

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

FILED
SEP 10 2001

DEPARTMENT OF REAL ESTATE

Laurie A. Zia

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) No. H-3570 SAC
11)
12 REBECCA LYNN KING,) OAH No. N-2001030624
13) STIPULATION AND AGREEMENT
14 Respondent.)

15 It is hereby stipulated by and between Respondent
16 REBECCA LYNN KING (hereinafter "KING" or "Respondent"),
17 individually and by and through Stephen S. Brand, Esq.,
18 Respondent's attorney of record herein, and the Complainant,
19 acting by and through James L. Beaver, Counsel for the
20 Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on March 1, 2001
22 in this matter (hereinafter "the Accusation"):

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

DRK

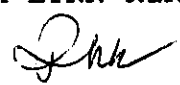
1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

7 3. On March 16, 2001, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense
13 Respondent will thereby waive Respondent's right to require the
14 Commissioner to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the
16 APA and that Respondent will waive other rights afforded to
17 Respondent in connection with the hearing such as the right to
18 present evidence in defense of the allegations in the Accusation
19 and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations in the
22 Accusation are true and correct and stipulates and agrees that
23 the Real Estate Commissioner shall not be required to provide
24 further evidence of such allegations.

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27 ///



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 Respondent's real estate license and license rights
5 as set forth in the "Order" below. In the event that the
6 Commissioner in his discretion does not adopt the Stipulation
7 and Agreement, it shall be void and of no effect, and Respondent
8 shall retain the right to a hearing and proceeding on the
9 Accusation under all the provisions of the APA and shall not be
10 bound by any admission or waiver made herein.

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

16 7. Respondent understands that by agreeing to this
17 Stipulation and Agreement, Respondent agrees to pay, pursuant to
18 Section 10148 of the California Business and Professions Code,
19 the cost of the audit which resulted in the determination that
20 Respondent committed the trust fund violation(s) found in
21 paragraph I, below, of the Determination of Issues. The amount
22 of said costs is \$4,423.72.

23 8. Respondents further understands that by agreeing
24 to this Stipulation and Agreement in Settlement, the findings
25 set forth below in the Determination Of Issues become final, and
26 that the Commissioner may charge said Respondent for the costs
27 of any audit conducted pursuant to Section 10148 of the



1 California Business and Professions Code to determine if the
2 violations have been corrected. The maximum costs of said audit
3 shall not exceed \$4,423.72.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions
6 and waivers and solely for the purpose of settlement of the
7 pending Accusation without hearing, it is stipulated and agreed
8 that the following Determination of Issues shall be made:

9 I

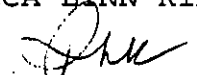
10 The acts and omissions of Respondent as described in
11 the Accusation are grounds for the suspension or revocation of
12 the licenses and license rights of Respondent under the
13 following provisions of the California Business and Professions
14 Code (hereinafter "the Code") and/or Chapter 6, Title 10,
15 California Code of Regulations (hereinafter "the Regulations"):

16 (a) As to Paragraph VI(a), under Section 2831 of the
17 Regulations in conjunction with Sections 10145 and 10177(d) of
18 the Code;

19 (b) As to Paragraph VI(b), under Section 2831.2 of
20 the Regulations in conjunction with Sections 10145 and 10177(d)
21 of the Code;

22 (c) As to Paragraph VI(c), under Section 2832(a) of
23 the Regulations in conjunction with Sections 10145 and 10177(d)
24 of the Code;

25 (d) As to Paragraph VI(d), under Section 2834 of the
26 Regulations in conjunction with Sections 10145 and 10177(d) of
27 the Code;



1 (e) As to Paragraph VI(c), under Section 2832.1 of
2 the Regulations in conjunction with Sections 10145 and 10177(d)
3 of the Code; and

4 (f) As to Paragraph VII, under Section 2715 of the
5 Regulations in conjunction with Section 10177(d) of the Code.

6 ORDER

7 I

8 All licenses and licensing rights of Respondent
9 REBECCA LYNN KING under the Real Estate Law are revoked;
10 provided, however, a restricted real estate broker license shall
11 be issued to said Respondent pursuant to Section 10156.5 of the
12 Business and Professions Code if, within 90 days from the
13 effective date of the Decision entered pursuant to this Order,
14 Respondent KING:

15 (a) Pays the sum of \$4,423.72 to the California
16 Department of Real Estate as and for the cost of the audit which
17 resulted in the determination that Respondent committed the
18 trust fund violation(s) found in paragraph I of the
19 Determination of Issues; and

20 (b) Makes application for the restricted license and
21 pays to the Department of Real Estate the appropriate fee
22 therefor.

23 The restricted license issued to Respondent shall be
24 subject to all of the provisions of Section 10156.7 of the
25 Business and Professions Code and to the following limitations,
26 conditions and restrictions imposed under authority of Section
27 10156.6 of that Code:

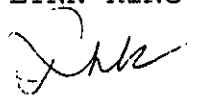


1 1. The restricted license issued to Respondent may
2 be suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 2. The restricted license issued to Respondent may
7 be suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

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

17 4. Pursuant to Section 10148 of the Business and
18 Professions Code, Respondent shall pay the Commissioner's
19 reasonable cost, not to exceed \$4,423.72, for an audit to
20 determine if Respondent has corrected the trust fund
21 violation(s) found in paragraph I of the Determination of
22 Issues. In calculating the amount of the Commissioner's
23 reasonable cost, the Commissioner may use the estimated average
24 hourly salary for all persons performing audits of real estate
25 brokers, and shall include an allocation for travel time to and
26 from the auditor's place of work. Respondent shall pay such
27 cost within 45 days of receiving an invoice from the



1 Commissioner detailing the activities performed during the audit
2 and the amount of time spent performing those activities. The
3 Commissioner may suspend the restricted license issued to
4 respondent pending a hearing held in accordance with Section
5 11500, et seq., of the Government Code, if payment is not timely
6 made as provided for herein, or as provided for in a subsequent
7 agreement between the Respondent and the Commissioner. The
8 suspension shall remain in effect until payment is made in full
9 or until Respondent enters into an agreement satisfactory to the
10 Commissioner to provide for payment, or until a decision
11 providing otherwise is adopted following a hearing held pursuant
12 to this condition.

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

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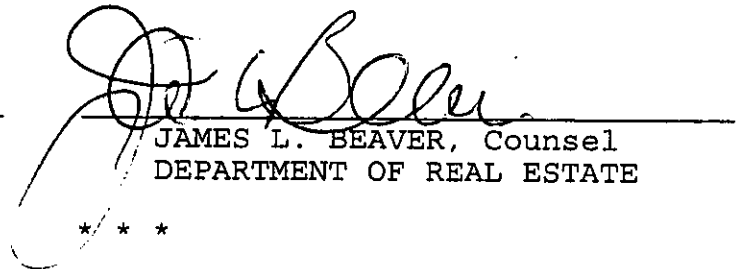
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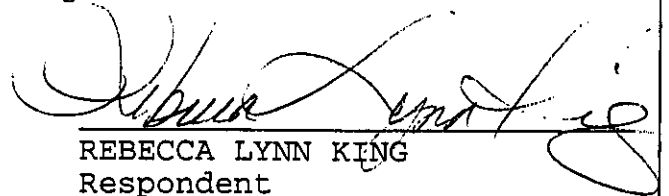
1 6. Respondent shall, within six (6) months from the
2 issuance of the restricted license, take and pass the
3 Professional Responsibility Examination administered by the
4 Department, including the payment of the appropriate examination
5 fee. If Respondent fails to satisfy this condition, the
6 Commissioner may order the suspension of the restricted license
7 until Respondent passes the examination.

8
9 August 6, 2001
10 DATED

11 
12 JAMES L. BEAVER, Counsel
13 DEPARTMENT OF REAL ESTATE
14 * * *

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

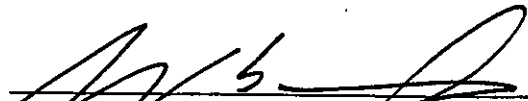
27 8/1/01
 DATED


REBECCA LYNN KING
Respondent

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1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my clients accordingly.

3
4 8/1/01
5 DATED

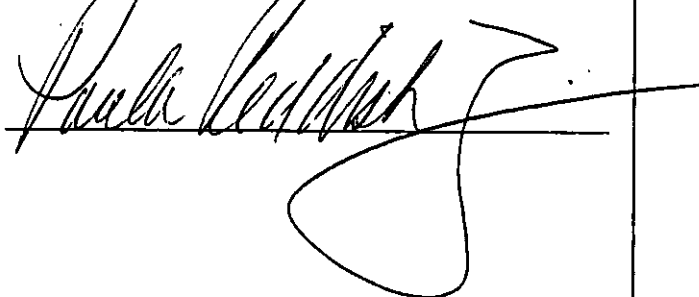
6 
7 STEPHEN S. BRAND, ESQ.
8 Attorney for Respondent

9 * * *

10 The foregoing Stipulation and Agreement for Settlement
11 is hereby adopted by the Real Estate Commissioner as his
12 Decision and Order and shall become effective at 12 o'clock noon
13 on OCTOBER 1 2001.

14 IT IS SO ORDERED August 22, 2001.

15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

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

FILED

APR - 9 2001

DEPARTMENT OF REAL ESTATE

By *Lucie A. Zinn*

In the Matter of the Accusation of

REBECCA LYNN KING,

}
}

Case No. H-3570 SAC

OAH No. N-2001030624

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 MONDAY, AUGUST 6, 2001, 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.

Dated: APRIL 9, 2001

DEPARTMENT OF REAL ESTATE
By *James L. Bever*
JAMES L. BEVER Counsel

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box-187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 (916) 227-0788 (Direct)

FILED

MAR - 1 2001

DEPARTMENT OF REAL ESTATE

By *Laurie G. Jain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No.: H-3570 SAC
12 REBECCA LYNN KING,) ACCUSATION
13 Respondent.)
14 _____)

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

19 I

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

23 II

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

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III

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

IV

In so acting as a real estate broker, as described in Paragraph III above, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners, tenants and others in connection with the property management activities described in Paragraph III, above, and thereafter from time to time made disbursements of said funds.

V

Some but not necessarily all of said trust funds accepted or received by Respondent were deposited or caused to be deposited by Respondent into one or more bank accounts (hereinafter "trust fund accounts") maintained by Respondent for the handling of trust funds, including but not necessarily limited to the "King Properties ITF Rebecca L. King" account,

1 Account No. 1-534-0115-3066 (hereinafter "Account #1")
2 maintained by Respondent at US Bank.
3

4 VI

5 Within the three year period next preceding the filing
6 of this Accusation, in connection with the collection and
7 disbursement of said trust funds, Respondent:

8 (a) Failed to keep a columnar record in chronological
9 sequence of all trust funds received and disbursed from Account
10 #1, as required by Section 2831 of Chapter 6, Title 10,
11 California Code of Regulations (hereinafter "the Regulations");

12 (b) Failed to reconcile, at least once a month, the
13 balance of all separate beneficiary or transaction records with
14 the record of all trust funds received and disbursed from
15 Account #1;

16 (c) Failed to place trust funds entrusted to
17 Respondent into the hands of a principal on whose behalf the
18 funds were received, into a neutral escrow depository, or into a
19 trust fund account in the name of Respondent as trustee at a
20 bank or other financial institution, in conformance with the
21 requirements of Section 10145 of the Code and Section 2832(a) of
22 the Regulations, in that Respondent placed such funds in Account
23 #1, an account that was not in the name of Respondent as
24 trustee;

25 (d) Authorized Matthew Chiofola, an unlicensed person
26 without fidelity bond coverage, to make disbursements from
27 Account #1; and

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2 (e) Caused, suffered or permitted the balance of
3 funds in Account #1 to be reduced to an amount which, as of
4 October 20, 2000, was approximately \$59,211.29 less than the
5 aggregate liability of Respondent to all owners of such funds,
6 without the prior written consent of the owners of such funds.

7
8 VII

9 Within the three year period next preceding the filing
10 of this Accusation, in course of the property management
11 business described in Paragraph III, above, Respondent changed
12 the location of Respondent's principal place of business for
13 brokerage activities from 140 "B" Street, Suite 6, Davis,
14 California, to 1260 Lake Blvd. #285, Davis, California, without
15 notifying the Real Estate Commissioner of the change and
16 thereafter failed to maintain on file with the Real Estate
17 Commissioner the address, 1260 Lake Boulevard, #285, Davis,
18 California, of Respondent's principal place of business for
19 brokerage activities.

20
21 PRIOR DISCIPLINARY PROCEEDINGS

22 Effective December 16, 1982, in Case No. H-1880 SAC, a
23 Decision was issued by the Real Estate Commissioner determining
24 that cause existed for denial of Respondent's application for a
25 real estate salesperson license under the provisions of Section
26 10130 of the Code in conjunction with Section 10177(d) of the
27 Code, but granting Respondent the right to the issuance of a
restricted real estate salesperson license, subject to terms,
conditions and restrictions specified in said Decision.

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VIII

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the following provisions of the Regulations:

(a) As to Paragraph VI(a), under Section 2831 of the Regulations in conjunction with Sections 10145 and 10177(d) of the Code;

(b) As to Paragraph VI(b), under Section 2831.2 of the Regulations in conjunction with Sections 10145 and 10177(d) of the Code;

(c) As to Paragraph VI(c), under Section 2832(a) of the Regulations in conjunction with Sections 10145 and 10177(d) of the Code;

(d) As to Paragraph VI(d), under Section 2834 of the Regulations in conjunction with Sections 10145 and 10177(d) of the Code;

(e) As to Paragraph VI(c), under Section 2832.1 of the Regulations in conjunction with Sections 10145 and 10177(d) of the Code; and

(f) As to Paragraph VII, under Section 2715 of the Regulations in conjunction with Section 10177(d) of the Code.

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

9
10 
11 CHARLES W. KOENIG
12 Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 15th day of February, 2001.
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