

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 Telephone (213) 897-3937

FILED
May 26, 1994
DEPARTMENT OF REAL ESTATE

By C. Berry

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1684 SA
12)
13 WILMA JEAN PEDONE, individually)
14 and doing business as Re/Max,) STIPULATION AND AGREEMENT
of the Lakes and Quality) IN SETTLEMENT AND ORDER
Investments, and EFRAIN CHACON,)
15 Respondents.)
_____)

16
17 It is hereby stipulated by and between Respondent WILMA
18 JEAN PEDONE (sometimes referred to herein as "Respondent"), and
19 the Complainant, acting by and through Darlene Averetta, Counsel
20 for the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on November 9,
22 1993, in this matter (hereinafter the "Accusation"):

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"), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 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. On November 18, 1993, Respondent filed a Notice of
8 Defense pursuant to Section 11505 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 she
12 understands that by withdrawing said Notice of Defense, she will
13 thereby waive her 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 she will waive
16 other rights afforded to her 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 in Settlement and
20 Order is based on the factual allegations contained in the
21 Accusation filed in this proceeding. In the interest of
22 expedience and economy, Respondent chooses not to contest these
23 factual allegations, but to remain silent and understands that, as
24 a result thereof, these factual statements, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. This Stipulation and Agreement in
27 Settlement and Order is hereby expressly limited to this

1 proceeding and made for the sole purpose of reaching an agreed
2 disposition of this proceeding. Respondent's decision not to
3 contest the factual allegations is made solely for the purpose of
4 effectuating this Stipulation and is intended by Respondent to be
5 non-binding upon her in any actions against Respondent by third
6 parties. The Real Estate Commissioner shall not be required to
7 provide further evidence to prove such allegations.

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

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

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DETERMINATION OF ISSUES

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

6 (a) The conduct, acts or omissions of Respondent, WILMA
7 JEAN PEDONE, as set forth in the Accusation, constitutes cause to
8 suspend or revoke Respondent's real estate license and license
9 rights under the provisions of Business and Professions Code
10 Section 10177(h).

ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12
13 A. The real estate license and license rights of
14 Respondent, WILMA JEAN PEDONE, under the provisions of Part 1 of
15 Division 4 of the California Business and Professions Code are
16 suspended for a period of thirty (30) days from the effective date
17 of this Order.

18 (1) Provided, however, if Respondent so requests, the
19 the thirty (30) day suspension of Respondent's license and license
20 rights shall be permanently stayed upon condition that Respondent
21 pays to the Department's Recovery Account \$500.00 prior to the
22 effective date of this Order, in accordance with the provisions of
23 California Business and Professions Code Section 10175.2.

24 (2) Payment of the aforementioned monetary penalty
25 shall be in the form of cashier's check or certified check, made
26 payable to the Recovery Account of the Real Estate Fund. Payment
27 must be made prior to the effective date of this Order.

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(3) The Commissioner, in exercising his discretion under California Business and Professions Code Section 10175.2, agrees by adopting this Order that it would not be against the public interest to permit Respondent to pay the aforesaid monetary penalty.

* * * * *

I have read the Stipulation and Agreement in Settlement and Order 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), and 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: 5/12/94

Wilma Jean Pedone
WILMA JEAN PEDONE, Respondent

DATED: May 16, 1994

Darlene Averetta
DARLENE AVERETTA, Counsel for the
Department of Real Estate

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2 The foregoing Stipulation and Agreement in Settlement
3 is hereby adopted as my Decision and Order as to Respondent,
4 WILMA JEAN PEDONE, and shall become effective at 12 o'clock noon
5 on June 15 , 1994.

6
7 IT IS SO ORDERED May 23 , 1994.

8
9 CLARK WALLACE
10 Real Estate Commissioner

11 
12 _____

13 **BY: John R. Liberator**
14 **Chief Deputy Commissioner**

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 Telephone (213) 897-3937

FILED
May 26, 1994
DEPARTMENT OF REAL ESTATE

By C. Bay

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1684 SA
12)
13 WILMA JEAN PEDONE, individually)
14 and doing business as Re/Max,) STIPULATION AND AGREEMENT
15 of the Lakes and Quality) IN SETTLEMENT AND ORDER
16 Investments, and EFRAIN CHACON,)
17 Respondents.)

18 It is hereby stipulated by and between Respondent EFRAIN
19 CHACON (sometimes referred to herein as "Respondent"), and the
20 Complainant, acting by and through Darlene Averetta, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on November 9,
23 1993, in this matter (hereinafter the "Accusation"):

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 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.

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. On December 2, 1993, Respondent filed a Notice of
8 Defense pursuant to Section 11505 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 in Settlement and
20 Order is based on the factual allegations contained in the
21 Accusation filed in this proceeding. In the interest of
22 expedience and economy, Respondent chooses not to contest these
23 factual allegations, but to remain silent and understand that, as
24 a result thereof, these factual statements, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. This Stipulation and Agreement in
27 Settlement and Order is hereby expressly limited to this

1 proceeding and made for the sole purpose of reaching an agreed
2 disposition of this proceeding. Respondent's decision not to
3 contest the factual allegations is made solely for the purpose of
4 effectuating this Stipulation and is intended by Respondent to be
5 non-binding upon him in any actions against Respondent by third
6 parties. The Real Estate Commissioner shall not be required to
7 provide further evidence to prove such allegations.

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

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

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1 (3) The Commissioner, in exercising his discretion
2 under California Business and Professions Code Section 10175.2,
3 agrees by adopting this Order that it would not be against the
4 public interest to permit Respondent to pay the aforesaid monetary
5 penalty.

6 * * * * *

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

18 DATED: MAY-10-94

Efrain Chacon
EFRAIN CHACON, Respondent

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21 DATED: May 11, 1994

Darlene Averetta
DARLENE AVERETTA, Counsel for the
Department of Real Estate

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The foregoing Stipulation and Agreement in Settlement
is hereby adopted as my Decision and Order as to Respondent,
EFRAIN CHACON, and shall become effective at 12 o'clock noon on
June 15, 1994.

IT IS SO ORDERED May 23, 1994.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator

BY: John R. Liberator
Chief Deputy Commissioner

See

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEC-8 1993

In the Matter of the Accusation of)
)
WILMA JEAN PEDONE, individually)
and doing business as Re/Max of)
the Lakes and Quality Investments;)
and EFRAIN CHACON,)

Case No. H-1684 SA

OAH No. L-62110

Respondent (s)

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, 314 W. First Street, Los Angeles, CA 90012 on MAY 17, 18 and 19, 1994, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: December 8, 1993

By

Darlene Averetta

DARLENE AVERETTA, Counsel

cc: Wilma Jean Pedone
Efrain Chacon
Southwest Financial Advisors Inc.
Sacto.
OAH

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

(213) 897-3937

FILED

NOV-9 1993

DEPARTMENT OF REAL ESTATE

BY C. Bey

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
WILMA JEAN PEDONE, individually)	No. H-1684 SA
and doing business as RE/MAX)	A C C U S A T I O N
of the Lakes and Quality)	
Investments, and EFRAIN CHACON,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against WILMA JEAN PEDONE, individually and doing business as RE/MAX of the Lakes and Quality Investments, and EFRAIN CHACON (referred to herein from time to time jointly as "Respondents"), is informed and alleges in his official capacity as follows:

I

WILMA JEAN PEDONE, individually and doing business as RE/MAX of the Lakes and Quality Investments (hereinafter Respondent "PEDONE"), 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 (hereinafter the "Code")

1 as a real estate broker.

2 II

3 EFRAIN CHACON (hereinafter Respondent "CHACON"), is
4 presently licensed and/or has license rights under the Real
5 Estate Law, Part 1 of Division 4 of the Code as a real estate
6 salesperson.

7 III

8 At all times material herein, Respondent CHACON was
9 licensed by the Department of Real Estate of the State of
10 California (hereinafter the "Department") as a real estate
11 salesperson in the employ of Respondent PEDONE.

12 IV

13 At all times material herein, Respondent PEDONE and
14 Respondent CHACON, while in the employ of Respondent PEDONE,
15 engaged in the business of, acted in the capacity of, advertised
16 or assumed to act as real estate brokers within the meaning of
17 Section 10131(a) of the Code, including the operation and conduct
18 of a real estate sale business with the public, on behalf of
19 another or others, wherein for compensation or in expectation of
20 compensation, Respondents, sold or offered to sell, bought or
21 offered to buy, solicited prospective sellers or purchasers of,
22 solicited or obtained listings of, or negotiated the purchase,
23 sale or exchange of real property in the State of California.

24 V

25 On or about March 9, 1992, Respondent CHACON, while in
26 the employ of Respondent PEDONE, on behalf of Rawlinson Montano
27 (hereinafter the "Buyer"), prepared and/or executed a Real Estate

1 Purchase Contract and Receipt for Deposit (hereinafter the
2 "Deposit Receipt") evidencing an offer by the Buyer to purchase
3 the property commonly known as 736 Spinnaker, Perris, California
4 (hereinafter the "Property") from Michael and Keela Clark
5 (hereinafter the "Sellers"). The Deposit Receipt reflected that
6 Respondent CHACON had received a personal check from the Buyer,
7 in the amount of Three Hundred Dollars (\$300.00) made payable to
8 La Rue Escrow as a deposit for the purchase of the Property. The
9 Deposit Receipt was thereafter delivered to Gladys Mora of
10 Century 21, General Real Estate, agent for the Sellers
11 (hereinafter "Century 21").

12 VI

13 On or about March 12, 1992, the Sellers made a
14 counteroffer to the offer evidenced by the Deposit Receipt, which
15 required, among other things, that the Buyer's deposit be
16 increased to One Thousand Dollars (\$1,0000) within ten (10) days
17 of Buyer's acceptance of the counteroffer. The Counteroffer was
18 accepted by the Buyer on or about March 25, 1992.

19 VII

20 On or about March 27, 1992, escrow number 9361 was
21 opened at La Rue Escrow, Inc., Deanna Rogers as the escrow
22 officer (hereinafter the "Escrow Officer"), to consummate the
23 purchase of the Property by the Buyer from the Sellers. On or
24 about April 6, 1992, the Escrow Officer informed Century 21 that
25 she had not received the Buyer's deposit in escrow.

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VIII

1
2 Respondent CHACON informed Century 21 that he had
3 returned the original Three Hundred Dollar (\$300.00) deposit
4 check to the Buyer, and was waiting to receive a new check for
5 One Thousand Dollars (\$1,0000) to place into escrow.

6 IX

7 On or about April 7, 1992, Respondent CHACON informed
8 Century 21 that the Buyer had changed his mind and that
9 Respondent CHACON had called La Rue Escrow, Inc. to cancel the
10 escrow. Century 21 informed the Sellers of these developments
11 and the Sellers indicated that they wanted the Buyer's Three
12 Hundred Dollars (\$300.00) as liquidated damages, and so informed
13 La Rue Escrow, Inc.

14 X

15 Respondent CHACON had, in fact, never received a Three
16 Hundred Dollar (\$300.00) deposit check from the Buyer, despite
17 his statement that he had received said check.

18 XI

19 Respondent CHACON knowingly made a false or misleading
20 representation as to the form, amount and/or treatment of a
21 deposit toward the purchase of the Property.

22 XII

23 The conduct acts and omissions of Respondent CHACON
24 described herein above, violated Section 2785(6), Chapter 6,
25 Title 10, California Code of Regulations.

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XIII

1
2 The conduct acts and omissions of Respondent CHACON
3 described herein above, constitutes cause for the suspension or
4 revocation of the real estate license and license rights of
5 Respondent CHACON under the provisions of Sections 10176(a),
6 10176(i) and 10177(d) of the Code.

7 XIV

8 The conduct, acts and omissions of Respondent PEDONE,
9 as described herein above, in failing to supervise the licensed
10 activities of Respondent CHACON, is cause for the suspension or
11 revocation of the real estate license and license rights of
12 Respondent PEDONE pursuant to the provisions of Section 10177(h)
13 of the Code.

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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 WILMA JEAN PEDONE, individually and doing business as RE/MAX of
6 the Lakes and Quality Investments, and EFRAIN CHACON, under the
7 Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law.

10 Dated at Santa Ana, California
11 this 9th day of November, 1993.

12
13 THOMAS McCRADY
14 Deputy Real Estate Commissioner
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25 cc: Wilma Jean Pedone
26 Efrain Chacon
27 Southwest Financial Advisors, Inc.
Sacto.
SR