

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

FILED
APR 28 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Conness

9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of)
14 DOUG ARNOLD REAL ESTATE, INC.,) NO. H-3685 SAC
15 B. DOUGLAS ARNOLD, JR., and) STIPULATION AND AGREEMENT
16 J. DAVID TAORMINO,)
17 Respondents.)

18
19 It is hereby stipulated by and between DOUG ARNOLD
20 REAL ESTATE, INC., and J. DAVID TAORMINO (hereafter
21 Respondents), represented by Stephen F. Boutin, Attorney at
22 Law, Boutin Dentino, A Law Firm, and the Complainant, acting by
23 and through Deidre L. Johnson, Counsel for the Department of
24 Real Estate, as follows for the purpose of settling and
25 disposing the Accusation filed on May 17, 2002 in this matter:
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27

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement.

8 2. Respondents have each received, read and understand
9 the Statement to Respondent, and the Discovery Provisions of the
10 APA filed by the Department of Real Estate in this proceeding.

11 3. On June 21, 2002, Respondents filed their Notices
12 of Defense pursuant to Section 11505 of the Government Code for
13 the purpose of requesting a hearing on the allegations in the
14 Accusation. Respondents hereby freely and voluntarily withdraw
15 said Notices of Defense. Respondents acknowledge that they each
16 understand that by withdrawing said Notices of Defense they will
17 thereby waive their rights to require the Commissioner to prove
18 the allegations in the Accusation at a contested hearing held in
19 accordance with the provisions of the APA, and that they will
20 waive other rights afforded to them in connection with the
21 hearing such as the right to present evidence in defense of the
22 allegations in the Accusation and the right to cross-examine
23 witnesses.

24 4. Respondents, pursuant to the limitations set forth
25 below, hereby admit that the factual allegations pertaining to
26 them in Paragraphs I through VI of the Accusation filed in this
27 proceeding are true and correct and the Real Estate Commissioner

1 shall not be required to provide further evidence of such
2 allegations.

3 5. Without admitting the truth of the allegations
4 contained in the remaining allegations in the rest of the
5 Accusation as to each Respondent, Respondents stipulate that they
6 will not interpose a defense thereto. This Stipulation is based
7 on the factual allegations contained in the Accusation as found
8 below. This Stipulation is also based on acknowledged factors in
9 mitigation, including embezzlement of trust funds by a former
10 employee of Arnold Property Management, which was a division of
11 Doug Arnold Real Estate, Inc., that resulted in no known loss to
12 the customers. In the interests of expedience, economy,
13 Respondent's health, and a desire to bring this matter to a
14 closure, Respondents each choose not to contest the allegations
15 that pertain to them, but to remain silent, and understand that,
16 as a result thereof, these factual allegations, without being
17 admitted or denied, will serve as a basis for the disciplinary
18 action stipulated to herein. The Real Estate Commissioner shall
19 not be required to provide further evidence to prove said factual
20 allegations. This agreement applies to this Accusation only and
21 the resolution hereof and shall not constitute an admission of
22 liability in any other proceeding or action.

23 6. Respondents have received, read and understand the
24 "Notice Concerning Costs of Audits." Respondents DOUG ARNOLD
25 REAL ESTATE INC. and J. DAVID TAORMINO understand, by agreeing to
26 this Stipulation and Agreement, and after the findings set forth
27 below in the "Determination of Issues" become final, that the

1 Commissioner may charge Respondents DOUG ARNOLD REAL ESTATE INC.
2 and J. DAVID TAORMINO, jointly and severally along with
3 B. DOUGLAS ARNOLD, JR. by separate order, for the costs of the
4 following audits that have been and may be conducted pursuant to
5 Section 10148 of the Business and Professions Code:

6
7 (a) Audit #SC00-0020/SC00-0023 dated
8 January 18, 2001:
9 Not more than \$2,390.00;

10
11 (b) Future follow-up audit: Not more than
12 \$2,700.00.

13
14 7. It is understood by the parties that the Real
15 Estate Commissioner may adopt the Stipulation and Agreement as
16 his/her decision in this matter thereby imposing the penalty and
17 sanctions on the real estate licenses and license rights of
18 Respondents as set forth in the below "Order". In the event that
19 the Commissioner in his/her discretion does not adopt the
20 Stipulation and Agreement, it shall be void and of no effect, and
21 Respondents shall each retain the right to a hearing and
22 proceeding on the Accusation under all the provisions of the APA
23 and shall not be bound by any admission or waiver made herein.

24 8. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation and
26 Agreement shall not constitute an estoppel, merger or bar to any
27 further administrative or civil proceedings by the Department of
Real Estate with respect to any matters which were not

1 specifically alleged to be causes for accusation in this
2 proceeding.

3 * * *

4 DETERMINATION OF ISSUES

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

9 I

10 The acts and/or omissions of Respondent DOUG ARNOLD
11 REAL ESTATE, INC., as stipulated above violate Section 10145 of
12 the California Business and Professions Code (hereafter the
13 Code), and constitute grounds for disciplinary action under the
14 provisions of Section 10177(d) of the Code.

15 II

16 The acts and/or omissions of Respondent J. DAVID
17 TAORMINO, as stipulated above, constitute grounds for
18 disciplinary action under the provisions of Section 10177(h) of
19 the Code.

20 * * *

21 ORDER

22 A. All real estate license(s) and license rights of Respondents
23 DOUG ARNOLD REAL ESTATE, INC. and J. DAVID TAORMINO are
24 hereby suspended for a period of sixty (60) days from the
25 effective date of the Decision.

26 B. Said suspensions are stayed for a period of one (1) year as
27 to each Respondent upon the following terms and conditions:

- 1 (1) Respondents shall obey all laws, rules and regulations
2 governing the rights, duties and responsibilities of a
3 real estate licensee in the State of California.
- 4 (2) The Commissioner may, if a final subsequent determination
5 is made, after hearing or upon stipulation, that cause
6 for disciplinary action against the licenses of
7 Respondents, or either of them, has occurred within
8 one (1) year from the effective date of the Decision,
9 vacate and set aside the stay order and reimpose all or a
10 portion of the stayed suspension as to that Respondent.
11 Should no order vacating the stay be made pursuant to
12 this condition, the stay imposed herein as to each
13 Respondent shall become permanent.
- 14 (3) Respondent J. DAVID TAORMINO shall, prior to the
15 effective date of this decision, submit proof
16 satisfactory to the Commissioner of having taken and
17 completed the continuing education course on trust fund
18 accounting and handling specified in paragraph (3) of
19 subdivision (a) of Section 10170.5 of the Business and
20 Professions Code from an approved continuing education
21 course provider. Said course may have been completed
22 within one hundred and twenty (120) days prior to the
23 effective date of the order herein. If Respondent fails
24 to satisfy this condition, the Commissioner may order the
25 suspension of Respondent's license until the Respondent
26 presents such evidence. The Commissioner shall afford
27

1 Respondent the opportunity for hearing pursuant to the
2 Administrative Procedure Act to present such evidence.

3 (4) Pursuant to Section 10148 of the Business and Professions
4 Code, Respondents DOUG ARNOLD REAL ESTATE, INC. and
5 J. DAVID TAORMINO, jointly and severally with B. DOUG
6 ARNOLD, JR. by separate order, shall pay the
7 Commissioner's reasonable costs for audits as a result of
8 the trust fund violations found herein, as follows:

9 (a) Audit #SC00-0020/SC00-0023 dated
10 January 18, 2001:
11 Not more than \$2,387.99;

12 (b) Future follow-up audit: Not more than
13 \$2,700.00.

14 In calculating the amount of the Commissioner's
15 reasonable costs, the Commissioner may use the estimated
16 average hourly salary for all Department Audit Section
17 personnel performing audits of real estate brokers, and
18 shall include an allocation for travel costs, including
19 mileage, time to and from the auditor's place of work and
20 per diem. Respondents DOUG ARNOLD REAL ESTATE, INC. and
21 J. DAVID TAORMINO, jointly and severally along with
22 B. DOUGLAS ARNOLD, JR. by separate order, shall pay such
23 costs within sixty (60) days of receiving an invoice from
24 the Commissioner detailing the activities performed
25 during the audit and the amount of time spent performing
26 those activities. The Commissioner may suspend the
27

1 license of Respondents pending a hearing held in
2 accordance with Section 11500, et seq., of the Government
3 Code, if payment is not timely made as provided for
4 herein, or as provided for in a subsequent agreement
5 between Respondents and the Commissioner. The
6 suspensions shall remain in effect until payment is made
7 in full for each audit or until Respondents enter into an
8 agreement satisfactory to the Commissioner to provide for
9 payment, or until a decision providing otherwise is
10 adopted following a hearing held pursuant to this
11 condition.

12
13 December 12, 2003
14 DATED

13 Deidre L. Johnson
14 DEIDRE L. JOHNSON
15 Counsel for Complainant

15 * * *

16 I have read the Stipulation and Agreement, have
17 discussed it with my counsel, and its terms are understood by me
18 and are agreeable and acceptable to me. I understand that I am
19 waiving rights given to me by the California Administrative
20 Procedure Act, and I willingly, intelligently and voluntarily
21 waive those rights, including the right of requiring the
22 Commissioner to prove the allegations in the Accusation at a
23 hearing at which I would have the right to cross-examine
24 witnesses against me and to present evidence in defense and
25 mitigation of the charges.

26 12/12/03
27 DATED

26 J. Doug Arnold
27 DOUG ARNOLD REAL ESTATE, INC.

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Respondent
BY: _____

12/12/03

DATED

J. David Taormino
J. DAVID TAORMINO
Respondent

APPROVED AS TO FORM:

December 12, 2003

DATED

Stephen F. Boutin
STEPHEN F. BOUTIN
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on May 18, 2004.

IT IS SO ORDERED January 28, 2004.

JOHN R. LIBERATOR
Chief Deputy Commissioner

John R. Liberator

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

FILED
APR 28 2004

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

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9
10 BEFORE THE
11 DEPARTMENT OF REAL ESTATE
12 STATE OF CALIFORNIA

13 * * *

14 In the Matter of the Accusation of)
15 DOUG ARNOLD REAL ESTATE, INC.,) NO. H-3685 SAC
16 B. DOUGLAS ARNOLD, JR., and) STIPULATION AND AGREEMENT
17 J. DAVID TAORMINO,) B. DOUG ARNOLD, JR. ONLY
18 Respondent.)

18 It is hereby stipulated by and between B. DOUG
19 ARNOLD, JR., represented by Frank M. Buda, Attorney at Law, and
20 the Complainant, acting by and through Deidre L. Johnson,
21 Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing the Accusation as to him
23 filed on May 17, 2002 in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27

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

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

8 3. On June 21, 2002, Respondent filed his Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that he
13 understands that by withdrawing said Notice of Defense he will
14 thereby waive his rights to require the Commissioner to prove the
15 allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA, and that he will waive
17 other rights afforded to him in connection with the hearing such
18 as the right to present evidence in defense of the allegations in
19 the Accusation and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations pertaining to
22 him in Paragraphs I through VI of the Accusation filed in this
23 proceeding are true and correct and the Real Estate Commissioner
24 shall not be required to provide further evidence of such
25 allegations.

26 5. Without admitting the truth of the allegations
27 contained in the remaining allegations in the rest of the

1 Accusation as to Respondent, Respondent stipulates that he will
2 not interpose a defense thereto. This Stipulation is based on
3 the factual allegations contained in the Accusation as found
4 below. In the interests of expedience and economy, Respondent
5 chooses not to contest the allegations that pertain to him, but
6 to remain silent, and understands that, as a result thereof,
7 these factual allegations, without being admitted or denied, will
8 serve as a basis for the disciplinary action stipulated to
9 herein. The Real Estate Commissioner shall not be required to
10 provide further evidence to prove said factual allegations. This
11 agreement applies to this Accusation only and the resolution
12 hereof and shall not constitute an admission of liability in any
13 other proceeding or action.

14 6. Respondent has received, read and understands the
15 "Notice Concerning Costs of Audits." Respondent B. DOUG ARNOLD,
16 Jr. understands, by agreeing to this Stipulation and Agreement,
17 and after the findings set forth below in the "Determination of
18 Issues" become final, that the Commissioner may charge
19 Respondent, jointly and severally along with DOUG ARNOLD REAL
20 ESTATE INC. and J. DAVID TAORMINO by separate order, for the
21 costs of the following audits that have been and may be conducted
22 pursuant to Section 10148 of the Business and Professions Code:

- 23
- 24 (a) Audit #SC00-0020/SC00-0023 dated
 January 18, 2001:
 Not more than \$2,387.99;
 - 26 (b) Future follow-up audit: Not more than
 \$2,700.00.
- 27

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

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

18 * * *

19 DETERMINATION OF ISSUES

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

24 The acts and/or omissions of Respondent B. DOUG ARNOLD,
25 JR., as stipulated above, constitute grounds for disciplinary
26 action under the provisions of Section 10177(h) of the Code.

27 * * *

ORDER

1
2 A. All real estate license(s) and license rights of Respondent
3 B. DOUG ARNOLD, JR. are hereby publicly reprovod.

4 B. The public reprovod shall be subject to the following terms
5 and conditions:

6 (1) Pursuant to Section 10148 of the Business and Professions
7 Code, Respondent B. DOUGLAS ARNOLD, JR., jointly and
8 severally along with DOUG ARNOLD REAL ESTATE, INC. and J.
9 DAVID TAORMINO by separate order, shall pay the
10 Commissioner's reasonable costs for the following audits
11 as a result of the above found violations:

12 (a) Audit #SC00-0020/SC00-0023 dated
13 January 18, 2001:
Not more than \$2,387.99;

14 (b) Future follow-up audit: Not more than
15 \$2,700.00.

16 (2) In calculating the amount of the Commissioner's
17 reasonable costs for each audit, the Commissioner may use
18 the estimated average hourly salary for all Department
19 Audit Section personnel performing audits of real estate
20 brokers, and shall include an allocation for travel time
21 to and from the auditor's place of work. Respondent B.
22 DOUGLAS ARNOLD, JR., jointly and severally along with
23 DOUG ARNOLD REAL ESTATE, INC. and J. DAVID TAORMINO by
24 separate order, shall pay such costs within sixty (60)
25 days of receiving an invoice from the Commissioner

26 ///

1 detailing the activities performed during each audit and
2 the amount of time spent performing those activities.

3 (3) The Commissioner may suspend the license of Respondent
4 pending a hearing held in accordance with Section 11500,
5 et seq., of the Government Code, if payment is not timely
6 made as provided for herein, or as provided for in a
7 subsequent agreement between Respondent and the
8 Commissioner. The suspensions shall remain in effect
9 until payment is made in full for each audit or until
10 Respondent enters into an agreement satisfactory to the
11 Commissioner to provide for payment, or until a decision
12 providing otherwise is adopted following a hearing held
13 pursuant to this condition.

14
15
16 December 20, 2003
17 DATED

Deidre L. Johnson
18 DEIDRE L. JOHNSON
19 Counsel for Complainant

20 * * *

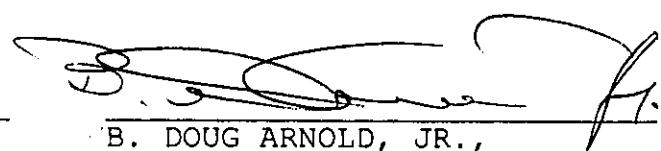
21 I have read the Stipulation and Agreement, have
22 discussed it with my counsel, and its terms are understood by me
23 and are agreeable and acceptable to me. I understand that I am
24 waiving rights given to me by the California Administrative
25 Procedure Act, and I willingly, intelligently and voluntarily
26 waive those rights, including the right of requiring the
27 Commissioner to prove the allegations in the Accusation at a
hearing at which I would have the right to cross-examine

1 witnesses against me and to present evidence in defense and
2 mitigation of the charges.

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12-10-03

DATED

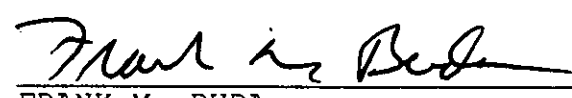


B. DOUG ARNOLD, JR.,
Respondent

APPROVED AS TO FORM:

12-9-03

DATED



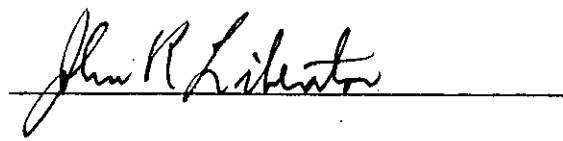
FRANK M. BUDA
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on May 18, 2004.

IT IS SO ORDERED January 28, 2004.

JOHN R. LIBERATOR
Chief Deputy Commissioner



FILED
SEP - 4 2003

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

DEPARTMENT OF REAL ESTATE

By Kathleen Cortinas

In the Matter of the Accusation of

DOUG ARNOLD REAL ESTATE, INC.,
B. DOUGLAS ARNOLD, JR., and
J. DAVID TAORMINO,

Case No. H-3685 SAC

OAH No. N-2002110236

Respondents

**THIRD CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

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, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **DECEMBER 15, 2003; DECEMBER 16, 2003; DECEMBER 17, 2003; DECEMBER 18, 2003; and, DECEMBER 19, 2003**, 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: SEPTEMBER 2, 2003

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel
RE 501 (Rev. 8/97)

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

MAY 14 2003

Kathleen Contreras

In the Matter of the Accusation of

DOUG ARNOLD REAL ESTATE, INC.,
B. DOUGLAS ARNOLD, JR., and
J. DAVID TAORMINO,

}

Case No. H-3685 SAC

OAH No. N-2002110236

Respondents

SECOND CONTINUED
NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

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, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **SEPTEMBER 23, 2003, SEPTEMBER 24, 2003, and SEPTEMBER 26, 2003**, 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: MAY 13, 2003

By *Deidre L. Johnson*
DEIDRE L. JOHNSON, COUNSEL

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

FILED
DEC 18 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

DOUG ARNOLD REAL ESTATE, INC.,
B. DOUGLAS ARNOLD, JR., and
J. DAVID TAORMINO,

}

By Kathleen Contreras

Case No. H-3685 SAC

OAH No. N-2002110236

Respondents

**FIRST CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

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, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **MAY 19, 2003, and MAY 20, 2003**, 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: DECEMBER 12, 2002

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

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

FILED
NOV 26 2002

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

DOUG ARNOLD REAL ESTATE, INC.,
B. DOUGLAS ARNOLD, JR., and
J. DAVID TAORMINO,

}

Case No. H-3685 SAC

OAH No. N-2002110236

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

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, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **MARCH 10, 2003, and MARCH 11, 2003**, 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: NOVEMBER 26, 2002

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

RE 501 (Rev. 8/97)

flag

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FILED
MAY 17 2002

DEPARTMENT OF REAL ESTATE

By *Jean Arnold*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12 DOUG ARNOLD REAL ESTATE, INC.,) NO. H-3685 SAC
13 B. DOUGLAS ARNOLD, JR., and) ACCUSATION
14 J. DAVID TAORMINO,)
15 Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for causes of
18 Accusation against DOUG ARNOLD REAL ESTATE, INC., B. DOUGLAS
19 ARNOLD, JR., and J. DAVID TAORMINO, is informed and alleges as
20 follows:

PRELIMINARY ALLEGATIONS

I

23 Respondents DOUG ARNOLD REAL ESTATE, INC., B. DOUGLAS
24 ARNOLD, JR., and J. DAVID TAORMINO are presently licensed and/or
25 have license rights under the Real Estate Law, Part 1 of Division
26 4 of the California Business and Professions Code (hereafter the
27 Code).

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II

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

III

At all times herein mentioned, DOUG ARNOLD REAL ESTATE, INC., (hereafter DARE) was and is licensed by the State of California Department of Real Estate (hereafter Department) as a real estate broker corporation.

IV

At all times herein mentioned, Respondent B. DOUGLAS ARNOLD, JR., (hereafter ARNOLD) was and is licensed by the Department as the designated broker officer of Respondent DARE, was the President, and owned fifty percent of the shares of the corporation.

V

At all times herein mentioned, Respondent J. DAVID TAORMINO (hereafter TAORMINO) was and is licensed by the Department as an individual real estate broker and as the additional designated broker officer of Respondent DARE, was the Vice President, and owned fifty percent of the shares of the corporation.

VI

At least within the last three years, Respondents engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, including but not limited to the following:

1 (a) Under Section 10131(a) of the Code, they sold
2 or offered to sell, bought or offered to buy,
3 solicited prospective sellers or purchasers of,
4 and/or negotiated the purchase, sale or exchange
5 of real property (hereafter resale activities);
6 and,

7 (b) Under Section 10131(b) of the Code, they leased
8 or rented, offered to lease or rent, solicited
9 prospective tenants, collected rents on, and/or
10 managed certain real properties in California
11 (hereafter property management activities).

12 FIRST CAUSE OF ACTION

13 VII

14 Beginning in or about January of 2001, the Department
15 conducted an audit of the above business activities of
16 Respondents for the time period of January 1, 2000 through
17 December 31, 2000 (hereafter the audit period). During the course
18 of the activities described in Paragraph VI above, Respondents
19 received and disbursed funds in trust on behalf of others.

20 VIII

21 Within the last three years, Respondent DARE deposited
22 the trust funds into at least two bank accounts as follows:

23 (a) Trust Account #1: "Doug Arnold Real Estate, Inc.,
24 Arnold Property Management as Trustee," a checking
25 account at First Northern Bank of Dixon, in Davis,
26 California, account number 3092479, used for
27 property management activities; and,

1 (b) Trust Account #2: "Coldwell Banker, Doug Arnold
2 Real Estate, Inc. Trust Account," a checking
3 account at US Bank, Saint Paul, Minnesota, account
4 number 1-534-0115-2035, used for resale
5 activities.

6 IX

7 In connection with the collection and disbursement of
8 trust funds, Respondent DARE failed to deposit and maintain the
9 property management trust funds in a trust account or neutral
10 escrow depository, or to deliver them into the hands of the
11 owners of the funds as required by Section 10145 of the Code, in
12 such a manner that as of September 30, 2000, there was a total
13 property management trust fund shortage in the approximate sum of
14 at least \$176,603.23 allocated to Trust Account #1.

15 X

16 The acts and/or omissions of Respondent DARE as alleged
17 above violate Section 10145 of the Code, and constitute grounds
18 for disciplinary action under Section 10177(d) of the Code.

19 SECOND CAUSE OF ACTION

20 XI

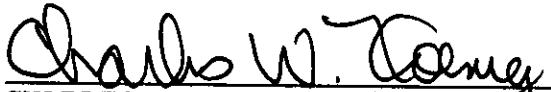
21 Within the last three years, Respondents ARNOLD and
22 TAORMINO failed to exercise reasonable supervision over the
23 activities of DARE for which a real estate license is required.
24 In particular, ARNOLD and TAORMINIO caused, permitted, and/or
25 ratified the conduct described above, and/or failed to take
26 reasonable steps to implement effective supervision that would
27 have prevented it, including but not limited to both the

1 establishment of policies, rules, procedures, and systems to
2 review, oversee, inspect and manage the handling of trust funds
3 and the trust fund books and records, and the establishment of
4 a system for monitoring compliance with such policies, rules,
5 procedures, and systems, to ensure compliance by the company
6 with the Real Estate Law.

7 XII

8 The acts and/or omissions of Respondents ARNOLD and
9 TAORMINO as alleged above constitute cause for disciplinary
10 action pursuant to Section 10177(h) of the Code.

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

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21 
22 CHARLES W. KOENIG
23 Deputy Real Estate Commissioner

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25 Dated at Sacramento, California,
26 this 25th day of April, 2002