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FILED

JUN 07 2003

DEPARTMENT OF REAL ESTATE

By *Jean Arnold*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
THOMAS MICHAEL GIOSEFFI,)	NO. H-7797 SF
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 31, 2000, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on August 30, 2000.

On August 16, 2002, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to

1 my satisfaction that Respondent meets the requirements of law for
2 the issuance to Respondent of an unrestricted real estate broker
3 license and that it would not be against the public interest to
4 issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's
6 petition for reinstatement is granted and that a real estate
7 broker license be issued to Respondent if Respondent satisfies
8 the following conditions prior to and as a condition of issuance
9 of the license within nine months from the date of this Order:

10 1. Submittal of a completed application and payment
11 of the fee for a real estate broker license.

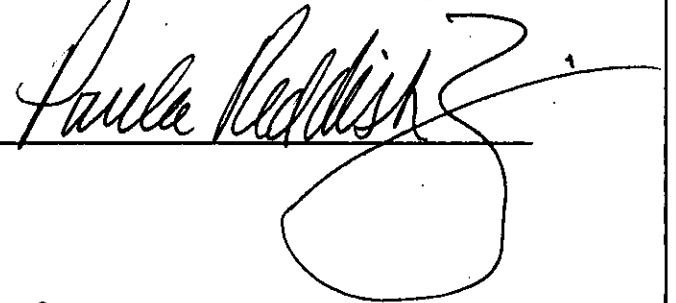
12 2. Submittal of evidence of having, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license.

17 3. Submittal of proof satisfactory to the Commissioner
18 of having taken and completed the trust fund accounting and
19 handling course specified in paragraph (3), subdivision (a) of
20 Section 10170.5 of the Business and Professions Code.

21 This Order shall be effective immediately.

22 DATED: June 3, 2003.

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 
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27

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
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5 Telephone: (916) 227-0789
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FILED
AUG 10 2000

DEPARTMENT OF REAL ESTATE

By Jean Arnold

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

11 * * *

12 In the Matter of the Accusation of)
13 THOMAS MICHAEL GIOSEFFI,) NO. H-7797 SF
14 Respondent.) STIPULATION AND AGREEMENT
15)

16 It is hereby stipulated by and between THOMAS MICHAEL
17 GIOSEFFI, (hereafter Respondent) represented by Terrel J.
18 Mason, Riede, McCall & Mason, Attorneys at Law, and the
19 Complainant, acting by and through Deidre L. Johnson, Counsel
20 for the Department of Real Estate, as follows for the purpose
21 of settling and disposing of the Accusation filed on
22 February 22, 2000:

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

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

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

7 3. On March 14, 2000, Respondent filed a Notice of
8 Defense herein, pursuant to Section 11505 of the Government Code,
9 for the 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 he
12 understands that by withdrawing said Notice of Defense he will
13 thereby waive his rights to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA, and that he will waive
16 other rights afforded to him in connection with the hearing, such
17 as the right to present evidence in defense of the allegations
18 and the right to cross-examine witnesses.

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

25 5. Without admitting the truth of the allegations
26 pertaining to him contained in Paragraphs IV through XXIII of the
27 Accusation, Respondent stipulates that he will not interpose a

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

10 6. Respondent has received, read and understands the
11 "Notice Concerning Costs of Prior Audit." Respondent
12 understands, by agreeing to this Stipulation and Agreement, and
13 after the findings set forth below in the "Determination of
14 Issues" become final, that the Commissioner will charge
15 Respondent for the costs of the Department's prior audit that is
16 involved herein, and referenced by Audit report number OK-98-
17 0181, dated September 30, 1999, pursuant to Section 10148 of the
18 Business and Professions Code. The maximum costs of said audit
19 will not exceed \$2,400.00.

20 7. It is understood by the parties that the Real
21 Estate Commissioner may adopt the Stipulation and Agreement as
22 the decision in this matter, thereby imposing the penalty and
23 sanctions on the real estate license(s) and license rights of
24 Respondent, as set forth in the below "Order". In the event
25 that the Commissioner in her discretion does not adopt the
26 Stipulation and Agreement, it shall be void and of no effect, and
27 Respondent shall retain the right to a hearing and proceeding on

1 the Accusation under all the provisions of the APA and shall not
2 be bound by any admission or waiver made herein.

3 8. The Order or any subsequent order of the Real
4 Estate Commissioner made pursuant to this Stipulation and
5 Agreement shall not constitute an estoppel, merger or bar to any
6 further administrative or civil proceedings by the Department
7 of Real Estate with respect to any matters which were not
8 specifically alleged to be causes for accusation in this
9 proceeding.

10 DETERMINATION OF ISSUES

11
12 By reason of the foregoing stipulations, admissions
13 and waivers and for the purpose of settlement of the pending
14 Accusation as to Respondent without a hearing, it is stipulated
15 and agreed that the following determinations of issues shall be
16 made:

17 The acts and/or omissions of Respondent THOMAS MICHAEL
18 GIOSEFFI as stipulated above violate Sections 10085, 10145(a),
19 10145(d), 10146, and 10159.5 of the Code, and Sections 2831,
20 2831.1, 2831.2, 2832, 2834, 2970, and 2972 of Title 10,
21 California Code of Regulations, and constitute grounds for
22 disciplinary action against the real estate license(s) and
23 license rights of Respondent under the provisions of Sections
24 10137, 10176(e), and 10177(d) of the Code.

25 ///

26 ///

27 ///

1 ORDER

2 A. All real estate license(s) and license rights of Respondent
3 THOMAS MICHAEL GIOSEFFI are hereby revoked.

4 B. A restricted real estate salesperson license shall be issued
5 to Respondent pursuant to Section 10156.6 of the Code if he
6 makes application therefor and pays to the Department of Real
7 Estate the appropriate fee for said license within ninety
8 (90) days from the effective date of the Decision.

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

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

20 (2) The restricted license issued to Respondent may be
21 suspended prior to hearing by Order of the Real
22 Estate Commissioner on evidence satisfactory to the
23 Commissioner that Respondent has violated provisions
24 of the California Real Estate Law, the Subdivided
25 Lands Law, Regulations of the Real Estate
26 Commissioner or conditions attaching to the
27 restricted license.

1 (3) Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license, nor
3 the removal of any of the conditions of the
4 restricted license, until two (2) years has elapsed
5 from the effective date of this Decision.

6 (4) Respondent shall submit with any application for
7 license under an employing broker, or any application
8 for transfer to an new employing broker, a statement
9 signed by the prospective employing real estate
10 broker on a form approved by the Department of Real
11 Estate which shall certify:

12 (a) That the employing broker has read the Decision
13 of the Commissioner which granted the right to a
14 restricted license; and,

15 (b) That the employing broker will exercise close
16 supervision over the performance by the
17 restricted licensee relating to activities for
18 which a real estate license is required.

19 (5) Respondent shall, within nine (9) months from the
20 effective date of this Decision, present evidence
21 satisfactory to the Real Estate Commissioner that
22 Respondent has, since the most recent issuance of an
23 original or renewal real estate license, taken and
24 successfully completed the continuing education
25 requirements of Article 2.5 of Chapter 3 of the Real
26 Estate Law for renewal of a real estate license. If
27 Respondent fails to satisfy this condition, the

1 Commissioner may order the suspension of the restricted
2 license until the Respondent presents such evidence.

3 The Commissioner shall afford Respondent the opportunity
4 for hearing pursuant to the Administrative Procedure Act
5 to present such evidence.

6 (6) Respondent shall, within six (6) months from the
7 effective date of this Decision, take and pass the
8 Professional Responsibility Examination administered by
9 the Department including the payment of the appropriate
10 examination fee. If Respondent fails to satisfy this
11 condition, the Commissioner may order suspension of the
12 restricted license until Respondent passes the
13 examination.

14 (7) Pursuant to Section 10148 of the Business and
15 Professions Code, Respondent shall pay the
16 Commissioner's reasonable costs for the Department's
17 prior audit, Audit No. OK-98-0181, as a result of the
18 trust fund violations found herein. In calculating the
19 amount of the Commissioner's reasonable costs, the
20 Commissioner may use the estimated average hourly salary
21 for all Department personnel performing audits of real
22 estate brokers, and shall include an allocation for
23 travel costs, including mileage, time to and from the
24 auditor's place of work and per diem. Respondent shall
25 pay such costs within sixty (60) days of receiving an
26 invoice for the audit from the Commissioner detailing
27 the activities performed during the audit and the amount

1 of time spent performing those activities. The total
2 costs shall not exceed \$2,400.00. The Commissioner may
3 suspend the restricted license issued to Respondent
4 pending a hearing held in accordance with Section 11500,
5 et seq., of the Government Code, if payment is not
6 timely made as provided for herein, or as provided for
7 in a subsequent agreement between the Respondent and the
8 Commissioner. The suspension shall remain in effect
9 until payment is made in full, or until Respondent
10 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 (8) Respondent shall, within one (1) year from the effective
15 date of this Decision, submit proof to the satisfaction
16 of the Real Estate Commissioner that he has made
17 restitution in the total sum of not less than \$2,280.00
18 to the following persons and in the following amounts,
19 pertaining to the matters alleged in the Accusation
20 herein:

<u>CLIENT</u>	<u>FEE PAID</u>	<u>RESTITUTION STILL OWED</u>
Trudi Lynn Sagovac	\$800	\$280
Paige (Chernick) Auerbach	\$400	\$400
Karen Zimmerman	\$800	\$800
Joy Carey	\$800	\$800

26 DATED: June 28, 2000

27 Deidre L. Johnson
DEIDRE L. JOHNSON
Counsel for the Complainant

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I have read the Stipulation and Agreement, have
discussed it with my counsel or understand that I have the right
to consult with counsel, and its terms are understood by me and
are agreeable and acceptable to me. I understand that I am
waiving rights given to me by the California Administrative
Procedure Act, and I willingly, intelligently and voluntarily
waive those rights, including but not limited to the right of
requiring the Commissioner to prove the allegations in the
Accusation at a hearing at which I would have the right to cross-
examine witnesses against me and to present evidence in defense
and mitigation of the charges.

June 27, 2000
DATED

Thomas Michael Gioseffi
THOMAS MICHAEL GIOSEFFI
Respondent

APPROVED AS TO FORM:

June 27, 2000
DATED

Terrel J. Mason
TERREL J. MASON
Attorney for Respondent

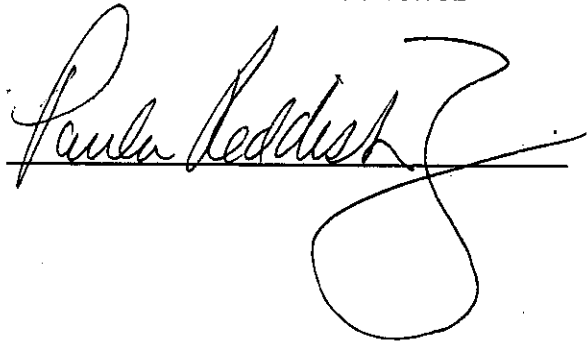
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on August 30, 2000.

IT IS SO ORDERED July 31, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED

MAY 10 2000

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

THOMAS MICHAEL GIOSEFFI,

}

Case No. H-7797 SF

OAH No. N-2000050077

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 Hearing, the Elihu Harris State

Building, 1515 Clay Street, Suite 206, Oakland, California 94612

on July 6, 2000, and July 7, 2000, 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 9, 2000

By Deidre L. Johnson
DEIDRE L. JOHNSON Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6 Telephone: (916) 227-0789

FILED

FEB 22 2000

DEPARTMENT OF REAL ESTATE

By Jean A. Smith

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

11 * * *

12
13 In the Matter of the Accusation of)
14)
15 THOMAS MICHAEL GIOSEFFI,)
16)
17 Respondent.)

NO. H-7797 SF
ACCUSATION

18 The Complainant, Les R. Bettencourt, a Deputy Real
19 Estate Commissioner of the State of California, for causes of
20 Accusation against THOMAS MICHAEL GIOSEFFI, is informed and
21 alleges as follows:

22 PRELIMINARY ALLEGATIONS

23 I

24 Respondent THOMAS MICHAEL GIOSEFFI (hereafter
25 Respondent) is presently licensed and/or has license rights under
26 the Real Estate Law, Part 1 of Division 4 of the California
27 Business and Professions Code (hereafter the Code).

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II

The Complainant, Les R. Bettencourt, 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, Respondent THOMAS MICHAEL GIOSEFFI was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker, individually and doing business as NORDIC FINANCIAL & DEVELOPMENT. At no time herein was Respondent licensed to do business under the fictitious business name(s) of SAGE & COMPANY, SAGE AND COMPANY, FINDERS USA, and/or FINDERS USA HOUSING CONSULTANTS. At no time herein was Respondent authorized by the Department to conduct a prepaid rental listing service business.

IV

At no time herein was SYDNEY RAYMOND (hereafter RAYMOND) licensed by the Department as either a real estate broker, a salesperson, or a prepaid rental listing service licensee, individually or under any fictitious business name. At all times herein mentioned, RAYMOND was the owner of a tenant placement business(es) and/or a prepaid rental listing service with the fictitious business name(s) of SAGE & COMPANY, SAGE AND COMPANY, FINDERS USA, and/or FINDERS USA HOUSING CONSULTANTS.

V

At least within the last three years, Respondent engaged in activities on behalf of others for which a real estate

1 license is required, for or in expectation of compensation,
2 including but not limited to the following:

- 3 (a) Under Section 10131(a) of the Code, sell or offer
4 to sell, buy or offer to buy, solicit prospective
5 sellers or purchasers of, and/or negotiate the
6 purchase, sale or exchange of real property;
- 7 (b) Under Section 10131(b) of the Code, lease or
8 rent, offer to lease or rent, solicit
9 prospective tenants, collect rents on, and/or
10 manage certain real properties in California;
11 and/or,
- 12 (c) Under Section 10167.3(b), the operation of a
13 prepaid rental listing service business
14 supplying prospective tenants with listings of
15 residential real properties available for
16 tenancy.

17 FIRST CAUSE OF ACTION

18 VI

19 In or about the spring of 1998, RAYMOND and
20 Respondent entered into an agreement for Respondent to sponsor
21 or join RAYMOND's "tenant placement" business(es) as the real
22 estate broker of record, wherein they would and did contract
23 for, charge, claim, demand, collect and/or receive fees from
24 prospective tenants in advance of services to be provided,
25 including but not limited to soliciting and negotiating with
26 property owners and landlords to secure housing for clients.
27 Such fees are advance fees and trust funds.

VII

Beginning in August of 1999, the Department conducted an audit of the above business activities of Respondent for the time period of May 1, 1998 through August 31, 1999 (hereafter the audit period). During the course of the activities described in Paragraphs V and VI above, Respondent received and disbursed advance fee funds in trust on behalf of others, including but not limited to the following:

NAME	DATE	AMOUNT
Trudi Lynn Sagovac	May 15, 1998	\$800.00
Page Chernick	June 23, 1998	\$400.00
Karen Zimmerman	January 18, 1999	\$800.00

VIII

Within the last three years, Respondent deposited or caused the deposit of the trust funds into two bank accounts as follows:

- (a) Trust Account #1: Account No. 01825-10835 at Bank of America in San Rafael, California, in the name of "Thomas Gioseffi, Real Estate Broker Trust, Sage & Company Authorized Agent," opened on May 26, 1998 and closed on October 28, 1998; and
- (b) Bank Account #2: Account No. 183004647 at Luther Burbank Savings in Santa Rosa, California, an interest-bearing account in the name of "Thomas Gioseffi, DBA Sage & Company", opened on October 21, 1998 and closed on April 23, 1999.

1 IX

2 In connection with the collection and disbursement of
3 trust funds in Trust Account #1, Respondent failed to deposit and
4 maintain the trust funds in a trust account or other recognized
5 depository, as required by Sections 10145 and 10146 of the Code,
6 in such a manner that as of August 31, 1998, there was a trust
7 fund shortage in the approximate sum of \$8,562.

8 X

9 In connection with the collection and disbursement of
10 trust funds in Bank Account #2, Respondent failed to deposit and
11 maintain the trust funds in a trust account or other recognized
12 depository, as required by Sections 10145 and 10146 of the Code,
13 in such a manner that as of April 23, 1999, there was a trust
14 fund shortage in the approximate sum of \$800.

15 XI

16 In connection with the receipt and disbursement of
17 trust funds as above alleged, Respondent:

18 (a) Failed to deposit trust funds into Bank Account #2
19 in the name of Respondent as trustee at a bank or
20 other financial institution, in conformance with
21 Section 2832 of Title 10, California Code of
22 Regulations (hereafter the Regulations);

23 (b) Failed to maintain a written control record of all
24 trust funds received and disbursed for each account
25 containing all information required by Section 2831
26 of the Regulations, including but not limited to
27 recordation of all deposits and disbursements;

- 1 (c) Failed to maintain separate beneficiary or
2 transaction records for each account containing
3 all information required by Section 2831.1;
4 (d) Failed to reconcile the balance of separate
5 beneficiary or transaction records with the
6 control records of trust funds received and
7 disbursed for each account at least once a month,
8 and/or failed to maintain a record of such
9 reconciliations as required by Section 2831.2 of
10 the Regulations;
11 (e) Commingled the trust funds in each account with
12 funds belonging to RAYMOND, and/or Respondent;
13 (f) As to Trust Account #1, permitted withdrawals to
14 be made on the signature of RAYMOND without the
15 requisite fidelity bond insurance coverage under
16 Section 2834 of the Regulations; and,
17 (g) As to Bank Account #2, deposited trust funds into
18 an interest bearing account without complying with
19 the requirements of Section 10145(d) of the Code.

20 XII

21 Some or all of the trust fund shortages alleged in
22 Paragraphs IX and X above were caused by withdrawals by
23 RAYMOND. During the audit period, Respondent compensated
24 and/or authorized, permitted or ratified the compensation of
25 RAYMOND for activities for which a real estate license is
26 required when she did not have a license.

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XIII

Respondent withdrew, or authorized, permitted or ratified the withdrawal of trust funds from the accounts for disbursement to himself and/or to RAYMOND prior to the times that the advance fees were earned, and/or prior to performance of Respondent's obligations under the contracts; and/or for expenditures that were not on behalf of the principal owners of the funds; and/or prior to the mailing of verified accountings to the owners of the funds; and/or failed to refund unearned fees to clients.

XIV

Respondent used, or authorized, permitted or ratified the use by his company of advance fee contract forms for the tenant placement business(es) without advance approval of the materials from the Department as required by Section 10085 of the Code and 2970 of the Regulations.

XV

In the conduct of the business activities referred to in Paragraphs V and VI above, Respondent engaged in activities for which a real estate license is required under the fictitious business names of SAGE & COMPANY, SAGE AND COMPANY, FINDERS USA, and/or FINDERS USA HOUSING CONSULTANTS.

XVI

The acts and/or omissions of Respondent as alleged above constitute grounds for disciplinary action under the following provisions:

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- (a) As to Paragraphs VIII(b), IX, X, and XI(a), under Sections 10145 and 10146 of the Code and Section 2832 of the Regulations, in conjunction with Section 10177(d) of the Code;
- (b) As to Paragraph XI(b), under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) As to Paragraph XI(c), under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As to Paragraph XI(d), under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;
- (e) As to Paragraph XI(e), under Section 10176(e) of the Code in conjunction with Section 10177(d) of the Code;
- (f) As to Paragraph XI(f), under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code;
- (g) As to Paragraph XI(g), under Section 10145(d) of the Code in conjunction with Section 10177(d) of the Code;
- (h) As to Paragraph XII, under Section 10137 of the Code;
- (i) As to Paragraph XIII, under Section 10146 of the Code and Section 2972 of the Regulations in conjunction with Section 10177(d) of the Code;

1 (j) As to Paragraph XIV, under Section 10085 of the
2 Code and Section 2970 of the Regulations in
3 conjunction with Section 10177(d) of the Code;
4 and,

5 (k) As to Paragraph XV, under Section 10159.5 of the
6 Code and Section 2731 of the Regulations in
7 conjunction with Section 10177(d) of the Code.

8 SECOND CAUSE OF ACTION

9
10 XVII

11 In the alternative to the First Cause of Action, or in
12 addition to it, in or about the spring of 1998, RAYMOND and
13 Respondent entered into an agreement for Respondent to sponsor or
14 join RAYMOND's prepaid rental listing service business(es) as the
15 real estate broker of record, wherein they would and did charge
16 prospective tenants for prepaid rental listing services to be
17 provided, including but not limited to supplying listings of
18 residential real property available for tenancy to the
19 prospective tenants.

20 XVIII

21 Beginning in August of 1999, the Department conducted
22 an audit of the above business activities of Respondent for the
23 time period of May 1, 1998 through August 31, 1999 (hereafter
24 the audit period). During the course of the activities
25 described in Paragraphs V and XVII above, Respondent received
26 and disbursed fees paid by prospective tenants in advance of or
27 contemporaneously with the supplying of rental listings.

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XIX

Within the last three years, Respondent deposited or caused the deposit of the above prepaid rental listing service fees into the two bank accounts set forth in Paragraph VIII above.

XX

Respondent used, or authorized, permitted or ratified the use by his company(s) of prepaid rental listing service contract forms for the prepaid rental listing service business(es) without advance approval of the materials from the Department as required by Section 10167.9(c) of the Code.

XXI

For transactions that occurred during the audit period, Respondent failed to provide refunds to prospective tenants of the full amount paid in advance by them over and above the sum of a \$25 service charge following receipt of valid claims for refund as required by Section 10167.10 of the Code.

XXII

During the audit period, Respondent failed to operate the prepaid rental listing service at his business address under his immediate supervision or that of a licensed real estate salesperson licensed to him and acting on his behalf.

XXIII

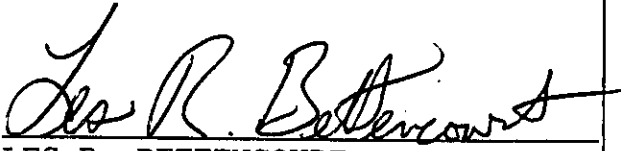
The above acts and/or omissions of Respondent constitute grounds for disciplinary action under Sections 10167.3(b), 10167.9(c), and 10167.10 of the Code, in conjunction with Section 10167.12 of the Code.

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PRIOR PROCEEDINGS

On May 27, 1998, the Department filed an Order to Desist and Refrain in Case No. H-7575 SF against RAYMOND, individually and doing business as FINDERS U.S.A. HOUSING CONSULTANTS, ordering her to desist and refrain from performing any activities for which a real estate license is required unless she complies with Section 10130 of the Code; and from using any advance fee agreement without first complying with Section 10085 of the Code and Section 2970 of Title 10, California Code of Regulations. The order was served on RAYMOND on or about June 2, 1998.

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


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 4th day of February 2000