

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
3 P.O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED

SEP 15 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CALIFORNIA EQUITY CORPORATION)
13 and THOMAS K. STANDEN,)
14 Respondents.)

NO. H-1412 FRESNO

STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between CALIFORNIA
16 EQUITY CORPORATION ("Respondent CEC") and THOMAS K. STANDEN
17 ("Respondent STANDEN") (collectively "Respondents"), by and
18 through their attorney, Phillip M. Adleson; and the Complainant,
19 acting by and through Thomas C. Lasken, Counsel for the
20 Department of Real Estate; as follows, for the purpose of
21 settling and disposing of the Accusation filed on February 22,
22 1999, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act (APA) (Government Code Section 11500 et seq.),

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

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

7 3. On March 10, 1999, Respondents filed their Notice
8 of Defense pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondents hereby freely and voluntarily withdraw
11 their Notice of Defense. Respondents acknowledge that by
12 withdrawing said Notice of Defense they will thereby waive their
13 right to 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 they will waive other rights
16 afforded to them in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

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

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his Decision in this matter, thereby imposing the penalty and
4 sanctions on Respondents' real estate license(s) and license
5 rights as set forth in the below "Order". In the event that the
6 Commissioner in his discretion does not adopt the Stipulation and
7 Agreement, it shall be void and of no effect, and Respondents
8 shall retain the right to a hearing and proceeding on the
9 Accusation under all the provisions of the APA and shall not be
10 bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation and
13 Agreement shall not constitute an estoppel, merger or bar to any
14 further administrative or civil proceedings by the Department
15 of Real Estate with respect to any matters which were not
16 specifically alleged to be causes for accusation in this
17 proceeding.

18 7. Respondents have received, read, and understand the
19 "Notice Concerning Costs of Subsequent Audits". Respondents
20 understand that by agreeing to this Stipulation and Agreement in
21 Settlement, the findings set forth below in the DETERMINATION OF
22 ISSUES become final, and that the Commissioner may charge
23 Respondents for the cost of any audit conducted pursuant to
24 Section 10148 of the Business and Professions Code to determine
25 if the violations have been corrected. The maximum costs of said
26 audit will not exceed \$10,220.10.

27 ///

1 C. The restricted licenses issued to Respondents shall be
2 subject to all the provisions of Section 10156.7 of the
3 Business and Professions Code and to the following
4 limitations, conditions and restrictions imposed under
5 authority of Section 10156.6 of said Code:

6 (1) The license shall not confer any property right in the
7 privileges to be exercised, and the Real Estate
8 Commissioner may by appropriate order suspend the right
9 to exercise any privileges granted under the restricted
10 license in the event of:

11 (a) The conviction of Respondent (including a plea
12 of nolo contendere) to a crime which bears a
13 significant relation to Respondent's fitness or
14 capacity as a real estate licensee; or,

15 (b) The receipt of evidence that Respondent has
16 violated provisions of the California Real Estate
17 Law, Subdivided Lands Law, Regulations of the Real
18 Estate Commissioner or conditions attaching to the
19 restricted license.

20 (2) Respondent shall not be eligible to apply for issuance
21 of an unrestricted real estate license nor the removal
22 of any of the conditions, limitations or restrictions
23 attaching to the restricted license until one (1) year
24 has elapsed from the date of issuance of a restricted
25 license to Respondent.

26 D. Respondents shall pay, pursuant to Section 10148 of the
27 Business and Professions Code, the Commissioner's reasonable

1 cost for an audit to determine if Respondents have corrected
2 the trust fund violations as set forth in the Determination
3 of Issues above. In calculating the amount of the
4 Commissioner's reasonable costs, the Commissioner may use
5 the estimated average hourly salary for all persons
6 performing audits of real estate brokers, and shall include
7 an allocation for travel costs, including mileage, time to
8 and from the auditor's place of work, and per diem. The
9 Commissioner's reasonable costs shall in no event exceed
10 \$10,220.10.

- 11 (1) Respondents shall pay such cost within 60 days of
12 receipt of an invoice from the Commissioner detailing
13 the activities performed during the audit and the
14 amount of time spent performing those activities;
- 15 (2) If Respondents fail to pay, within 60 days from
16 receipt of the invoice specified above, the
17 Commissioner's reasonable costs for an audit to
18 determine if Respondents have corrected the
19 violations found as set forth in the Determination
20 of Issues above, the Commissioner may order the
21 indefinite suspension of Respondents' real estate
22 licenses and license rights. The suspension shall
23 remain in effect until payment is made in full, or
24 until Respondents enter into an agreement
25 satisfactory to the Commissioner to provide for such
26 payment. The Commissioner may impose further
27 reasonable disciplinary terms and conditions upon

1 Respondents' real estate license and license rights
2 as part of any such agreement.

3 E. Respondent STANDEN shall, within six (6) months from the
4 effective date of the restricted license, take and pass the
5 Professional Responsibility Examination administered by
6 the Department including the payment of the appropriate
7 examination fee. If Respondent STANDEN fails to satisfy
8 this condition, the Commissioner may order the suspension of
9 the restricted license until Respondent STANDEN passes the
10 examination.

11 F. Respondent STANDEN shall, within nine (9) months from the
12 effective date of this ORDER, present evidence
13 satisfactory to the Real Estate Commissioner that he has,
14 since the most recent issuance of an original or renewal
15 real estate license, taken and successfully completed the
16 continuing education requirements of Article 2.5 of
17 Chapter 3 of the Real Estate Law for renewal of a real
18 estate license. If Respondent STANDEN fails to satisfy
19 this condition, the Commissioner may order the suspension
20 of the restricted license until Respondent STANDEN
21 presents such evidence. The Commissioner shall afford
22 Respondent STANDEN the opportunity for a hearing pursuant
23 to the Administrative Procedure Act to present such
24 evidence.

25 G. Prior to the effective date of the Decision herein,
26 Respondents shall provide proof satisfactory to the Real
27 Estate Commissioner that there is a deposit of \$20,795.75 in

1 one or more trust bank accounts made to cure the shortage
2 alleged in the Accusation filed in this matter.

3 H. Any restricted real estate broker license issued to
4 Respondents may be suspended or revoked for a violation by
5 Respondents of any of the conditions attaching to the
6 restricted license.

7 August 5, 1999
8 DATED

Thomas C. Lasken
THOMAS C. LASKEN, Counsel
DEPARTMENT OF REAL ESTATE

9 * * *

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

21 CALIFORNIA EQUITY CORPORATION
22 Respondent

23 7-28-99
24 DATED

By: Thomas K. Standen
THOMAS K. STANDEN, President

25 7-28-99
26 DATED

Thomas K. Standen
THOMAS K. STANDEN
27 Respondent

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

7-15-99

DATED



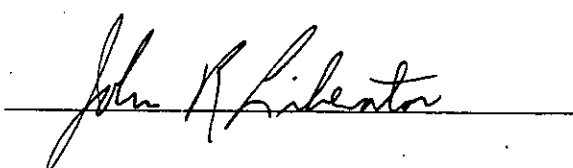
PHILLIP M. ADLESON
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on October 5, 1999.

IT IS SO ORDERED August 20, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



JUN - 2 1999

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
By Kathleen Conteras

In the Matter of the Accusation of

CALIFORNIA EQUITY CORPORATION,
and THOMAS K. STANDEN,

}

Case No. H-1412 FRESNO

OAH No. N-1999030552

Respondent

FIRST CONTINUED
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 _____

The Office of Administrative Hearings, 560 J Street,

Suites 340/360, Sacramento, California 95814

on July 8, 1999, at the hour of 10:00 AM,
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: June 1, 1999

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

FILED
APR 2 1999

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Cantor

In the Matter of the Accusation of

CALIFORNIA EQUITY CORPORATION,
and, THOMAS K. STANDEN,

}

Case No. H-1412 FRESNO

OAH No. N-1999030552

Respondent

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 _____

The Office of Administrative Hearings, 560 J Street,

Suites 340/360, Sacramento, California 95814

on May 25, 1999, at the hour of 9:00 AM,

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: April 1, 1999

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED

FEB 22 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CALIFORNIA EQUITY CORPORATION,)
13 and THOMAS K. STANDEN,)
14 Respondents.)

NO. H-1412 FRESNO
ACCUSATION

15 The Complainant, M. Dolores Ramos, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against CALIFORNIA EQUITY CORPORATION, and against THOMAS K.
18 STANDEN, individually and as Designated Officer of CALIFORNIA
19 EQUITY CORPORATION and of Mother Lode Properties, Inc., is
20 informed and alleges as follows:

21 I

22 The Complainant, M. Dolores Ramos, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 her official capacity.

25 II

26 At all times herein mentioned, Respondent CALIFORNIA
27 EQUITY CORPORATION (hereinafter "Respondent CEC") was licensed

1 and/or had license rights under the Real Estate Law, Part 1 of
2 Division 4 of the Business and Professions Code (hereinafter
3 "Code") as a real estate brokerage corporation, by and through
4 Respondent THOMAS K. STANDEN (hereinafter Respondent "STANDEN")
5 as its Designated Officer.

6 III

7 At all times herein mentioned, Respondent STANDEN was
8 licensed, and/or had license rights under the Code, individually
9 and as Designated Officer of Respondent CEC and of Mother Lode
10 Properties, Inc.

11 IV

12 At all times mentioned herein, Respondent CEC engaged in
13 the business of, acted in the capacity of, advertised or assumed
14 to act as a real estate broker within the State of California,
15 including the operation and conduct of a mortgage loan brokerage
16 business with the public wherein lenders and borrowers were
17 solicited for loans secured directly or collaterally by liens on
18 real property, wherein such loans were arranged, negotiated,
19 processed, and consummated on behalf of others for compensation
20 or in expectation of compensation.

21 V

22 During the course of the mortgage loan brokerage
23 activities described in Paragraph IV above, Respondent CEC
24 received and disbursed funds held in trust on behalf of another
25 or others.

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VI

Within the three-year period immediately preceding the filing of this Accusation, Respondent CEC maintained the following trust accounts for its mortgage loan business:

<u>Account Name and Number</u>	<u>Bank</u>
1. California Equity Corp. Broker as Trustee Loan Servicing Trust Account #00855-06855	Bank of America 5121 Highway 140 Mariposa, CA 95338
2. California Equity Corp. Trust Account #00853-04593	Bank of America 5121 Highway 140 Mariposa, CA 95338
3. California Equity Corp. Broker as Trustee Loan Servicing Trust Account #11505-06855	County Bank P. O. Box 1129 Mariposa, CA 95338
4. California Equity Corp. Trust Account #11505-04593	County Bank P. O. Box 1129 Mariposa, CA 95338.

Account number 3 above is essentially the same account as account number 1 except that the branch was taken over by County Bank on or about December 12, 1997. Account number 1/3 is hereinafter referred to as "Trust #1". Similarly, account number 4 above is essentially the same account as account number 2 except that the branch was taken over by County Bank on or about December 12, 1997. Account number 2/4 is hereinafter referred to as "Trust #2".

VII

Commencing on March 23, 1998, and continuing through June 30, 1998, an investigative audit was made by the Department of Real Estate (hereinafter "Department") of Respondent CEC's records for the period of May 1, 1997, through March 19, 1998

1 ("the audit period"), as those records relate to Respondent CEC's
2 licensed activities in its mortgage loan business.

3 VIII

4 In connection with the collection and disbursement of
5 trust funds, Respondent CEC failed to deposit and maintain trust
6 funds in Trust #1 in such manner that as of February 28, 1998,
7 there was a shortage of \$20,795.74 of trust funds.

8 IX

9 As of February 28, 1998, Respondent CEC disbursed,
10 or caused or permitted the disbursement of, trust funds from
11 Trust #1, without the prior written consent of every principal who
12 was an owner of the funds in the account, where the disbursement
13 reduced the balance of funds in the accounts to an amount which
14 was \$20,795.74 less than the existing aggregate trust fund
15 liability of Respondent CEC to all owners of said funds, in
16 violation of Section 2832.1 of Title 10, California Code of
17 Regulations (hereinafter "Regulations").

18 X

19 During the audit period, as to Trust #2, Respondent CEC
20 failed to maintain adequate columnar records of all trust funds
21 received and disbursed in the manner required by Section 2831 of
22 the Regulations.

23 XI

24 During the audit period, as to Trust #2, in connection
25 with the receipt and disbursement of trust funds, Respondent
26 failed to maintain separate records for each beneficiary or
27 transaction, accounting for all trust funds received, deposited,

1 and disbursed, in conformance with Section 2831.1 of the
2 Regulations.

3 XII

4 During the audit period, as to Trust #1 and Trust #2,
5 in connection with the receipt and disbursement of trust funds,
6 Respondent failed to reconcile the balances of all separate
7 beneficiary or transaction records maintained with the record of
8 all trust funds received and disbursed at least once a month, in
9 violation of Section 2831.2 of the Regulations.

10 XIII

11 At all times herein mentioned, Respondents were subject
12 to the requirements of Section 10232 of the Code. During the
13 audit period, as to Trust #1 and Trust #2, Respondent CEC failed
14 to file with the Department the quarterly reports in the manner
15 required by Section 10232.25(a) of the Code, in violation of
16 Section 10232 of the Code.

17 XIV

18 Respondent CEC's acts and omissions alleged above in
19 Paragraphs VIII and IX constitute cause for discipline under
20 Section 10177(d) of the Code in conjunction with Section 10145
21 of the Code and Section 2832.1 of the Regulations.

22 XV

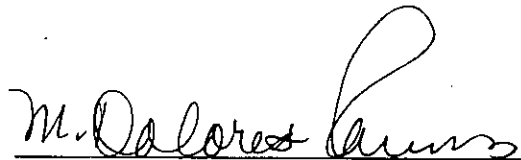
23 Respondent CEC's acts and omissions alleged above in
24 Paragraphs X through XIII constitute cause for discipline under
25 the provisions of Section 10177(d) of the Code.

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2 During the audit period, Respondent STANDEN, as
3 designated broker-officer for Respondent CEC, failed to exercise
4 reasonable supervision and control over the licensed activities of
5 Respondent CEC as required by Section 10159.2 of the Code. Such
6 failure is cause for the suspension or revocation of Respondent
7 STANDEN's licenses and/or license rights under Section 10177(h) of
8 the Code.

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

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19 
20 M. DOLORES RAMOS
21 Deputy Real Estate Commissioner
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23 Dated at Fresno, California,
24 this 12th day of January 1999.
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