

FILED

JUL 13 2007

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
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7 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By S. Kelly

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-1808 SF
13 21ST CENTURY FINANCIAL REOURCES,)
14 INC., and ROBERT VAUGHN BURTON,) STIPULATION AND AGREEMENT
15 Respondents.)

16 It is hereby stipulated by and between Respondents
17 21ST CENTURY FINANCIAL REOURCES, INC., a corporation and ROBERT
18 VAUGHN BURTON (hereinafter "Respondents"), individually, acting
19 by and through their counsel, Joseph W. Diehl, Jr., and the
20 Complainant, acting by and through Michael B. Rich, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on July 5, 2005,
23 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
26 Respondents at a formal hearing on the Accusation, which
27 hearing was to be held in accordance with the provisions of the

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

8 3. On July 19, 2005, Respondents 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. Respondents hereby freely and voluntarily withdraw
12 said Notice of Defense. Respondents acknowledges that
13 Respondents understand that by withdrawing said Notice of
14 Defense Respondents will thereby waive Respondents' right to
15 require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that Respondents will waive other
18 rights afforded to Respondents in connection with the hearing
19 such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. Respondents, pursuant to the limitations set forth
23 below, hereby admit that the factual allegations in the
24 Accusation pertaining to Respondents are true and correct and
25 stipulates and agrees that the Real Estate Commissioner shall
26 not be required to provide further evidence of such
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 licenses and license
5 rights as set forth in the "Order" below. In the event that
6 the Commissioner in his discretion does not adopt the
7 Stipulation and Agreement, it shall be void and of no effect,
8 and Respondents shall retain the right to a hearing and
9 proceeding on the Accusation under all the provisions of the
10 APA and shall not be bound by any admission or waiver made
11 herein.

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

17 7. Respondent 21ST FINANCIAL RESOURCES, INC.,
18 understands that by agreeing to this Stipulation and Agreement in
19 Settlement, Respondent agrees to pay, pursuant to Section 10148
20 of the Business and Professions Code, the cost of the audit that
21 led to this disciplinary action. The amount of said costs is
22 \$4,447.30.

23 8. Respondent 21ST FINANCIAL RESOURCES, INC., has
24 received, read, and understands the "Notice Concerning Costs of
25 Audits". Respondent 2ST FINANCIAL RESOURCES, INC., further
26 understands that by agreeing to this Stipulation and Agreement
27 in Settlement, the findings set forth below in the DETERMINATION

1 OF ISSUES become final, and that the Commissioner may charge
2 Respondent for the costs of any subsequent audit conducted
3 pursuant to Section 10148 of the Business and Professions Code
4 to determine if the violations have been corrected. The maximum
5 costs of said audit will not exceed \$4,447.30.

6 9. In lieu of proceeding in this matter in accordance
7 with the provisions of the Administrative Procedure Act
8 (Sections 11400 et seq., of the Business and Professions Code),
9 ROBERT VAUGHN BURTON wishes to voluntarily surrenders his real
10 estate broker license(s) issued by the Department of Real Estate
11 ("Department"), pursuant to Business and Professions Code
12 Section 10100.2.

13 10. Respondent ROBERT VAUGHN BURTON understands that
14 by so voluntarily surrendering his license(s), he may be
15 relicensed as a broker or as a salesperson only by petitioning
16 for reinstatement pursuant to Section 11522 of the Government
17 Code. Respondent ROBERT VAUGHN BURTON also understands that by
18 so voluntarily surrendering his license(s), Respondent agrees to
19 the following:

20 A. The filing of this Stipulation and Agreement
21 shall be deemed as Respondent ROBERT VAUGHN BURTON's declaration
22 and petition for voluntary surrender.

23 B. It shall also be deemed to be an understanding
24 and agreement by Respondent ROBERT VAUGHN BURTON that he waives
25 all rights he has to require the Commissioner to prove the
26 allegations contained in the Accusation filed in this matter at
27 a hearing held in accordance with the provisions of the

1 Administrative Procedure Act (Government Code Sections 11400 et
2 seq.), and that Respondent ROBERT VAUGHN BURTON also waives
3 other rights afforded to him in connection with the hearing such
4 as the right to discovery, the right to present evidence in
5 defense of the allegations in the Accusation and the right to
6 cross-examine witnesses.

7 11. Respondent ROBERT VAUGHN BURTON further agrees
8 that upon acceptance by the Commissioner, as evidenced by an
9 appropriate order, all affidavits and all relevant evidence
10 obtained by the Department in this matter prior to the
11 Commissioner's acceptance, and all allegations contained in the
12 Accusation filed in the Department Case No. H-1808 FR, may be
13 considered by the Department to be true and correct for the
14 purpose of deciding whether to grant relicensure or
15 reinstatement pursuant to Government Code Section 11522.

16 12. Respondent ROBERT VAUGHN BURTON freely and
17 voluntarily surrenders all his licenses and license rights under
18 the Real Estate Law.

19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions
21 and waivers and solely for the purpose of settlement of the
22 pending Accusation without hearing, it is stipulated and agreed
23 that the following Determination of Issues shall be made:

24 I

25 The acts and omissions of Respondent 21ST FINANCIAL
26 RESOURCES, INC., described in the First Cause of Action of the
27 Accusation are grounds for the suspension or revocation of the

1 licenses and license rights of Respondent 21ST FINANCIAL
2 RESOURCES, INC., under the provisions of Section 10145 of the
3 Code and Section 2831, 2831.1 and 2832.1 of Chapter 6, Title 10,
4 California Code of Regulations (hereinafter "Regulations") in
5 conjunction with Section 10177(d) of the Code.

6 ORDER

7 I

8 IT IS HEREBY ORDERED that:

9 A. All licenses and licensing rights of Respondent
10 21ST CENTURY FINANCIAL REOURCES, INC., under the Real Estate Law
11 are indefinitely suspended until such time as said Respondent
12 provides proof satisfactory to the Commissioner that said
13 Respondent has cured or accounted for the shortages identified
14 in the Audit Report dated July 27, 2004, concerning Audit Nos.
15 FR-03-0059 and FR-03-0070. Upon satisfaction of this condition,
16 the indefinite suspension provided in this paragraph shall be
17 stayed.

18 B. All licenses and licensing rights of Respondent
19 21ST CENTURY FINANCIAL REOURCES, INC., under the Real Estate Law
20 are suspended for a period of thirty (30) days from the
21 effective date of this Decision; provided, however, that thirty
22 (30) days of said suspension shall be stayed for two (2) years
23 upon the following terms and conditions:

24 1. Respondent shall obey all laws, rules and
25 regulations governing the rights, duties and responsibilities of
26 a real estate licensee in the State of California;

27 2. That no final subsequent determination be made,

1 after hearing or upon stipulation, that cause for disciplinary
2 action occurred within two (2) years of the effective date of
3 this Decision. Should such a determination be made, the
4 Commissioner may, in his discretion, vacate and set aside the
5 stay order and reimpose all or a portion of the stayed
6 suspension. Should no such determination be made, the stay
7 imposed herein shall become permanent.

8 C. Respondent 21ST CENTURY FINANCIAL REOURCES, INC.,
9 shall within sixty (60) days of receiving an invoice therefor
10 from the Commissioner, pay the Commissioner's costs in the
11 amount of \$4,447.30 of the audit conducted pursuant to Section
12 10148 of the Business and Professions Code that resulted in the
13 determination that Respondent committed the violations described
14 in Paragraph I of the Determination of Issues, above. If
15 Respondent fails to pay such cost within the sixty (60) days,
16 the Commissioner may in his or her discretion indefinitely
17 suspend all license and licensing rights of Respondent under the
18 Real Estate Law until payment is made in full or until
19 Respondent enters into an agreement satisfactory to the
20 Commissioner to provide for payment. Upon payment in full, any
21 indefinite suspension provided in this paragraph shall be
22 stayed.

23 D. Respondent 21ST CENTURY FINANCIAL REOURCES, INC.,
24 shall pay the Commissioner's costs, not to exceed \$4,447.30 of
25 any audit conducted pursuant to Section 10148 of the Business
26 and Professions Code to determine if Respondent has corrected
27 the violations described in Paragraph I of the Determination of

1 Issues, above. In calculating the amount of the Commissioner's
2 reasonable cost, the Commissioner may use the estimated average
3 hourly salary for all persons performing audits of real estate
4 brokers, and shall include an allocation for travel time to and
5 from the auditor's place of work. Respondent shall pay such
6 cost within sixty (60) days of receiving an invoice therefor
7 from the Commissioner detailing the activities performed during
8 the audit and the amount of time spent performing those
9 activities. If Respondent fails to pay such cost within the
10 sixty (60) days, the Commissioner may in his or her discretion
11 indefinitely suspend all license and licensing rights of
12 Respondent under the Real Estate Law until payment is made in
13 full or until Respondent enters into an agreement satisfactory
14 to the Commissioner to provide for payment. Upon payment in
15 full, the indefinite suspension provided in this paragraph shall
16 be stayed.

17 II

18 IT IS HEREBY ORDERED that:

19 A. Respondent ROBERT VAUGHN BURTON's petition for
20 voluntary surrender of his real estate broker license(s) is
21 accepted as of the effective date of this Order as set forth
22 below, based upon the understanding and agreement expressed in
23 Respondent's Declaration incorporated herein as part of this
24 Stipulation and Agreement. Respondent's license
25 certificate(s), pocket card(s) and any branch office license
26 certificate(s) shall be sent to the below listed address so
27 that they reach the Department on or before the effective date

1 of this Order:

2
3 DEPARTMENT OF REAL ESTATE
4 Attn: Licensing Flag Section
5 P. O. Box 187000
6 Sacramento, CA 95818-7000

6 4/26/07
7 DATED

Michael B. Rich
8 MICHAEL B. RICH, Counsel
9 Department of Real Estate

10 * * *

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

22 21ST CENTURY FINANCIAL REOURCES, INC.
23 Respondent

24 4/20/07
25 DATED

26 By: *Linda Ann Kennedy*
27 LINDA ANN KENNEDY,
Designated Broker/Officer

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April 17, 2007
DATED

Robert Vaughn Burton
ROBERT VAUGHN BURTON,
Respondent

Approved as to form and content by counsel for Respondent.

April 25, 2007
DATED

Joseph W. Diehl, Jr.
JOSEPH W. DIEHL, Jr.
Attorney for Respondents
* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent 21ST CENTURY FINANCIAL REOURCES, INC., and Respondent ROBERT VAUGHN BURTON, shall become effective at 12 o'clock noon on AUG 02, 2007.

IT IS SO ORDERED 6/6, 2007.

JEFF DAVI
Real Estate Commissioner
[Signature]

1 I understand that by so voluntarily surrendering my
2 license(s), I may be relicensed as a broker or as a salesperson
3 only by petitioning for reinstatement pursuant to Section 11522
4 of the Government Code. I also understand that by so
5 voluntarily surrendering my license(s), I agree to the
6 following:

7 1. The filing of this Declaration shall be deemed as
8 my petition for voluntary surrender.

9 2. It shall also be deemed to be an understanding
10 and agreement by me that I waive all rights I have to require
11 the Commissioner to prove the allegations contained in the
12 Accusation filed in this matter at a hearing held in accordance
13 with the provisions of the Administrative Procedure Act
14 (Government Code Sections 11400 et seq.), and that I also waive
15 other rights afforded to me in connection with the hearing such
16 as the right to discovery, the right to present evidence in
17 defense of the allegations in the Accusation and the right to
18 cross-examine witnesses.

19 3. I further agree that upon acceptance by the
20 Commissioner, as evidenced by an appropriate order, all
21 affidavits and all relevant evidence obtained by the Department
22 in this matter prior to the Commissioner's acceptance, and all
23 allegations contained in the Accusation filed in the Department
24 Case No. H-1808 FR, may be considered by the Department to be
25 true and correct for the purpose of deciding whether to grant
26 relicensure or reinstatement pursuant to Government Code Section
27 11522.

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4. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed July 16th, 2007, at Paso Robles, California.

Robert Vaughn Burton
ROBERT VAUGHN BURTON

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 Telephone: (916) 227-0789

FILED
JUL 05 2005

DEPARTMENT OF REAL ESTATE

By S. Rey

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11 21ST CENTURY FINANCIAL RESOURCES, INC.,) NO. H-1808 FR
12 and) ACCUSATION
13 ROBERT VAUGHN BURTON,)
14 Respondents.)
15 _____)

16
17 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
18 Commissioner of the State of California, for Causes of Accusation
19 against 21ST CENTURY FINANCIAL RESOURCES, INC., and ROBERT VAUGHN
20 BURTON, is informed and alleges as follows:

21 FIRST CAUSE OF ACTION

22 I

23 Respondents 21ST CENTURY FINANCIAL RESOURCES, INC.,
24 (hereafter referred to as "Respondent CFRI") and ROBERT VAUGHN
25 BURTON (hereafter referred to as "Respondent BURTON") are
26 presently licensed and/or have license rights under the Real

27 ///

1 Estate Law, Part 1 of Division 4 of the California Business and
2 Professions Code (hereafter "the Code").

3 II

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

7 III

8 At all times herein mentioned, Respondent CFRI was and
9 is licensed by the Department of Real Estate (hereafter "the
10 Department") as a real estate broker corporation and through
11 Respondent BURTON as its designated broker officer.

12 IV

13 At all times herein mentioned, Respondent BURTON was
14 and is licensed by the Department as a real estate broker, and
15 individually as the designated broker officer of Respondent
16 CFRI. As said designated officer/broker, Respondent BURTON was
17 at all times mentioned herein responsible pursuant to Section
18 10159.2 of the Code for the supervision of the activities of the
19 officers, agents, real estate licensees and employees of
20 Respondent CFRI for which a license is required.

21 V

22 Whenever reference is made in an allegation in this
23 Accusation to an act or omission of Respondent CFRI, such
24 allegation shall be deemed to mean that the officers, directors,
25 employees, agents and real estate licensees employed by or
26 associated with Respondent CFRI committed such act or omission
27 while engaged in the furtherance of the business or operations of

1 Respondent CFRI and while acting within the course and scope of
2 their corporate authority and employment.

3 VI

4 At all times herein mentioned, Respondent CFRI engaged
5 in the business of, acted in the capacity of, advertised, or
6 assumed to act as a real estate broker within the State of
7 California, including the operation of and conduct of a mortgage
8 loan brokerage business with the public wherein lenders and
9 borrowers were solicited for loans secured directly of
10 collaterally by liens on real property, wherein such loans were
11 arranged, negotiated, processed, and consummated on behalf of
12 others for compensation or in expectation of compensation, and
13 wherein such loans were serviced and payments thereon were
14 collected on behalf of others, and in addition Respondent CFRI
15 conducted its own escrows.

16 VII

17 In so acting as a mortgage loan broker, and as escrow
18 holder and agent, Respondent CFRI accepted or received funds in
19 trust (hereinafter "trust funds") from or on behalf of lenders or
20 investors, borrowers, and others in connection with the
21 solicitation, negotiation, processing, packaging, and
22 consummation of mortgage loans by Respondent CFRI as alleged
23 herein.

24 VIII

25 The aforesaid trust funds accepted or received by
26 Respondent CFRI were deposited or caused to be deposited by
27 Respondent CFRI into one or more bank accounts maintained by

1 Respondent CFRI for the handling of trust funds at Heritage Oaks
2 Bank, 545 - 12th Street, Paso Robles, California:

3 (a) Account No. 1033409, entitled "21st Century
4 Financial Resources Inc. Trustee Loan Servicing"
5 (hereinafter "Trust Account #1"); and,

6 (b) Account No. 1033417, entitled "21st Century
7 Financial Resources Inc. Mortgage Brokers Trust
8 Account Construction & Interest Trust Account"
9 (hereinafter "Trust Account #2").

10 IX

11 Within the three year period next preceding to the
12 filing of this Accusation, in connection with the collection and
13 disbursement of trust funds, Respondent CFRI failed to deposit
14 and maintain the trust funds in a trust account or neutral escrow
15 depository, or to deliver them into the hands of the owners of
16 the funds, as required by Section 10145 of the Code, in such a
17 manner that as of May 31, 2004, there was a trust fund shortage
18 in the approximate sum of \$8,019.99 in Trust Account #1; and, in
19 the approximate sum of \$23,787.35 in Trust Account #2. In so
20 doing, Respondent CFRI failed to obtain the prior written
21 consents of the principals for the reduction of the aggregate
22 balance of trust funds in Trust Account #1 and Trust Account #2
23 to an amount less than the existing aggregate trust fund
24 liability to the owners of said funds in conformance with Section
25 2832.1 of Chapter 6, Title 10, California Code of Regulations
26 (hereinafter "Regulations").

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X

Within the three year period next preceding the filing of this Accusation, in connection with the receipt and disbursement of trust funds as above alleged, Respondent CFRI:

- (a) Failed to maintain a written control record of all trust funds received and disbursed containing all information required by Section 2831 of the Regulations, including but not limited to recordation of all deposits, from whom received, amount of deposit, check numbers and dates of disbursements, recordation of dates of receipt, and recordation of accurate dates of deposit of trust funds for Trust Account #1 and Trust Account #2; and,
- (b) Failed to keep a separate record for each beneficiary or transaction, accounting for all funds that have been deposited to the broker's trust account, containing all of the information required by Section 2831.1 of the Regulations, including, but not limited to an accurate daily balance after posting transactions for Trust Account #1 and Trust Account #2.

XI

The acts and/or omissions of Respondent CFRI as alleged above constitute grounds for disciplinary action under the following provisions:

- (a) As to Respondent CFRI as alleged in Paragraph IX,

1 under Section 10145 of the Code and under Section 2832.1 of the
2 Regulations in conjunction with Section 10177(d) of the Code;

3 (b) As to Respondent CFRI as alleged in Paragraph
4 X(a), under Section 2831 of the Regulations in
5 conjunction with Section 10177(d) of the Code;
6 and,

7 (c) As to Respondent CFRI as alleged in Paragraph
8 X(b), under Section 2831.1 of the Regulations in
9 conjunction with Section 10177(d) of the Code.

10 SECOND CAUSE OF ACTION

11 XII

12 There is hereby incorporated in this Second, separate
13 and distinct Cause of Action, all of the allegations contained in
14 Paragraphs I through XI, inclusive, of the First Cause of Action
15 with the same force and effect as if herein fully set forth.

16 XIII

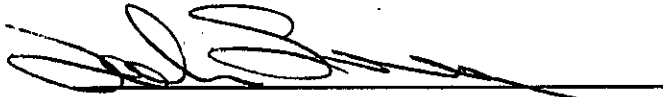
17 At all times above mentioned, Respondent BURTON was
18 responsible, as the designated broker officer of Respondent CFRI,
19 for the supervision and control of the activities conducted on
20 behalf of the corporation by its officers and employees.
21 Respondent BURTON failed to exercise reasonable supervision and
22 control over the mortgage brokering activities of Respondent
23 CFRI. In particular, Respondent BURTON permitted, ratified
24 and/or caused the conduct described in the First Cause of Action,
25 above, to occur, and failed to take reasonable steps, including
26 but not limited to the handling of trust funds, supervision of
27 employees, and the implementation of policies, rules, procedures,

1 and systems to ensure the compliance of the corporation with the
2 Real Estate Law.

3 XIV

4 The above acts and/or omissions of Respondent BURTON
5 constitute grounds for disciplinary action under the provisions
6 of Section 10177(h) of the Code and/or Section 10159.2 of the
7 Code in conjunction with Section 10177(d) of the Code.

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

15
16 
17 JOHN W. SWEENEY
Deputy Real Estate Commissioner

18 Dated at Sacramento,
19 this 30th day of June, 2005.