

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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7

FILED
SEP 17 1998
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zim*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 STEVEN JOHN DEPA,) NO. H-3371 SAC
13 Respondent.) STIPULATION AND AGREEMENT
14

15 It is hereby stipulated by and between STEVEN JOHN DEPA
16 (hereinafter "Respondent "), and the Complainant, acting by and
17 through David A. Peters, Counsel for the Department of Real
18 Estate, as follows for purpose of settling and disposing of the
19 Accusation filed June 26, 1998 in this matter:

20 1. All issues which were to be contested and all
21 evidence which was to be presented by Complainant and Respondent
22 at a formal hearing on the Accusation, which hearing was to be
23 held in accordance with the provisions of the Administrative
24 Procedure Act (APA), shall instead and in place thereof be
25 submitted solely on the basis of the provisions of this
26 Stipulation and Agreement.

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H-3371 SAC

STIPULATION OF
STEVEN JOHN DEPA

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

3. On July 10, 1998, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he waives other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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1 Business and Professions Code in conjunction with Section
2 10145(a)(1) of the Business and Professions Code.

3 ORDER

4 I

5 A. The real estate broker license and all license
6 rights of Respondent STEVEN JOHN DEPA under the Real Estate Law
7 are revoked.

8 B. A restricted real estate broker license shall be
9 issued to Respondent pursuant to Business and Professions Code
10 Section 101565.5, if Respondent makes application therefor and
11 pays to the Department the appropriate fee for said license within
12 ninety (90) days from the effective date of this Order.

13 C. The restricted license issued to Respondent shall
14 be subject to all the provisions of Section 10156.7 of the
15 Business and Professions Code and to the following limitations,
16 conditions and restrictions imposed under authority of Section
17 10156.6 of that Code:

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

24 (2) The restricted license issued to Respondent may be
25 suspended prior to hearing by Order of the Real
26 Estate Commissioner on evidence satisfactory to the
27 Commissioner that Respondent has violated

1 provisions of the California Real Estate Law, the
2 Subdivided Lands Law, Regulations of the Real
3 Estate Commissioner or conditions attaching to the
4 restricted license.

5 (3) Respondent shall not be eligible to apply for the
6 issuance of an unrestricted real estate license nor
7 for the removal of any of the conditions,
8 limitations or restrictions of a restricted license
9 . until one (1) year has elapsed from the effective
10 date of this Decision.

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

23 E. Respondent shall, within six (6) months from the
24 effective date of this Decision, take and pass the Professional
25 Responsibility Examination administered by the Department
26 including the payment of the appropriate examination fee. If
27 Respondent fails to satisfy this condition, the Commissioner may



1 order the suspension of Respondent's license until Respondent
2 passes the examination.

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

7
8 8/12/98
9 DATED

David A. Peters
10 DAVID A. PETERS, Counsel
11 DEPARTMENT OF REAL ESTATE

12 * * *

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

24 8/20/98
25 DATED

Steven John DePa
26 STEVEN JOHN DEPA
27 Respondent

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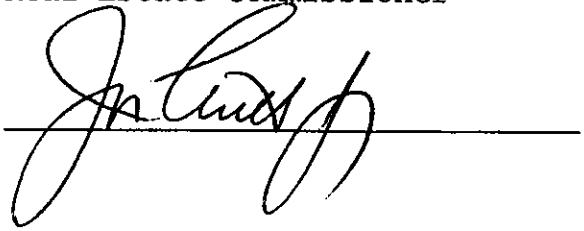
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The foregoing Stipulation and Agreement for Settlement.
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
October 8, 1998.

IT IS SO ORDERED 9/9, 1998.

JIM ANTT, JR.
Real Estate Commissioner



FILED
JUL 28 1998

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
Laurie A. Zain

In the Matter of the Accusation of

STEVEN JOHN DEPA,

}

Case No. H-3371 SAC

OAH No. N1998070280

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 560 J Street, Suite 340/360,
Sacramento, CA 95814

on September 8th and 9th, 1998, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You
are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent
yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the
Department may take disciplinary action against you based upon any express admission or other evidence including
affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses
testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the
production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who
does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 28, 1998

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

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED
JUN 26 1998
DEPARTMENT OF REAL ESTATE

By *Luis A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 STEVEN JOHN DEPA,)
13 Respondent.)
_____)

NO. H-3371 SAC

ACCUSATION

14
15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against STEVEN JOHN DEPA (hereinafter "Respondent"), is informed
18 and alleges as follows:

19 I

20 The Complainant, Charles W. Koenig, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law (Part 1 of Division 4 of the
26 California Business and Professions Code) (hereinafter "Code"), as
27 a real estate broker.



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III

At all times material herein, Respondent, while in the employ of real estate broker Martin Thomas Luger, was performing acts requiring a real estate license for or in expectation of a compensation.

IV

On or about September 6, 1996, Steven and Pamela Trott, (hereinafter "Buyers") submitted an offer, by and through Respondent, to purchase certain real property commonly known as 3369 Keefer Road, Chico, California (hereinafter "the Subject Property") owned by GE Capital Mortgage Services, Inc. (hereinafter "Seller"). . . Said offer recited that a \$5,490.00 deposit was being held in the form of a personal check from the Buyers payable to real estate company representing the Buyer and thereafter to be endorsed over to the escrow holder to be held by Buyers' agent uncashed until acceptance of the agreement by Seller and then delivered to Escrow Holder as a deposit to be applied, when escrow is opened to the purchase price of \$183,000.00.

V

On or about September 6, 1996, Respondent in connection with the offer described in Paragraph IV above, received the \$5,490.00 deposit in the form of a check from the Buyers made payable to Remax of Chico.

VI

On or after September 13, 1996, the Seller accepted the Buyers' offer described in Paragraph IV above.

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VII

On or about September 13, 1996, escrow on the sale of the Subject Property was opened at Stewart Title Company.

VIII

Beginning on or about September 14, 1996 and continuing through on or about November 7, 1996, Respondent failed to deposit the \$5,490.00 into a neutral escrow depository, failed to place the funds into the hands of the broker's principal and failed to place the funds into a trust fund bank account in violation of Section 10145(a)(1) of the Code.

IX

The acts and omissions of Respondent set forth above constitute a violation of Section 10145(a)(1) of the Code in conjunction with Section 10177(d) of the Code, and are cause for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

In the alternative, the acts and omissions of Respondent set forth above constitute negligence or incompetence in performing acts for which a real estate license is required, and are cause under Section 10177(g) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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

8 
9 CHARLES W. KOENIG
10 Deputy Real Estate Commissioner

11 Dated at Sacramento, California
12 this 23rd day of June, 1998.

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