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FILED

SEP 29 2008

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of  
MITCHELL CHARLES CHOBOIAN,  
Respondent.

No. H-1701 FR

ORDER GRANTING REINSTATEMENT OF LICENSE

On October 19, 2004, in Case No. H-1701 FR, a Decision was rendered revoking the real estate broker license of Respondent effective November 4, 2004, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on November 4, 2004, and Respondent has operated as a restricted licensee since that time.

On August 6, 2007, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for  
reinstatement is granted and that a real estate broker license be issued to Respondent if  
Respondent satisfies the following conditions within nine (9) months from the date of this Order:

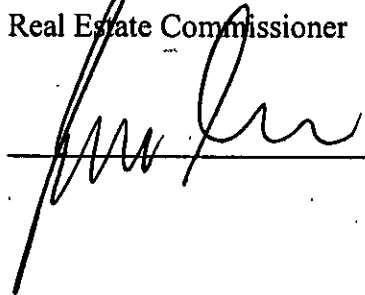
1. Submittal of a completed application and payment of the fee for a real estate  
broker license.

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

This Order shall become effective immediately.

IT IS SO ORDERED 7-25-08

JEFF DAVI  
Real Estate Commissioner



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1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6

FILED  
NOV 04 2004

DEPARTMENT OF REAL ESTATE

By Shelly Ely

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of ) No. H-1701 FR  
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MITCHELL CHARLES CHOBOIAN, )  
STIPULATION AND AGREEMENT  
Respondent. )

16 It is hereby stipulated by and between Respondent  
17 MITCHELL CHARLES CHOBOIAN (hereinafter "Respondent") and his  
18 attorney of record, Bret D. Hillman, and the Complainant,  
19 acting by and through Michael B. Rich, Counsel for the  
20 Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation filed on July 20,  
22 2004, 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  
25 Respondents at a formal hearing on the Accusation, which  
26 hearing was to be held in accordance with the provisions of the  
27

1 Administrative Procedure Act (APA), shall instead and in place  
2 thereof be submitted solely on the basis of the provisions of  
3 this Stipulation and Agreement.

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

8           3. On August 2, 2004, Respondent filed a Notice of  
9 Defense pursuant to Section 11505 of the Government Code for  
10 the purpose of requesting a hearing on the allegations in the  
11 Accusation. Respondent hereby freely and voluntarily withdraws  
12 said Notice of Defense. Respondent acknowledges that he  
13 understands that by withdrawing said Notice of Defense  
14 Respondent will thereby waive her right to require the  
15 Commissioner to prove the allegations in the Accusation at a  
16 contested hearing held in accordance with the provisions of the  
17 APA and that Respondent will waive other rights afforded to him  
18 in connection with the hearing such as the right to present  
19 evidence in defense of the allegations in the Accusation and  
20 the right to cross-examine witnesses.

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

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

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

22 7. Respondent understands that by agreeing to this  
23 Stipulation and Agreement in Settlement, Respondent agrees to  
24 pay, pursuant to Section 10148 of the Business and Professions  
25 Code, the cost of the audit that led to this disciplinary action.  
26 The amount of said costs is \$3,402.92.  
27

1           8. Respondent has received, read, and understands  
2 the "Notice Concerning Costs of Audits". Respondent further  
3 understands that by agreeing to this Stipulation and Agreement  
4 in Settlement, the findings set forth below in the DETERMINATION  
5 OF ISSUES become final, and that the Commissioner may charge  
6 Respondent for the costs of any subsequent audit conducted  
7 pursuant to Section 10148 of the Business and Professions Code  
8 to determine if the violations have been corrected. The maximum  
9 costs of said audit will not exceed \$3,402.92.

10  
11   DETERMINATION OF ISSUES

12           By reason of the foregoing stipulations, admissions  
13 and waivers and solely for the purpose of settlement of the  
14 pending Accusation without hearing, it is stipulated and agreed  
15 that the following Determination of Issues shall be made:

16   I

17           The conduct of Respondent, as described in the  
18 Accusation, constitutes cause for the suspension or revocation  
19 of the real estate license and license rights of Respondent  
20 under the provisions of: Section 10176(e) and (i) of the Code,  
21 and Section 10177(d) of the Business and Professions Code  
22 (hereinafter the "Code") in conjunction with Sections 10145 of  
23 the Code, and Sections 2831.1, 2831.2, and 2832.1 of Title 10,  
24 California Code of Regulations.

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ORDER

I

The real estate broker license and all license rights of Respondent MITCHELL CHARLES CHOBOIAN under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated any provision of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real

1 Estate Commissioner or conditions attaching to the restricted  
2 license.

3 3. Respondent shall not be eligible to apply for the  
4 issuance of an unrestricted real estate license nor for the  
5 removal of any of the conditions, limitations, or restrictions  
6 of a restricted license until two (2) years have elapsed from  
7 the effective date of this Decision.

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

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



1                   6.    Pursuant to Section 10148 of the Business and  
2 Professions Code, Respondent shall pay the Commissioner's  
3 reasonable cost for: a) the audit which led to this disciplinary  
4 action and, b) a subsequent audit to determine if Respondent has  
5 corrected the trust fund violations found in Paragraph I of the  
6 Determination of Issues. In calculating the amount of the  
7 Commissioner's reasonable cost, the Commissioner may use the  
8 estimated average hourly salary for all persons performing  
9 audits of real estate brokers, and shall include an allocation  
10 for travel time to and from the auditor's place of work.  
11 Respondent shall pay such cost within sixty (60) days of  
12 receiving an invoice from the Commissioner detailing the  
13 activities performed during the audit and the amount of time  
14 spent performing those activities. The Commissioner may suspend  
15 the restricted license issued to Respondent pending a hearing  
16 held in accordance with Section 11500, et seq., of the  
17 Government Code, if payment is not timely made as provided for  
18 herein, or as provided for in a subsequent agreement between the  
19 Respondent and the Commissioner. The suspension shall remain in  
20 effect until payment is made in full or until Respondent enters  
21 into an agreement satisfactory to the Commissioner to provide  
22 for payment, or until a decision providing otherwise is adopted  
23 following a hearing held pursuant to this condition.

24                   7.    Respondent shall prior to the effective date of  
25 the Decision provide evidence satisfactory to the Commissioner  
26  
27

1 that Respondent has cured the trust fund shortages alleged in  
2 the Accusation.

3 8. Respondent shall, prior to and as a condition of  
4 the issuance of the restricted license, submit proof  
5 satisfactory to the Commissioner of having taken and  
6 successfully completed the continuing education course on trust  
7 fund accounting and handling specified in subdivision (a) of  
8 Section 10170.5 of the Business and Professions Code. Proof of  
9 satisfaction of this requirement includes evidence that  
10 Respondent has successfully completed the trust fund account and  
11 handling continuing education course within 120 days prior to  
12 the effective date of the Decision in this matter.

13 9. Any restricted real estate broker license issued to  
14 Respondent may be suspended or revoked for a violation by  
15 Respondent of any of the conditions attaching to the restricted  
16 license.

17

18 October 7, 2004

Michael B. Rich

19 DATED

MICHAEL B. RICH, Counsel  
DEPARTMENT OF REAL ESTATE

20

21

\* \* \*

22 I have read the Stipulation and Agreement and its  
23 terms are understood by me and are agreeable and acceptable to  
24 me. I understand that I am waiving rights given to me by the  
25 California Administrative Procedure Act (including but not  
26 limited to Sections 11506, 11508, 11509, and 11513 of the  
27

1 Government Code), and I willingly, intelligently, and  
2 voluntarily waive those rights, including the right of  
3 requiring the Commissioner to prove the allegations in the  
4 Accusation at a hearing at which I would have the right to  
5 cross-examine witnesses against me, and to present evidence in  
6 defense and mitigation of the charges.

7  
8 10/11/04

*Mitchell Charles Choboian*

9 DATED

MITCHELL CHARLES CHOBOIAN  
Respondent

10  
11 I have reviewed the Stipulation and Agreement as to  
12 form and content and have advised my client accordingly.

13  
14 10/5/04

*Bret Hillman*

15 DATED

BRET D. HILLMAN  
Attorney for Respondent

16  
17 \* \* \*

18 The foregoing Stipulation and Agreement for  
19 Settlement is hereby adopted by the Real Estate Commissioner as  
20 his Decision and Order and shall become effective at 12 o'clock  
21 noon on NOVEMBER 4, 2004.

22  
23 IT IS SO ORDERED

October 19, 2004

24 JOHN R. LIBERATOR  
Acting Real Estate Commissioner

25  
26 *John R. Liberator*  
27

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0789

FILED  
JUL 20 2004

DEPARTMENT OF REAL ESTATE

By Loa Frost

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 MITCHELL CHARLES CHOBOIAN; )  
13 Respondents. )

NO. H- 1701 FR

ACCUSATION

14  
15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate  
16 Commissioner of the State of California, for Cause of Accusation  
17 against MITCHELL CHARLES CHOBOIAN doing business as CHOBOIAN  
18 PROPERTY MANAGEMENT is informed and alleges as follows:

19 I

20 Respondent MITCHELL CHARLES CHOBOIAN (hereinafter  
21 referred to as "Respondent") is presently licensed and/or has  
22 license rights under the Real Estate Law, Part 1 of Division 4 of  
23 the California Business and Professions Code (hereafter the  
24 "Code").

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II

The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

III

At all times herein mentioned, Respondent was and is licensed by the Department as a real estate broker.

IV

Within the last three years, Respondent engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, and leased or rented, offered to lease or rent, solicited prospective tenants for, collected rents on, and/or managed certain real properties in California. During the course of the activities described above, Respondent received and disbursed funds in trust on behalf of others.

V

Beginning in April of 2003, the Department conducted an audit of the above business activities of Respondent for the time period of January 1, 2002 through April 30, 2003.

VI

Within the last three years, Respondent deposited the above trust funds into a checking trust bank account at WestAmerica Bank in Suisun City, California, bearing account number 274-418375, in the name of "Choboian Property Management Trust Account." (hereafter referred to as "Trust Account 1").

\\

1 VII

2 In connection with the collection and disbursement of  
3 trust funds, Respondent failed to deposit and maintain the trust  
4 funds in a trust account or neutral escrow depository, or to  
5 deliver them into the hands of the owners of the funds, as  
6 required by Section 10145 of the Code, in such a manner that as  
7 of March 31, 2003, there was a trust fund shortage in the  
8 approximate sum of \$37,268.96 in Trust Account 1.

9 VIII

10 Respondent failed to obtain the prior written consents  
11 of the principals for the reduction of the aggregate balance of  
12 trust funds in Trust Account 1 to an amount less than the  
13 existing aggregate trust fund liability to the owners of said  
14 funds in conformance with Section 2832.1 of the Regulations.

15 IX

16 In connection with said trust funds held on behalf of  
17 another or others, Respondent commingled trust funds with  
18 Respondent's own money or property and converted said trust funds  
19 to his own use and benefit or to purposes not authorized by the  
20 rightful owners of said funds. The exact amount of said  
21 converted trust funds is unknown to Complainant, but well known  
22 to Respondent and is not less than \$15,364.56.

23 X

24 In connection with the receipt and disbursement of  
25 trust funds as above alleged, and as set forth in Audit No. FR-  
26 02-0067, dated July 23, 2003, and accompanying working papers and  
27 exhibits, Respondent:

1 a) Failed to keep a separate record for each  
2 beneficiary or transaction, accounting for all  
3 funds that have been deposited to the broker's  
4 trust account, containing all of the information  
5 required by Section 2831.1 of the Regulations,  
6 including, but not limited to an accurate daily  
7 balance after posting transactions for Trust  
8 Account 1; and,

9 (b) Failed to reconcile the balance of separate  
10 beneficiary or transaction records with the  
11 control records of trust funds received and  
12 disbursed at least once a month, and/or failed  
13 to maintain a record of such reconciliations  
14 as required by Section 2831.2 of the Regulations  
15 for Trust Account 1.

16 XI

17 The acts and/or omissions of Respondents as alleged  
18 above constitute grounds for disciplinary action under the  
19 following provisions:

20 (a) As alleged in Paragraph VII, under Section  
21 10145 of the Code in conjunction with Section  
22 10177(d) of the Code;

23 (b) As alleged in Paragraph VIII, under Section 2832.1  
24 of the Regulations in conjunction with Section  
25 10177(d) of the Code;


26 (c) As alleged in Paragraph IX, under Section 10176(e)  
27 and (i) of the Code;

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(d) As alleged in Paragraph X(a), under Section 10145 of the Code and Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code; and,

(e) As alleged in Paragraph X(b), under Section 10145 of the Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code.

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 the license and all license rights of Respondent 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 provisions of law.

  
JOHN W. SWEENEY  
Deputy Real Estate Commissioner

Dated at Fresno, California  
this 13<sup>th</sup> day of July, 2004.