  
18 discussed it with my counsel. Its terms are understood by me and  
19 are agreeable and acceptable to me. I understand that I am  
20 waiving rights given to me by the California Administrative  
21 Procedure Act (including but not limited to Sections 11506,  
22 11508, 11509 and 11513 of the Government Code), and I willingly,  
23 intelligently and voluntarily waive those rights, including the  
24 right of requiring the Commissioner to prove the allegations in  
25 the Accusation at a hearing at which I would have the right to  
26 cross-examine witnesses against me and to present evidence in  
27 defense and mitigation of the charges.

FACSIMILE TRANSMISSION

1  
2                   Respondent can signify acceptance and approval of the  
3 terms and conditions of this Stipulation and Agreement by faxing  
4 a copy of its signature page, as actually signed by Respondent,  
5 to the Department at the following telephone/fax number: (213)  
6 576-6917, Attention: Elliott Mac Lennan. Respondent agrees,  
7 acknowledges and understands that by electronically sending to  
8 the Department a fax copy of Respondent's actual signature as it  
9 appears on the Stipulation and Agreement, that receipt of the  
10 faxed copy by the Department shall be as binding on Respondent as  
11 if the Department had received the original signed Stipulation  
12 and Agreement.

13  
14 DATED: JAN 5, 2000



ARA TATAVOUS HARITUNIANS,  
Respondent

15  
16 DATED: 11-29-00



FRANK M. BUDA, Attorney for  
ARA TATAVOUS HARITUNIANS,  
Respondent

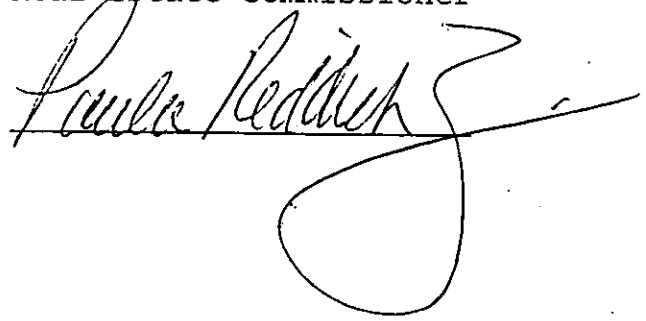
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent ARA TATAVOUS HARITUNIANS,  
and shall become effective at 12 o'clock noon  
on March 12, 2001

IT IS SO ORDERED February 6, 2001

PAULA REDDISH ZINNE MANN  
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
NOV 16 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation ) Case No. H-28818 LA  
) OAH No. L-2000110130  
ARA TATAVOUS HARITUNIANS, )  
)  
Respondent(s). )

*Jana B. ...*

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 the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on DECEMBER 21, 2000, 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: November 16, 2000

DEPARTMENT OF REAL ESTATE

By: *E. J. ...*  
ELLIOTT MAC LENNAN, Counsel

cc: Ara Tatavous Haritunians  
Frank M. Buda, Esq.  
Sacto., OAH

*Loopy*

**FILED**  
OCT 11 2000  
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, Counsel  
2 State Bar No. 66674  
3 Department of Real Estate  
320 West Fourth Street, Suite 350  
Los Angeles, California 90013-1105

4 (213) 576-6911

By Laura B. Orone

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \*

11 In the Matter of the Accusation of ) NO. H-28818 LA  
12 ARA TATAVOUS HARITUNIANS, ) A C C U S A T I O N  
13 )  
14 Respondent. )

15 The Complainant, Thomas McCrady, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Accusation against ARA TATAVOUS HARITUNIANS dba Araco-  
18 Financial Services, alleges as follows:

20 1

21 The Complainant, Thomas McCrady, acting in his  
22 official capacity as a Deputy Real Estate Commissioner of the  
23 State of California makes this Accusation against ARA TATAVOUS  
24 HARITUNIANS (HARITUNIANS).

25 2

26 All references to the "Code" are to the California  
27 Business and Professions Code and all references to

1 "Regulations" are to Title 10, Chapter 6, California Code of  
2 Regulations.

3

4 HARTUNIANS is presently licensed and/or has  
5 license rights under the Real Estate Law (Part 1 of Division 4  
6 of the Business and Professions Code, hereinafter "Code").  
7 HARTUNIANS was originally licensed as a real estate broker on  
8 March 3, 1992.

9 4

10 At all times herein mentioned, HARTUNIANS on behalf  
11 of others in expectation of compensation, acted as a real  
12 estate broker within the meaning of Section 10131(a) of the  
13 Code wherein HARTUNIANS operated a residential real estate  
14 resale business with the public; and, operated a mortgage and  
15 loan business within the meaning of 10131(d) of the Code,  
16 including soliciting borrowers and lenders and negotiating and  
17 servicing loans on real property.

18 5

19 On November 17, 1999, the Department completed a  
20 field audit examination of the books and records of  
21 HARTUNIANS dba Araco-Financial Services pertaining to its  
22 mortgage and loan activities requiring a real estate license  
23 as described in Paragraph 4. The audit examination covered a  
24 period of time beginning on January 1, 1998 to September 30,  
25 1999. The audit examination revealed violations of the Code  
26 and the Regulations as set forth in the following paragraphs.

27 /



1  
2 At all times mentioned, in connection with the  
3 activities described in Paragraph 5, HARITUNIANS accepted or  
4 received funds in trust (trust funds) from or on behalf of  
5 buyers and sellers, and borrowers and lenders, and thereafter  
6 made disposition of such funds. Respondent did not maintain a  
7 trust account during the audit period.

7

8  
9 With respect to the trust funds referred to in  
10 Paragraph 6, it is alleged that HARITUNIANS:

11 (a) Failed to maintain a control record in the form  
12 of a columnar record in chronological order of all trust funds  
13 received, as required by Section 10145 of the Code and Section  
14 2831 of the Regulations. Earnest money deposits directly  
15 forwarded to escrow were not recorded; and,

16 (b) Failed to place funds, including earnest money  
17 deposits received in certain sales transactions, accepted on  
18 behalf of another into the hands of the owner of the funds, a  
19 neutral escrow depository or into a trust fund account in the  
20 name of the trustee at a bank or other financial institution  
21 not later than three business days following receipt of the  
22 funds by the broker or by the broker's salesperson, as  
23 required by Section 10145 of the Code and Section 2832(a) of  
24 the Regulations.

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25  
26 The conduct of Respondent HARITUNIANS, described in  
27 Paragraph 7, above, violated the Code and the Regulations as  
set forth below:





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PARAGRAPH

PROVISIONS VIOLATED

7(a)	Section 10145 of the Code, and Section 2831 of the Regulations, and
7(b)	Section 10145 of the Code, and Section 2832 of the Regulations

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

9

The Department attempted to complete a field audit examination of the books and records of HARITUNIANS pertaining to the activities described in Paragraph 4. The field audit examination revealed that HARITUNIANS failed to retain the records of his activity requiring a real estate license during the audit period, including failing to retain copies of all residential resale files negotiated by his real estate salesperson Nancy Varela during the audit period of January 1, 1998 to September 30, 1999. This conduct is in violation of Section 10148 of the Code and constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent HARITUNIANS under the provisions of Section 10177(d) of the Code.

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2 The field audit examination also revealed that  
3 HARITUNIANS had no system in place for regularly monitoring  
4 Nancy Varela's compliance with the Real Estate Law with  
5 respect to her handling of HUD residential resale  
6 transactions, including the Jorge & Aida HUD sales contract  
7 and \$2,000 earnest money deposit. This conduct is in  
8 violation of Section 2725 of the Regulations and constitutes  
9 cause for the suspension or revocation of the real estate  
10 license and license rights of Respondent HARITUNIANS under the  
11 provisions of Section 10177(d) of the Code.

12 11

13 The overall conduct of HARITUNIANS constitutes  
14 negligence or incompetence. This conduct and violation are  
15 cause for the suspension or revocation of the real estate  
16 license and license rights of Respondent HARITUNIANS under the  
17 provisions of Section 10177(g) of the Code.

18 12

19 The overall conduct of Respondent HARITUNIANS  
20 constitutes a failure to exercise reasonable supervision over  
21 the acts of his salesperson Nancy Varela. This conduct and  
22 violation are cause for the suspension or revocation of the  
23 real estate license and license rights of Respondent  
24 HARITUNIANS pursuant to the provisions of Sections 10177(d)  
25 and 10177(h) of the Code.



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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 licensing rights of respondent ARA TATAVOUS HARITUNIANS, 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 applicable provisions of law.

Dated at Los Angeles, California this 11th day of October, 2000.

  
\_\_\_\_\_  
Deputy Real Estate Commissioner

cc: Ara Tatavous Haritunians  
Thomas McCrady  
Sacto.  
CW