

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 ("Stipulation").

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 of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation and Respondents' decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or any agency of this state, another state or federal
16 government is involved, and otherwise shall not be admissible in
17 any other criminal or civil proceedings.

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

3 7. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation shall not
5 constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real
7 Estate with respect to any matters which were not specifically
8 alleged to be causes for Accusation in this proceeding but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondents herein.

11 8. Respondents understand that by agreeing to this
12 Stipulation, Respondents agree to pay, pursuant to Business and
13 Professions Code Section 10148, the cost of audit which led to
14 this disciplinary action. The amount of said cost for the audit
15 is \$13,114.69 (Audit Report LA 040265).

16 9. Respondents have received, read, and understand the
17 "Notice Concerning Costs of Subsequent Audit". Respondents
18 further understand that by agreeing to this Stipulation, the
19 findings set forth below in the Determination of Issues become
20 final, and the Commissioner may charge Respondents for the cost
21 of any subsequent audit conducted pursuant to Business and
22 Professions Code Section 10148 to determine if the violations
23 have been corrected. The maximum cost of the subsequent audit
24 will not exceed \$13,114.69.

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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
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I.

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5 The conduct, acts or omissions of FAIR HOUSING CENTER
6 and BRETT A. MECKES, as described in Paragraph 4, above, is in
7 violation of Sections 10145 and 10176(g) of the Business and
8 Professions Code ("Code") and Sections 2831, 2831.1, 2831.2 and
9 2832.1 of Title 10, Chapter 6 of the California Code of
10 Regulations ("Regulations") and is a basis for the suspension or
11 revocation of Respondent's license and license rights as a
12 violation of the Real Estate Law pursuant to Code Sections
13 10177(d) and 10177(g).
14

II.

15
16 The conduct, acts or omissions of BRETT A. MECKES, as
17 described in Paragraph 4, constitutes a failure to keep FAIR
18 HOUSING CENTER in compliance with the Real Estate Law during the
19 time that he was the officer designated by a corporate broker
20 licensee in violation of Section 10159.2 of the Code. This
21 conduct is a basis for the suspension or revocation of
22 Respondent's license pursuant to Code Sections 10177(d) and
23 10177(h).
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents FAIR HOUSING CENTER and BRETT A. MECKES under the Real Estate Law suspended for a period of thirty (30) days from the effective date of this Decision.

A. Provided, however, that if Respondents petition, said thirty day suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondents each pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$33.33 per day for each day of the suspension for a total monetary penalty of \$2,000.

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

3. No further cause for disciplinary action against the real estate licenses of Respondents occurs within two (2) years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event Respondents shall
2 not be entitled to any repayment nor credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 license of Respondents occurs within two (2) years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent.

10 II.

11 Pursuant to Section 10148 of the Business and
12 Professions Code, Respondents FAIR HOUSING CENTER and BRETT A.
13 MECKES shall pay the Commissioner's reasonable cost for (a) the
14 audit which led to this disciplinary action (b) a subsequent
15 audit to determine if Respondents are now in compliance with the
16 Real Estate Law. The cost of the audit which led to this
17 disciplinary action is \$13,114.69. In calculating the amount of
18 the Commissioner's reasonable cost, the Commissioner may use the
19 estimated average hourly salary for all persons performing audits
20 of real estate brokers, and shall include an allocation for
21 travel time to and from the auditor's place of work. Said amount
22 for the prior and subsequent audits shall not exceed \$26,229.38.

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1 Respondents shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

5 The Commissioner may suspend the license of Respondents
6 pending a hearing held in accordance with Section 11500, et seq.,
7 of the Government Code, if payment is not timely made as provided
8 for herein, or as provided for in a subsequent agreement between
9 the Respondent and the Commissioner. The suspension shall remain
10 in effect until payment is made in full or until Respondents
11 enter into an agreement satisfactory to the Commissioner to
12 provide for payment, or until a decision providing otherwise is
13 adopted following a hearing held pursuant to this condition.

14 III.

15 All licenses and licensing rights of Respondent BRETT
16 A. MECKES are indefinitely suspended unless or until Respondent
17 provides proof satisfactory to the Commissioner, of having taken
18 and successfully completed the continuing education course on
19 trust fund accounting and handling specified in paragraph (3) of
20 subdivision (a) of Section 10170.5 of the Business and
21 Professions Code. Proof of satisfaction of this requirement
22 includes evidence that respondent has successfully completed the
23 trust fund account and handling continuing education course
24 within 120 days prior to the effective date of the Decision in
25 this matter.
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DATED: 4-2-07

EL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and discussed with our counsel. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

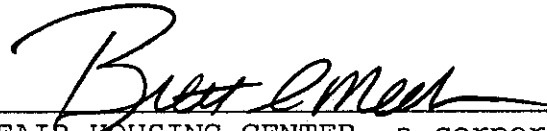
Respondent(s) (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Additionally, Respondent(s) shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac

Lennan.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent(s) agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on the stipulation, that receipt of the facsimile copy by the Department shall be as binding on Respondent(s) as if the Department had received the original signed stipulation.

DATED:

3/23/2007



FAIR HOUSING CENTER, a corporate
real estate broker,
BY: BRETT A. MECKES, D.O.,
Respondent

DATED:

3/23/2007



BRETT A. MECKES individually and as
designated officer of Fair Housing
Center, Respondent

DATED:

3/26/2007



ARTIN BETPERA, ESQ. of DOSS LAW
Attorney for Respondents,
Approved as to form

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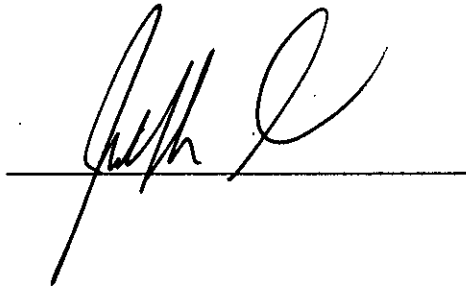
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents FAIR HOUSING CENTER and
BRETT A. MECKES, individually and as designated officer of Fair
Housing Center and shall become effective at 12 o'clock noon on
MAY 30, 2007.

IT IS SO ORDERED 4/24/07, 2007.

JEFF DAVI
Real Estate Commissioner



Handwritten signature

FILED
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DEPARTMENT OF REAL ESTATE

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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

By *K. Medelhoff*

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-33388 LA
FAIR HOUSING CENTER, a California)	<u>A C C U S A T I O N</u>
corporation doing business as)	
ReMax All Stars Realty, and)	
BRETT A. MECKES, individually and)	
as designated officer of)	
Fair Housing Center,)	
)	
Respondents.)	

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against FAIR HOUSING CENTER, a California corporation dba ReMax All Stars Realty, and BRETT A. MECKES, individually and as designated officer of Fair Housing Center, is informed and alleges as follows:

1.

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

2.

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

3.

5
6 FAIR HOUSING CENTER, (hereinafter "FHC") and BRETT A.
7 MECKES, individually and as designated officer of Fair Housing
8 Center, (hereinafter "MECKES") and (sometimes hereinafter
9 collectively referred to as "Respondents") are presently licensed
10 or have license rights under the Real Estate Law (Part 1 of
11 Division 4 of the Business and Professions Code, hereinafter
12 "Code").
13

14 LICENSE HISTORY

4.

15
16 A. FAIR HOUSING CENTER. At all times material
17 herein, FHC was licensed by the Department of Real Estate of the
18 State of California (hereinafter "Department"), by and through
19 MECKES, as the designated officer and broker responsible,
20 pursuant to Code Section 10159.2 of the Business and Professions
21 Code for supervising the activities requiring a real estate
22 license conducted on behalf of FHC by FHC's officers, agents and
23 employees. FHC was originally licensed on December 5, 1995.

24 B. BRETT A. MECKES. MECKES was originally licensed as
25 a real estate broker on August 18, 1983. MECKES has been the
26 designated officer of FHC from its inception.
27

5.

1 All further references to "Respondents", unless
2 otherwise specified, includes the parties identified in
3 Paragraphs 3 and 4, above, and also includes the officers,
4 directors, managers, employees, agents and/or real estate
5 licensees employed by or associated with said parties, who at all
6 times material herein were engaged in the furtherance of the
7 business or operations of said parties and who were acting within
8 the course and scope of their authority, agency, or employment.
9

10 6.

11 At all times material herein, FHC engaged in the
12 business as a real estate broker pursuant to Code Section
13 10131(b) of the Code. FHC operated a property management
14 brokerage dba ReMax All Stars Realty.
15

16 FIRST CAUSE OF ACTION

17 (Audit Violations)

18 7.

19 On August 24, 2005, the Department completed an audit
20 examination of the books and records of FHC pertaining to its
21 property management broker activities, requiring a real estate
22 license as described in Paragraph 4. The audit examination
23 covered a period of time beginning April 1, 2002 and ending March
24 31, 2005. The audit examination revealed violations of the Code
25 and the Regulations as set forth below, and more fully discussed
26
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1 in Audit Report LA 040265 and the exhibits and workpapers
2 attached to said audit report.

3 8.

4 At all times mentioned, in connection with the
5 activities described in Paragraph 6, above, FHC accepted or
6 received funds in trust (trust funds) from or on behalf of
7 renters and property owners, and thereafter made disposition of
8 such funds. FHC maintained the following trust account during
9 the audit period into which were deposited certain of these funds
10 at:

11
12 "Fair Housing Center dba ReMax All Stars Realty Trust Account
13 Account No. 002512890" ("trust account")
14 Inland Empire National Bank
Riverside, California

15 9.

16 In the course of activities described in Paragraph 6,
17 above, and during the examination period described in
18 Paragraph 7, FHC and MECKES acted in violation of the Code and
19 the Regulations in that they:

20 (a) Permitted, allowed or caused the disbursement of
21 trust funds from the trust account where the disbursement of
22 funds reduced the total of aggregate funds in the trust account,
23 to an amount which, on March 31, 2005, was \$23,674.22, less than
24 the existing aggregate trust fund liability of FHC to every
25 principal who was an owner of said funds, without first obtaining
26 the prior written consent of the owners of said funds, as
27

1 required by Code Section 10145 and Regulation 2832.1. The
2 shortage was cured on July 27, 2005.

3 (b) Failed to maintain an adequate control record in
4 the form of a columnar record in chronological order of all trust
5 funds received, deposited and disbursed for the Terra Associates
6 properties, as required by Code Section 10145 and Regulation
7 2831.

8 (c) Failed to maintain a separate record for each
9 beneficiary or transaction, thereby failing to account for all
10 trust funds received, deposited into, and disbursed from the
11 trust account for the Terra Associates properties, as required by
12 Code Section 10145 and Regulation 2831.1.

13 (d) Failed to perform a monthly reconciliation of the
14 balance of all separate beneficiary or transaction records
15 maintained pursuant to Regulation 2831.1 with the record of all
16 trust funds received and disbursed by the trust account, as
17 required by Code Section 10145 and Regulation 2831.2.

18 (e) received undisclosed compensation by means of an
19 earning credit arrangement with the Inland Empire National Bank.
20 Bank service charges and Plum's Tax & Bookkeeping Service
21 expenses, were deducted from the earning credit from the trust
22 account. The earnings credit arrangement was not disclosed by
23 FHC or MECKES to the property owners, renters or beneficiaries of
24 the trust account, in violation of Code Section 10176(g).
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The conduct, acts and omissions of Respondents FHC and MECKES as described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code Section 10145 and Regulation 2832.1
9(b)	Code Section 10145 and Regulation 2831
9(c)	Code Section 10145 and Regulation 2831.1
9(d)	Code Section 10145 and Regulation 2831.2
9(e)	Code Section 10176(g)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of FHC and MECKES pursuant to Code Section 10176(g), 10177(d) and/or 10177(g).

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SECOND CAUSE OF ACTION

(Negligence)

11.

The overall conduct of Respondents FHC and MECKES, as described above, constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

THIRD CAUSE OF ACTION

(Failure to supervise)

12.

The conduct, acts and/or omissions of Respondent MECKES, in causing, allowing, or permitting FHC to violate the Real Estate Law, as described, herein above, constitutes failure on the part of MECKES, as the officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of FHC, as required by Code Section 10159.2. Said conduct is cause to suspend or revoke the real estate licenses and license rights of MECKES pursuant to the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations made by the Accusation and, that
3 upon proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 FAIR HOUSING CENTER, a California corporation, and BRETT A.
6 MECKES, individually and as designated officer of FAIR HOUSING
7 CENTER, under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at San Diego, California

11 *June 9, 2006*

12
13 *J. Chris Graves*
14 Deputy Real Estate Commissioner
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24 cc: Fair Housing Center
25 c/o Brett A. Meckes
Sacto.
26 J. Chris Graves
LA Audit Section - Rolly Acuna
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