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JAN 10 1994

DEPARTMENT OF REAL ESTATE

1 Department of Real Estate
185 Berry Street, Room 3400
2 San Francisco, CA 94107-1770
3 Telephone: (415) 904-5917

By Lynda Montiel
Lynda Montiel

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-6741 SF
SIGNATURE PROPERTIES, INC.)	
and JAMES G. GHIEMMETTI,)	STIPULATION AND AGREEMENT
)	IN SETTLEMENT AND ORDER
Respondents.)	
)	

15 It is hereby stipulated by and between SIGNATURE
16 PROPERTIES, INC. and JAMES G. GHIEMMETTI (sometimes referred to as
17 Respondents), represented by Steven M. Bernard, their attorney
18 herein, and the Complainant, acting by and through Deidre L.
19 Johnson, Counsel for the Department of Real Estate, as follows for
20 the purpose of settling and disposing of the Accusation filed on
21 June 19, 1992, in this matter:

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

27

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

3 2. Respondents have received, read and understand 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 June 26, 1992, Respondents 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. Respondents hereby freely and voluntarily withdraw
11 said Notice of Defense. Respondents acknowledges that they
12 understand that by withdrawing said Notice of Defense they will
13 thereby waive their rights to require the Commissioner to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that they will waive
16 other rights afforded to them in connection with the hearing such
17 as the right to present evidence in defense of the allegations in
18 the Accusation and the right to cross-examine witnesses.

19 4. Respondents, pursuant to the limitations set forth
20 below, hereby admits that the factual allegations in Paragraphs I
21 through IV of the Accusation in this proceeding are true and
22 correct and the Real Estate Commissioner shall not be required to
23 provide further evidence of such allegations. A true copy of the
24 Accusation is attached hereto as Annex A and incorporated herein
25 by reference.

26 5. Without admitting the truth of the allegations
27 contained in Paragraphs V through XXIV of the Accusation,

1 Respondents stipulate that they will not interpose a defense
2 thereto. Respondents stipulate that the Department may issue
3 findings and determinations of issues that the acts and/or
4 omissions of Respondents as stipulated above constitute grounds
5 for disciplinary action as alleged in the Accusation, except as
6 limited below.

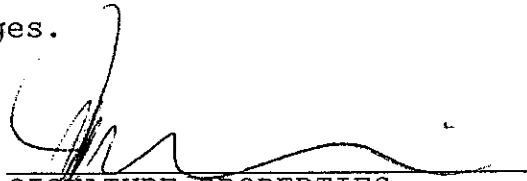
7 6. No additional documentary, testimonial, or other
8 evidence, except that which is necessary to establish
9 Complainant's jurisdiction, shall be required to be presented by
10 Complainant at any hearing in this proceeding in order to prove
11 the allegations in the Accusation as above stipulated.

12 7. Respondents enter into this stipulation for purposes
13 of this Accusation only, and the execution of this stipulation
14 shall not be construed to be an admission of liability except as
15 may pertain to the grounds for the stipulation, and shall not be
16 construed to be an admission for any purpose whatsoever, pursuant
17 to the provisions of California Evidence Code Section 1152.


18 8. It is understood by the parties that the Real Estate
19 Commissioner may adopt the Stipulation and Agreement in Settlement
20 as his decision in this matter thereby imposing the penalty and
21 sanctions on Respondent's real estate license and license rights
22 as set forth in the below "Order". In the event that the
23 Commissioner in his discretion does not adopt the Stipulation and
24 Agreement in Settlement, it shall be void and of no effect, and
25 Respondent shall retain the right to a hearing and proceeding on
26 the Accusation under all the provisions of the APA and shall not
27 be bound by any admission or waiver made herein.

1 the Accusation at a hearing at which I would have the right to
2 cross-examine witnesses against me and to present evidence in
3 defense and mitigation of the charges.

4
5 DATED: 11/23/93

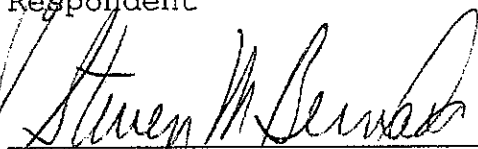

SIGNATURE PROPERTIES
by: James C. Ghielmetti
Respondent

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8 DATED: 11/23/93


JAMES C. GHIELMETTI
Respondent

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10 APPROVED AS TO FORM:

11 DATED: 12/2/93


STEVEN M. BERNARD
Attorney for Respondents

12
13
14 * * *

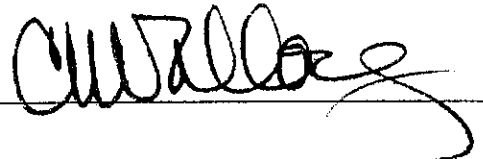
15 DECISION AND ORDER

16 The foregoing Stipulation and Agreement in Settlement is
17 hereby adopted as my Decision and Order and shall become effective
18 at 12 o'clock noon on January 31st, 1994.

19 IT IS SO ORDERED

1/3/1994

20 CLARK WALLACE
21 Real Estate Commissioner

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JUN 19 1992

DEPARTMENT OF REAL ESTATE

1 DEIDRE L. JOHNSON, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
4 San Francisco, CA 94107

5 Telephone: (415) 904-5917

By *Edward V. Chiolo*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SIGNATURE PROPERTIES, INC.,)
13 JAMES C. GHIELMETTI,)
14 Respondents.)

No. H-6741 SF

ACCUSATION

15
16 The Complainant, Edward V. Chiolo, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against SIGNATURE PROPERTIES, INC. (hereinafter "respondent
19 SIGNATURE") and JAMES C. GHIELMETTI, individually and as
20 designated officer for respondent SIGNATURE (hereinafter
21 "respondent GHIELMETTI"), is informed and alleges as follows:

22 FIRST CAUSE OF ACCUSATION

23 I

24 The Complainant, Edward V. Chiolo, 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

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

III

Respondent GHIEMMETTI is presently licensed and/or has license rights under the Code as a real estate broker and as the designated broker-officer for respondent SIGNATURE.

IV

Within the three-year period immediately preceding the filing of this Accusation, respondents SIGNATURE and GHIEMMETTI were the owners or the agents of the owners of certain subdivided real properties as defined in Section 11000 of the Code. Said subdivided lands are commonly known as: Meridian Hills, Tract 6829, Danville, California; Laurel Heights, Tract 5776, Fremont, California; and Stratford Park, Tract 5903, Livermore, California (hereinafter "the Subdivisions").

V

Within the three-year period immediately preceding the filing of this Accusation, respondents SIGNATURE and GHIEMMETTI from time to time, offered or caused to be offered for sale and sold lots in the Subdivisions. Lots were offered and/or sold as follows:

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MERIDIAN HILLS

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<u>LOT NO.</u>	<u>BUYER OR PROPOSED BUYER</u>
28	Don & Frances Eacker
28	Alan & Molly Abreu
29	Gary & Patricia Rossiter
81	B. Greg & Cathleen T. Athearn

LAUREL HEIGHTS

<u>LOT NO.</u>	<u>BUYER OR PROPOSED BUYER</u>
1	Helen, Lonnie & Radford Low
4	Shiang-Ming Kaan & Ya-Chi Lin
12	Armando & Lina Freitas

STRATFORD PARK

<u>LOT NO.</u>	<u>BUYER OR PROPOSED BUYER</u>
19	Richard & Hortencia Leon
26	Karen Tootle & Dennis Golcher

VI

Respondents SIGNATURE and GHIEMMETTI failed to make arrangements to deposit all monies received from buyers or proposed buyers into either a neutral escrow or into a trust account until title had been delivered to the buyers. Respondents collected various sums of money from the buyers or proposed buyers in connection with offering the subdivision lots described in Paragraph V above, to the persons described in Paragraph V above, Respondents SIGNATURE and GHIEMMETTI failed to deposit or cause to be deposited the money so collected in a neutral escrow or into a trust account, as required by Section 11013.4 of the Code.

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VII

1
2 The Subdivisions described in Paragraph IV above, were
3 in whole or in part subject to blanket encumbrances without
4 unconditional release clauses at the time respondents SIGNATURE
5 and GHIELMETTI offered the lots for sale as described in Paragraph
6 V above. Respondents SIGNATURE and GHIELMETTI failed to deposit
7 or cause to be deposited all money received by Respondents from
8 the persons mentioned in Paragraph V above, into a neutral escrow
9 as required by Section 11013.2 of the Code.

VIII

10
11 As described in Paragraphs VI and VII, respondents
12 SIGNATURE and GHIELMETTI failed to comply with Sections 11013.1,
13 11013.2, or 11013.4 of the Code before offering or selling lots in
14 the Subdivisions described in Paragraph IV above. Therefore, the
15 offering of lots in the Subdivisions did not satisfy all criteria
16 of Section 11010.4, and a subdivision public report was required
17 under Section 11018.2 of the Code before any offer or sale of lots
18 in the Subdivisions.

IX

19
20 Respondents SIGNATURE and GHIELMETTI sold or offered for
21 sale lots in the Subdivisions as described in Paragraph IV above,
22 as defined in Section 11000 of the Code, for which no subdivision
23 public reports had been obtained from the California Department of
24 Real Estate (hereinafter "Department").

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X

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2 The acts and omissions of respondents SIGNATURE and
3 GHIELMETTI set forth above are grounds for the suspension or
4 revocation of Respondents' licenses and/or license rights under
5 Section 10177(d) of the Code in conjunction with Sections 11013.1,
6 11013.2, 11013.4 and 11018.2 of the Code and Section 2794 of Title
7 10, California Code of Regulations (hereinafter "Regulations").

8 SECOND CAUSE OF ACCUSATION

9 XI

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

14 XII

15 Within the three-year period immediately preceding the
16 filing of this Accusation, respondent GHIELMETTI by and through
17 Olympia Investments, Inc. a California corporation (hereinafter
18 "Olympia") and SIGNATURE were the owner(s) or the agent(s) of the
19 owner of certain subdivided real properties as defined in Sections
20 11000 and 11003 of the Code, commonly known as Northridge Phase
21 III, Tract 7167, County of Contra Costa, State of California
22 (hereinafter "Northridge Subdivision").

23 XIII

24 On or about February 23, 1989, respondent GHIELMETTI
25 filed or caused to be filed by and through Olympia with the
26 Department a Notice of Intention Questionnaire and Application for
27 Public Report (hereinafter "application") for the Northridge

1 Subdivision, together with supporting documents. Said application
2 is identified in the records of the Department as File No.
3 027865 SF-F00.

4 XIV

5 In connection with said application and supporting
6 documents, respondent GHIELMETTI by and through Olympia
7 represented to the Department that:

8 1. All money of purchaser and/or lessee would be
9 impounded in a neutral escrow depository until proper releases
10 were obtained from all blanket encumbrances or if no blanket
11 encumbrances into a trust account until legal title, or leasehold
12 interest were conveyed to the purchaser or lessee.

13 2. A specific purchase contract and addendum to Offer
14 to Purchase and Deposit Receipt would be used to sell said lots in
15 conformance with samples provided to the Department.

16 XV

17 On or about July 6, 1989, based upon the representations
18 and assurances given in said application and supporting documents,
19 the Commissioner of the California Department of Real Estate
20 (hereinafter "Commissioner") issued his Final Subdivision Public
21 Report for the Northridge Subdivision.

22 XVI

23 On or about June 11, 1990, respondent GHIELMETTI by and
24 through Olympia filed or caused to be filed an Expedited Amendment
25 Application for the Northridge Subdivisions (hereinafter
26 "amendment application") adding additional lots. On or about
27 July 5, 1990, the Commissioner issued the Final Amended Public

1 Report for the Northridge Subdivision. Said amendment application
2 is identified in the records of the Department as File No.
3 027865 SA-A01.

4 XVII

5 Beginning or or before February 9, 1990 and continuing
6 at various times thereafter, respondents GHIELMETTI by and through
7 Olympia and SIGNATURE sold the following Northridge Subdivision
8 lots for which the Amended Final Subdivision Public Report had
9 been obtained:

10	<u>DATE</u>	<u>PURCHASER</u>	<u>LOT NUMBER</u>
11	February 9, 1990	Gary Patterson	30
12	August 8, 1990	Alfredo & Cecilia Lapuz	51
13	September 27, 1990	John & Wendy Hamilton	33

14 XVIII

15 Respondents GHIELMETTI and SIGNATURE sold or caused to
16 be sold said lots described in Paragraph XVII above, after the
17 following changes in the set up of the offering of interests in
18 the Northridge Subdivision. Said material changes included the
19 following:

20 1. All monies of purchasers and/or lessees were not
21 impounded in a neutral escrow depository until proper releases
22 were obtained from all blanket encumbrances or where no blanket
23 encumbrances into a trust account until legal title, or leasehold
24 interests were conveyed to the purchaser or lessee.

25 2. Respondents did not use the specific purchase
26 contract and addendum to Offer to Purchase and Deposit Receipt as
27 provided to the Department.

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XIX

At no time did respondents notify the Commissioner in writing of the foregoing material changes in the set up of the Northridge Subdivision.

XX

The acts and/or omissions as set forth above in this Second Cause of Accusation are cause for the suspension or revocation of all licenses and license rights of respondents GHIELMETTI and SIGNATURE under Section 11012 of the Code and Section 2800 of the Regulations in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACCUSATION

XXI

There is hereby incorporated in this third, separate and distinct cause of Accusation all of the allegations contained in Paragraphs I, II and III of the First Cause of Accusation and Paragraphs XII through XVIII of the Second Cause of Accusation with the same force and effect as if herein fully set forth.

XXII

The Northridge Subdivision described in Paragraph XII above, was subject in whole or in part to blanket encumbrances without unconditional release clauses at the time respondents GHIELMETTI acting by and through Olympia and SIGNATURE offered the lots for sale as described in Paragraph XVII above.

XXIII

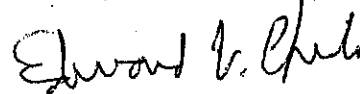
Respondents GHIELMETTI and SIGNATURE received and collected various sums of money from the buyers or proposed buyers

1 in connection with offering the Northridge Subdivision lots
2 described in Paragraph XVII above, to the persons described in
3 Paragraph XVII above, respondents GHIELMETTI and SIGNATURE failed
4 to treat said monies in accordance with the requirements of
5 Section 11013.2 of the Code which requires deposit in a neutral
6 escrow, or a bond to the State of California, or a trust agreement
7 approved by the Real Estate Commissioner to secure such
8 purchasers' monies.

9 XXIV

10 The acts and/or omissions as set forth above in this
11 Third Cause of Accusation are cause for the suspension or
12 revocation of all licenses and license rights of respondents
13 GHIELMETTI and SIGNATURE under Section 10177(d) in conjunction
14 with Sections 11013.1 and 11013.2 of the Code and in conjunction
15 with Sections 2791.1 and 2791.2 of the Regulations.

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



23
24 EDWARD V. CHIOLO
Deputy Real Estate Commissioner

25 Dated at San Francisco, California,
26 this 9th day of JUNE, 1992.

27