

FILED
MAY 15 1992
DEPARTMENT OF REAL ESTATE

By Laurie A. Zjan

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
JANET M. JORDAN,)
BARBARA JEAN FELTON,)
P & J SIERRA INCORPORATED,)
Respondent.)

NO. H-2706 SAC
N-39763

DECISION

The Proposed Decision dated April 17, 1992,
of the Administrative Law Judge of the Office of Administrative
Hearings is hereby adopted as the Decision of the Real Estate
Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on June 5, 1992.

IT IS SO ORDERED

5/9, 1992.

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:) No. H-2706 SAC
)
JANET M. JORDAN,) OAH No. N-39763
BARBARA JEAN FELTON,)
P & J SIERRA INCORPORATED,)
)
Respondent.)
_____)

PROPOSED DECISION

On March 26, 1992, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David A. Peters, Counsel, represented the complainant.

Julie B. Gustavson, Attorney at Law, represented respondent Barbara Jean Felton, who was also present.

Evidence was received the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Charles W. Koenig, Deputy Real Estate Commissioner, State of California, filed the Accusation against respondent. Koenig acted in his official capacity.

II

At all times relevant to this matter, respondent was licensed as a real estate broker, license number 0696292, in the State of California. As of April 1, 1989, she had a dba of

Munson Realty with an address of 3220 Diggs Park Drive, Sacramento, California. On May 23, 1989, she was issued a branch license for 2929 El Camino Avenue, Sacramento, California. Her real estate broker's license expired on November 7, 1989, but was reissued on October 18, 1989, with an effective date of November 8, 1989, as noted on the license certification provided by the Department with the same main and branch offices. On October 15, 1990, the branch license for 2929 El Camino Avenue was canceled and a branch license was issued for 2921 El Camino Avenue. Her real estate broker's license will expire on November 7, 1993, if not renewed. The branch license for 2921 El Camino Avenue was still in effect on February 24, 1992, when the License Certification was issued.

III

At all times relevant to this matter, P & J Sierra, Incorporated (Sierra) was a licensed real estate broker corporation with corporation license number 00874495 in the State of California. As of April 1, 1989, Sierra had a main office address of 2929 El Camino Avenue, Suites A and B, Sacramento, California, and a dba of Century 21 Holloway Associates (Holloway) with Dennis D. Dinelli as the designated officer (broker). On April 18, 1989, Dinelli canceled his designated officer status with Holloway and the Holloway corporate license was canceled. On December 5, 1990, the Holloway corporate license was reinstated with William W. Munson as designated officer and a main office address of 2921 El Camino Avenue. On March 4, 1991, Munson canceled his designated officer status with Holloway and the Holloway corporate license was canceled. On March 28, 1991, the corporate license was reinstated with a dba of Holloway Associates (dropping Century 21) with Dennis M. Werking as designated officer and the same main office address. On August 2, 1991, Werking canceled his designated officer status with Holloway, the Holloway corporate license was canceled and the dba of Holloway was canceled.

IV

At all times relevant to this matter, Janet M. Jordan (Jordan) was licensed as a real estate salesperson in the State of California with restricted salesperson license number 00820008. As of April 1, 1989, she was licensed as a restricted real estate salesperson in the employ of Sierra at 2929 El Camino Avenue. Jordan was terminated from the employ of Sierra on April 19, 1989, when Sierra's license was canceled. On July 7, 1989, Jordan's license was activated in the employ of respondent with a business address of 3220 Diggs Park Drive. Jordan was terminated from the employ of respondent on December 18, 1990, because no affidavit was received to transfer the license. On April 15, 1991, Jordan's license was activated in the employ of Sierra at 2921 El Camino Avenue. Jordan was terminated from the employ of

Sierra on August 3, 1991, when Sierra's license was canceled. Jordan's license expired on October 13, 1991, and was not renewed.

V

On April 14, 1989, respondent became the broker for Holloway at the request of Jordan, who with her husband Paul Jordan owned Sierra dba Holloway. Respondent agreed to act as an interim broker while Jordan got her brokers license, which was supposed to be imminent.

Respondent did not become an officer of Sierra dba Holloway, instead, she applied for a branch license for 2929 El Camino Avenue, the office of Holloway. When respondent filed the branch license forms with the Department of Real Estate, she assumed that they were the correct documents to become the broker of record of Sierra dba Holloway. Respondent did not file a dba for use of the name Century 21 Holloway Associates. The branch license was issued effective May 23, 1989. On or about December 18, 1990, respondent disassociated herself from Sierra dba Holloway and sent the Department notice of the change. Respondent apparently filed the wrong documents for that change or they were lost because the Department has no record of the change.

On December 5, 1990, Munson became the designated officer of Sierra dba Holloway.

In December of 1990, Sierra ceased to be a franchise of Century 21 and began to use the dba of Holloway Associates, dropping the Century 21 name. This change occurred while respondent was still working with Holloway.

At no time relevant to this matter was respondent an officer or director of Sierra dba Holloway nor was she legally the designated broker. Respondent was not authorized to sign checks for Sierra dba Holloway.

VI

Respondent was operating her own real estate firm, Munson Realty, while she worked as the broker for Holloway. She was and is an active real estate broker who is actively engaged in the sale of real estate. From mid-April of 1989 through mid-December of 1990, respondent acted as the broker for Sierra dba Holloway. While acting as broker for Holloway, respondent did not delegate in writing any part of her authority and responsibility as broker.

Respondent presented 10 Broker-Salesperson Contracts for the period from April 14, 1989 through June 18, 1990, to show

that she reviewed them and signed them as the broker for Holloway. However, on July 17, 1990, while respondent was acting as the broker for Holloway, Janet Jordan signed as broker on a Broker-Salesperson Contract with a Keith whose last name is illegible. Respondent did not sign or initial it. On June 18, 1990, a Broker-Salesperson Contract with Yasuko S. Coy has the broker's name as "C 21 Holloway Associates". It is not signed or initialed by respondent.

Respondent also failed to review and initial or sign the Real Estate Purchase Contract and Receipt for Deposit, dated March 4, 1990, and the Real Estate Transfer Disclosure Statement, dated March 5, 1990, for real property located at 318 Kelly Court, Sacramento, California.

VII

On or about April 14, 1989, respondent, as broker, signed a Broker-Salesperson Contract with salesperson Jan (Janet) Jordan.

On December 17, 1990, Steven M. Nelson, an employee of the Department, did a broker office survey at the Holloway office on El Camino Avenue. He spoke with respondent. He requested and received from respondent a copy of the Broker-Salesperson Contract with Jordan. He then requested a copy of the commission schedule for Jordan. After a couple of requests, respondent went to get the commission schedule for Jordan. Respondent returned about 25 minutes later and handed it to Nelson. The commission schedule for Jordan is in a document entitled Addendum to Contract of Association. It was dated April 14, 1989, but seemed fresh on December 17, 1990.

The words "Century 21" are nowhere to be found on that document, which was allegedly signed on April 14, 1989 when Holloway Associates was still a franchise of Century 21 and Sierra used the dba Century 21 Holloway Associates. Respondent presented copies of 10 Broker-Salesperson Contracts for Holloway for the period from April 14, 1989 through June 18, 1990, to show that she reviewed and initialed the required documents while acting as broker for Holloway. Seven of those contracts have the commission schedule attached. In each of those commission schedules, the full title of the document is Addendum to Contract of Association Century 21 Holloway Associates and the words Century 21 Real Estate Group, Century 21 Regional Office, Century 21 National or Century 21 Holloway Associates are found in the paragraphs numbered 1, 9, 10 and 14.

There was evidence at the hearing that the references to Century 21 were not removed from Holloway's commission schedules and other documents until mid-December of 1990 when the franchise arrangement with Century 21 was discontinued.

Respondent, when Nelson asked for Jordan's commission schedule, falsely represented that a commission schedule, which had only recently been created and signed, had been signed on April 14, 1989.

VIII

Respondent was not authorized to sign checks on the Sierra dba Holloway bank account. Instead, she authorized the Jordans, who owned the firm, to pay the salespeople their commissions, under respondent's direction.

IX

While acting as broker of Sierra dba Holloway, respondent did not select the salespeople to be hired. They were selected by Jordan but respondent then entered into a written Broker-Salesperson Contract with the salespeople in 10 of the 12 instances for which evidence was presented.

X

After she ceased to act as broker for Sierra dba Holloway, respondent learned that Janet Jordan had independently advertised a few "business opportunities" without respondent's knowledge or approval.

XI

There was no evidence that Jordan operated a real estate sales business in or near Folsom, California.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license for violation of Business and Professions Code section 10177(g) was established by Findings V and VI.

II

Cause for discipline of respondent's license for violation of Business and Professions Code sections 10177(d) and 10159.5 in conjunction with Title 10, California Code of Regulations sections 2731 and 2740 was established by Findings V and VI.

III

Cause for discipline of respondent's license for violation of Business and Professions Code section 10177(d) in conjunction with Title 10, California Code of Regulations section 2725 was established by Findings V and VI.

IV

Cause for discipline of respondent's license for violation of Business and Professions Code section 10177(d) in conjunction with Title 10, California Code of Regulations 2726 was established by Findings VI and VII.

V

Complainant did not establish a violation of Business and Professions Code section 10177(h).

ORDER


All licenses and licensing rights of respondent Barbara Jean Felton 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 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 provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, 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. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
5. Any restricted real estate license issued to respondent pursuant to this Decision shall be suspended for 30 days from the date of issuance of said restricted license.
6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

Dated: _____

April 17, 1992



LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings

FILED
MAR 31 1992
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By *Laurie A. Zier*

* * *

In the Matter of the Accusation of)
JANET M. JORDAN,) NO. H-2706 SAC
BARBARA JEAN FELTON,)
P AND J SIERRA INCORPORATED,)
Respondents.)

DECISION

The Proposed Decision dated February 25, 1992
of Robert E. McCabe, Regional Manager, Department of Real Estate
State of California, is hereby adopted as the Decision of the Real
Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock
noon on April 20, 19 92.

IT IS SO ORDERED 3/27, 19 92.

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

III

At all times herein mentioned, respondent JORDAN was licensed as a restricted real estate salesperson.

IV

At all times herein mentioned, Barbara Jean Felton was licensed as a real estate broker.

V

At all times herein mentioned, respondent SIERRA was licensed as a real estate broker corporation.

VI

At all times herein mentioned, respondents JORDAN and SIERRA were performing acts requiring a real estate license for or in expectation of a compensation.

VII

Within the three-year period immediately preceding the filing of the Accusation and continuing thereafter, respondent JORDAN operated her own real estate sales business located in or near Folsom, California and in or near Sacramento, California, as if respondent JORDAN was a licensed real estate broker including but not limited to respondent JORDAN entering into broker-salesperson agreements in which respondent JORDAN executed said agreements as a real estate broker.

VIII

Within the three-year period immediately preceding the filing of the Accusation and continuing thereafter, respondent SIERRA, a licensed real estate corporation, owned by respondent JORDAN and her husband Paul Jordan, acted as a real estate broker corporation without a designated real estate broker officer using the fictitious business names of Century 21 Holloway Associates and Holloway Associates without having obtained a license bearing said fictitious business names from the Department of Real Estate.

IX

Within the three-year period immediately preceding the filing of the Accusation and continuing thereafter, respondent JORDAN accepted compensation for acts for which a real estate license is required from persons other than the broker under whom respondent JORDAN was employed.

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Within the three-year period immediately preceding the filing of the Accusation and continuing thereafter, respondents JORDAN and SIERRA employed and/or compensation directly or indirectly, and not through the broker under whom respondent JORDAN was licensed, or through a designated broker officer as to respondent SIERRA, a real estate salespersons and/or brokers to perform acts for which a real estate license is required.

PRIOR DISCIPLINARY ACTION

On or about July 28, 1987, in Case No. H-2245 SAC, the Real Estate Commissioner of the State of California issued his Decision revoking respondent JANET M. JORDAN's real estate salesperson license with the right to apply for and obtain a restricted real estate salesperson license on terms and conditions, effective August 17, 1987, for violation of Sections 10176(a), 10176(i) and 10177(j) of the Business and Professions Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against respondent JORDAN exists pursuant to Business and Professions Code Sections 10130, 10137 and 10177(d).

II

Cause for disciplinary action against respondent SIERRA exists pursuant to Business and Professions Code Sections 10137, 10159.5 and 10177(d); and Sections 2731 and 2740 of Title 10, California Code of Regulations.

III

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

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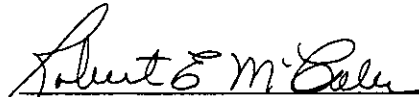
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ORDER

All licenses and licensing rights of respondent
JANET M. JORDAN and respondent P AND J SIERRA INCORPORATED under
the provisions of Part I of Division 4 of the Business and
Professions Code are revoked.

DATED: February 25, 1992



ROBERT E. MCCABE
Northern Area Regional Manager
Department of Real Estate

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 739-3607

FILED
MAR 16 1992
DEPARTMENT OF REAL ESTATE

By *Lucie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
12	JANET M. JORDAN,)	No. H-2706 SAC
13	BARBARA JEAN FELTON,)	FIRST AMENDED
14	P & J SIERRA INCORPORATED,)	<u>ACCUSATION</u>
15	Respondents.)	

16 The Complainant, Charles W. Koenig, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JANET M. JORDAN (hereinafter "respondent JORDAN"), BARBARA
19 JEAN FELTON (hereinafter "respondent FELTON"), and P & J SIERRA
20 INCORPORATED (hereinafter "respondent SIERRA"), is informed and
21 alleges as follows:

22 FIRST CAUSE OF ACCUSATION

23 I

24 The Complainant, Charles W. Koenig, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 against Respondents in his official capacity.

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II

Respondents JORDAN, FELTON and SIERRA are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

III

At all times herein mentioned, respondent JORDAN was licensed as a restricted real estate salesperson.

IV

At all times herein mentioned, respondent FELTON was licensed as a real estate broker.

V

At all times herein mentioned, respondent SIERRA was licensed as a real estate broker corporation.

VI

At all times herein mentioned, respondents JORDAN, FELTON and SIERRA were performing acts requiring a real estate license for or in expectation of a compensation.

VII

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, respondent FELTON employed respondent JORDAN, pro forma, as a real estate salesperson. In fact, respondent FELTON permitted respondent JORDAN to operate her own real estate sales business located in or near Folsom, California and in or near Sacramento, California, as if respondent JORDAN were a licensed real estate broker. Respondent FELTON's failure to reasonably supervise respondent JORDAN's activities for

1 which a real estate license was required included but is not
2 limited to the acts and omissions set forth below.

3 VIII

4 Beginning on or about April 14, 1989 and continuing
5 through on or about December 17, 1990, respondent FELTON permitted
6 respondent JORDAN to operate respondent JORDAN's real estate sales
7 business as described in Paragraph VII above, by and through
8 respondent SIERRA a licensed real estate corporation, owned by
9 respondent JORDAN and her husband Paul Jordan, acting without a
10 designated real estate broker officer and using the fictitious
11 business names of Century 21 Holloway Associates and Holloway
12 Associates. At no time material herein was respondent FELTON the
13 designated broker officer for respondent SIERRA nor had respondent
14 FELTON obtained a license bearing said fictitious business names
15 from the Department of Real Estate. At no time was respondent
16 FELTON an officer or director of respondent SIERRA.

17 IX

18 Beginning on or about April 14, 1989 and continuing
19 through on or about December 17, 1990, in connection with the real
20 estate sales activities described in Paragraph VII above,
21 respondent FELTON failed to review, initial and date within five
22 (5) working days all instruments having a material effect upon a
23 party's rights or obligations prepared by respondent FELTON's
24 employees, associates, or real estate salespersons.

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X

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, respondent FELTON failed to have a written agreement with each of her salespersons, or as a broker under a broker-salesperson arrangement, dated and signed covering material aspects of the relationship between the parties including supervision of licensed activities, duties and compensation.

XI

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, in connection with the real estate sales activities described in Paragraph VII above, respondent FELTON permitted respondent JORDAN to enter into broker-salesperson agreements in which respondent JORDAN executed said agreements as a real estate broker.

XII

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, in connection with the real estate sales activities described in Paragraph VII above, respondent FELTON permitted respondent JORDAN a real estate salesperson to employ or compensate directly or indirectly, and not through the broker under whom she was licensed, real estate salespersons and/or brokers to perform acts for which a real estate license is required.

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1 XIII

2 The acts and/or omissions of respondent FELTON described
3 above are grounds for the suspension or revocation of respondent
4 FELTON's license under the following sections of the Code and of
5 Title 10, California Code of Regulations (hereinafter
6 "Regulations"):

7 1. As to Paragraphs VII, VIII, IX, X, XI and XII under
8 Section 10177(h) of the Code. In the alternative as to Paragraphs
9 VII, VIII, IX, X, XI and XII under Section 10177(g) of the Code;

10 2. As to Paragraph VIII under Section 10177(d) of the
11 Code in conjunction with Sections 2731 and 2740 of the Regulations
12 and Section 10159.5 of the Code;

13 3. As to Paragraph IX under Section 10177(d) of the
14 Code in conjunction with Section 2725 of the Regulations; and

15 4. As to Paragraph X under Section 10177(d) of the Code
16 in conjunction with Section 2726 of the Regulations.

17 SECOND CAUSE OF ACCUSATION

18 XIII

19 There is hereby incorporated in this second, separate
20 and distinct cause of Accusation all of the allegations contained
21 in Paragraphs I, II, III, IV, V and VI of the First Cause of
22 Accusation with the same force and effect as if herein fully set
23 forth.

24 XIV

25 Within the three-year period immediately preceding the
26 filing of this Accusation and continuing thereafter, respondent
27 JORDAN operated her own real estate sales business located in or

1 near Folsom, California and in or near Sacramento, California, as
2 if respondent JORDAN was a licensed real estate broker including
3 but not limited to respondent JORDAN entering into broker-
4 salesperson agreements in which respondent JORDAN executed said
5 agreements as a real estate broker.

6 XV

7 Within the three-year period immediately preceding the
8 filing of this Accusation and continuing thereafter, respondent
9 SIERRA, a licensed real estate corporation, owned by respondent
10 JORDAN and her husband Paul Jordan, acted as a real estate broker
11 corporation without a designated real estate broker officer using
12 the fictitious business names of Century 21 Holloway Associates
13 and Holloway Associates without having obtained a license bearing
14 said fictitious business names from the Department of Real Estate.

15 XV

16 Within the three-year period immediately preceding the
17 filing of this Accusation and continuing thereafter, respondent
18 JORDAN accepted compensation for acts for which a real estate
19 license is required from persons other than the broker under whom
20 respondent JORDAN was employed.

21 XVI

22 Within the three-year period immediately preceding the
23 filing of this Accusation and continuing thereafter, respondents
24 JORDAN and SIERRA employed and/or compensation directly or
25 indirectly, and not through the broker under whom respondent
26 JORDAN was licensed, or through a designated broker officer as to

27 ///

1 respondent SIERRA, a real estate salespersons and/or brokers to
2 perform acts for which a real estate license is required.

3 XVII

4 The acts and/or omissions of respondents JORDAN and
5 SIERRA described in this Second Cause of Accusation are grounds
6 for the suspension or revocation of respondent JORDAN's and
7 respondent SIERRA's licenses under the following sections of the
8 Code and Regulations:

9 1. As to Paragraph XIV under Sections 10130 and 10132
10 of the Code in conjunction with Section 10177(d) of the Code as to
11 respondent JORDAN;

12 2. As to Paragraph XV under Sections 10130 and 10159.5
13 of the Code and Sections 2731 and 2740 of the Regulations in
14 conjunction with Section 10177(d) of the Code as to respondent
15 SIERRA;

16 3. As to Paragraph XV under Section 10137 of the Code
17 as to respondent JORDAN; and

18 4. As to Paragraph XVII under Section 10137 of the Code
19 as to respondents JORDAN and SIERRA.

20 PRIOR DISCIPLINARY ACTION

21 On or about July 28, 1987, in Case No. H-2245 SAC, the
22 Real Estate Commissioner of the State of California issued his
23 Decision revoking respondent JANET M. JORDAN's real estate
24 salesperson license with the right to apply for and obtain a
25 restricted real estate salesperson license on terms and
26 conditions, effective August 17, 1987, for violation of Sections

27 ///

1 10176(a), 10176(i) and 10177(j) of the Business and Professions
2 Code.

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

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CHARLES W. KOENIG
Deputy Real Estate Commissioner

13 Dated at Sacramento, California,

14 this 12th day of March, 1992.

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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of

JANET M. JORDAN,
BARBARA JEAN FELTON,
P & J SIERRA INCORPORATED,



Case No. H-2706 SAC

OAH No. N 39763

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, 501 J Street, Suite 220 (Second Floor Hearing Rooms),
Sacramento, CA 95814
on the 26th & 27th day of March, 19 92, at the hour of 9:00 AM, or as soon thereafter
as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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 20, 1991

By David A. Peters
DAVID A. PETERS *Counsel*

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

FILED
AUG 26 1991
DEPARTMENT OF REAL ESTATE

5 Telephone: (916) 739-3607

By *Laurie A. Zan*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JANET M. JORDAN,) No. H-2706 SAC
13 BARBARA JEAN FELTON,) ACCUSATION
14 P & J SIERRA INCORPORATED,)
15 Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JANET M. JORDAN (hereinafter "respondent JORDAN"), BARBARA
19 JEAN FELTON (hereinafter "respondent FELTON"), and P & J SIERRA
20 INCORPORATED (hereinafter "respondent SIERRA"), is informed and
21 alleges as follows:

22 FIRST CAUSE OF ACCUSATION

23 I

24 The Complainant, Charles W. Koenig, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 against Respondents in his official capacity.

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II

Respondents JORDAN, FELTON and SIERRA are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

III

At all times herein mentioned, respondent JORDAN was licensed as a restricted real estate salesperson.

IV

At all times herein mentioned, respondent FELTON was licensed as a real estate broker.

V

At all times herein mentioned, respondent SIERRA was licensed as a real estate broker corporation.

VI

At all times herein mentioned, respondents JORDAN, FELTON and SIERRA were performing acts requiring a real estate license for or in expectation of a compensation.

VII

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, respondent FELTON employed respondent JORDAN, pro forma, as a real estate salesperson. In fact, respondent FELTON permitted respondent JORDAN to operate her own real estate sales business located in or near Folsom, California and in or near Sacramento, California, as if respondent JORDAN were a licensed real estate broker. Respondent FELTON's failure to reasonably supervise respondent JORDAN's activities for

1 which a real estate license was required included but is not
2 limited to the acts and omissions set forth below.

3 VIII

4 Beginning on or about April 14, 1989 and continuing
5 through on or about December 17, 1990, respondent FELTON permitted
6 respondent JORDAN to operate respondent JORDAN's real estate sales
7 business as described in Paragraph VII above, by and through
8 respondent SIERRA a licensed real estate corporation, owned by
9 respondent JORDAN and her husband Paul Jordan, acting without a
10 designated real estate broker officer and using the fictitious
11 business names of Century 21 Holloway Associates and Holloway
12 Associates. At no time material herein was respondent FELTON the
13 designated broker officer for respondent SIERRA nor had respondent
14 FELTON obtained a license bearing said fictitious business names
15 from the Department of Real Estate. At no time was respondent
16 FELTON an officer or director of respondent SIERRA.

17 IX

18 Beginning on or about April 14, 1989 and continuing
19 through on or about December 17, 1990, in connection with the real
20 estate sales activities described in Paragraph VII above,
21 respondent FELTON failed to review, initial and date within five
22 (5) working days all instruments having a material effect upon a
23 party's rights or obligations prepared by respondent FELTON's
24 employees, associates, or real estate salespersons.

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Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, respondent FELTON failed to have a written agreement with each of her salespersons, or as a broker under a broker-salesperson arrangement, dated and signed covering material aspects of the relationship between the parties including supervision of licensed activities, duties and compensation.

XI

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, in connection with the real estate sales activities described in Paragraph VII above, respondent FELTON permitted respondent JORDAN to enter into broker-salesperson agreements in which respondent JORDAN executed said agreements as a real estate broker.

XII

Beginning on or about April 14, 1989 and continuing through on or about December 17, 1990, in connection with the real estate sales activities described in Paragraph VII above, respondent FELTON permitted respondent JORDAN a real estate salesperson to employ or compensate directly or indirectly, and not through the broker under whom she was licensed, real estate salespersons and/or brokers to perform acts for which a real estate license is required.

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XIII

The acts and/or omissions of respondent FELTON described above are grounds for the suspension or revocation of respondent FELTON's license under the following sections of the Code and of Title 10, California Code of Regulations (hereinafter "Regulations"):

1. As to Paragraphs VII, VIII, IX, X and XI under Section 10177(h) of the Code. In the alternative as to Paragraphs VII, VIII, IX, X and XI under Section 10177(g) of the Code;

2. As to Paragraph VIII under Section 10177(d) of the Code in conjunction with Sections 2731 and 2740 of the Regulations and Section 10159.5 of the Code;

3. As to Paragraph IX under Section 10177(d) of the Code in conjunction with Section 2725 of the Regulations; and

4. As to Paragraph X under Section 10177(d) of the Code in conjunction with Section 2726 of the Regulations.

SECOND CAUSE OF ACCUSATION

XIII

There is hereby incorporated in this second, separate and distinct cause of Accusation all of the allegations contained in Paragraphs I, II, III, IV, V and VI of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XIV

Within the three-year period immediately preceding the filing of this Accusation and continuing thereafter, respondent JORDAN operated her own real estate sales business located in or

1 near Folsom, California and in or near Sacramento, California, as
2 if respondent JORDAN was a licensed real estate broker including
3 but not limited to respondent JORDAN entering into broker-
4 salesperson agreements in which respondent JORDAN executed said
5 agreements as a real estate broker.

6 XV

7 Within the three-year period immediately preceding the
8 filing of this Accusation and continuing thereafter, respondent
9 SIERRA, a licensed real estate corporation, owned by respondent
10 JORDAN and her husband Paul Jordan, acted as a real estate broker
11 corporation without a designated real estate broker officer using
12 the fictitious business names of Century 21 Holloway Associates
13 and Holloway Associates without having obtained a license bearing
14 said fictitious business names from the Department of Real Estate.

15 XV

16 Within the three-year period immediately preceding the
17 filing of this Accusation and continuing thereafter, respondent
18 JORDAN accepted compensation for acts for which a real estate
19 license is required from persons other than the broker under whom
20 respondent JORDAN was employed.

21 XVI

22 Within the three-year period immediately preceding the
23 filing of this Accusation and continuing thereafter, respondents
24 JORDAN and SIERRA employed and/or compensation directly or
25 indirectly, and not through the broker under whom respondent
26 JORDAN was licensed, or through a designated broker officer as to

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1 respondent SIERRA, a real estate salespersons and/or brokers to
2 perform acts for which a real estate license is required.

3 XVII

4 The acts and/or omissions of respondents JORDAN and
5 SIERRA described in this Second Cause of Accusation are grounds
6 for the suspension or revocation of respondent JORDAN's and
7 respondent SIERRA's licenses under the following sections of the
8 Code and Regulations:

9 1. As to Paragraph XIV under Sections 10130 and 10132
10 of the Code in conjunction with Section 10177(d) of the Code as to
11 respondent JORDAN;

12 2. As to Paragraph XV under Sections 10130 and 10159.5
13 of the Code and Sections 2731 and 2740 of the Regulations in
14 conjunction with Section 10177(d) of the Code as to respondent
15 SIERRA;

16 3. As to Paragraph XV under Section 10137 of the Code
17 as to respondent JORDAN; and

18 4. As to Paragraph XVII under Section 10137 of the Code
19 as to respondents JORDAN and SIERRA.

20 PRIOR DISCIPLINARY ACTION

21 On or about July 28, 1987, in Case No. H-2245 SAC, the
22 Real Estate Commissioner of the State of California issued his
23 Decision revoking respondent JANET M. JORDAN's real estate
24 salesperson license with the right to apply for and obtain a
25 restricted real estate salesperson license on terms and
26 conditions, effective August 17, 1987, for violation of Sections

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1 10176(a), 10176(i) and 10177(j) of the Business and Professions
2 Code.

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

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CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 26th day of August, 1991.