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**FILED**  
SEP 05 2006

DEPARTMENT OF REAL ESTATE

By *Jean Arant*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-8065 SF
)	
KEVIN GERARD HUNTER,                  )	
)	
Respondent.                          )	
_____  )	

ORDER GRANTING REINSTATEMENT OF LICENSE

On October 30, 2002, an Order was issued herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. The effective date of said Order was thereafter stayed until March 13, 2003. A restricted real estate salesperson license was issued to Respondent on March 13, 2003. Respondent has operated as a restricted licensee since that time.

On September 2, 2005, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof. Respondent has  
3 demonstrated to my satisfaction that Respondent meets the  
4 requirements of law for the issuance to Respondent of an  
5 unrestricted real estate salesperson license and that it would  
6 not be against the public interest to issue said license to  
7 Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 petition for reinstatement is granted and that a real estate  
10 salesperson license be issued to Respondent if Respondent  
11 satisfies the following conditions within nine (9) months from  
12 the date of this Order:

13 1. Submittal of a completed application and payment of  
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, 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.

20 This Order shall be effective immediately.

21 DATED: \_\_\_\_\_

8-16-06

22 JEFF DAVI  
23 Real Estate Commissioner

24   
25  
26  
27

FILE MEMO

(Rev. 5/95)

Send a copy of  
this memo  
with the 8-12-03  
suspension  
order

DATE  
8/19/03

TO LICENSING  
FROM LARRY ALAMAO

REGARDING H8065 SF FITZSTEPHENS

THE ORDER OF SUSPENSION IN THIS CASE  
WAS FILED AND SERVED ON MR.  
FITZSTEPHENS ON AUGUST 12, 2003. NOTWITH-  
STANDING THE IMMEDIATE EFFECTIVE DATE  
RECITED IN THE ORDER, THE ORDER  
BECAME EFFECTIVE ONLY WHEN IT WAS  
SERVED: AUGUST 12, 2003.

Larry Alamao

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FILED  
AUG 12 2003

DEPARTMENT OF REAL ESTATE

By: *Matthew Contreras*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
  )  
    ROBERT RULAND FITZ-STEPHENS, )            NO. H-8065 SF  
  )  
                                    Respondent. )  
  )

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: ROBERT RULAND FITZ-STEPHENS:

On February 11, 2003, a restricted real estate broker license was issued by the Department of Real Estate to Respondent ROBERT RULAND FITZ-STEPHENS on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Decision in Case No. H-8065 SF, effective February 11, 2003. The Decision granted the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions, and restrictions imposed under authority of

1 Section 10156.6 of said Code. Among those terms, conditions, and  
2 restrictions, it was ordered as follows:

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

11 On August 12, 2003, in Case No. H-8488 SF, an  
12 Accusation by a Deputy Real Estate Commissioner of the State of  
13 California was filed charging you, Respondent, with a violation  
14 of Section 10177.5 of the Code, in that a civil judgment was  
15 entered against you based upon grounds of fraud, misrepresentation,  
16 or deceit with reference to a transaction for which a real estate  
17 license is required.

18 NOW, THEREFORE, IT IS ORDERED under authority of  
19 Section 10156.7 of the Business and Professions Code of the State  
20 of California that the restricted real estate broker license  
21 heretofore issued to you, Respondent, and the exercise of any  
22 privileges thereunder is hereby suspended pending a final  
23 determination made after hearing on the aforesaid Accusation.

24 IT IS FURTHER ORDERED that all license certificates and  
25 identification cards issued by Department which are in the  
26 possession of Respondent be immediately surrendered by personal  
27 delivery or by mailing in the enclosed, self-addressed envelope to:

DEPARTMENT OF REAL ESTATE  
ATTN: FLAG SECTION  
P. O. Box 187000  
Sacramento, CA 95818-7000

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This Order shall be effective immediately.

DATED: May 29, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

Paula Reddish Zinnemann

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FILED

MAR 13 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	
KEVIN GERARD HUNTER,	)	NO. H-8065 SF
	)	
Respondent.	)	

ORDER GRANTING RECONSIDERATION

On October 30, 2002, a Decision was rendered in the above-entitled matter to become effective March 13, 2003.

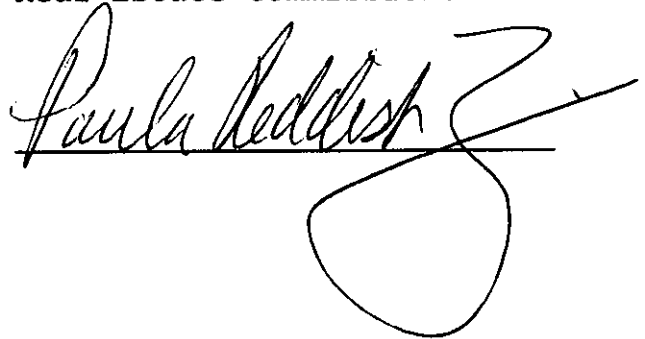
On February 3, 2003, Respondent petitioned for reconsideration of the Decision of October 30, 2002. I find that there is good cause to reconsider said Decision.

After reconsidering said Decision and the written argument submitted by the parties, I have determined that the disciplinary action imposed against Respondent by said Decision should be reduced at this time. Paragraph C(1) of the Order in said Decision of October 30, 2002, is hereby modified to eliminate the remaining 30 days of suspension, and to eliminate

1 Paragraphs C(1) (a) through (e) regarding the right to pay a  
2 monetary penalty in lieu of said remaining 30 days of suspension.

3 IT IS HEREBY ORDERED March 6, 2003.  
4

5 PAULA REDDISH ZINNEMANN  
6 Real Estate Commissioner

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1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
7

FILED  
JAN 22 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 KEVIN GERARD HUNTER, and ) NO. H-8065 SF  
13 ROBERT RULAND FITZ-STEPHENS, ) STIPULATION AND AGREEMENT  
14 Respondents. )  
15

16 It is hereby stipulated by and between KEVIN GERARD  
17 HUNTER (Respondent), and the Complainant, acting by and through  
18 Deidre L. Johnson, Counsel for the Department of Real Estate, as  
19 follows for the purpose of settling and disposing the Accusation  
20 as to him filed on March 6, 2002, in this matter:

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

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

4           3. On March 20, 2002, Respondent filed his Notice of  
5 Defense pursuant to Section 11505 of the Government Code for the  
6 purpose of requesting a hearing on the allegations in this  
7 matter. Respondent hereby freely and voluntarily withdraws said  
8 Notice of Defense. Respondent acknowledges that he understands  
9 that by withdrawing said Notice of Defense he will thereby waive  
10 his right to require the Commissioner to prove the allegations in  
11 the Accusation at a contested hearing held in accordance with the  
12 provisions of the APA, and that he will waive other rights  
13 afforded to him in connection with the hearing such as the right  
14 to present evidence in defense of the allegations in the  
15 Accusation and the right to cross-examine witnesses.

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

22           5. Without admitting the truth of the allegations  
23 pertaining to him contained in the remaining paragraphs of the  
24 Accusation pertaining to him, Respondent stipulates that he will  
25 not interpose a defense thereto. This Stipulation is based on  
26 the factual allegations as to Respondent contained in the  
27 Accusation. In the interests of expedience and economy,



1 and agreed that the following determination of issues shall be  
2 made:

3           The acts and/or omissions of Respondent KEVIN GERARD  
4 HUNTER as stipulated above violate Section 10130 of the  
5 California Business and Professions Code (hereafter the Code),  
6 and constitute grounds for disciplinary action against the real  
7 estate salesperson license and license rights of Respondent  
8 under the provisions of Section 10177(d) of the Code.

9                           \* \* \*

10                           ORDER

11 A. All real estate license(s) and license rights of Respondent  
12 KEVIN GERARD HUNTER are hereby revoked.

13 B. A restricted real estate salesperson license shall be  
14 issued to Respondent pursuant to Section 10156.6 of the  
15 Code if he makes application therefor and pays to the  
16 Department of Real Estate the appropriate fee for said  
17 license within ninety (90) days from the effective date of  
18 the Decision.

19 C. The restricted license issued to Respondent shall be subject  
20 to all of the provisions of Section 10156.7 of the Business  
21 and Professions Code and to the following limitations,  
22 conditions, and restrictions imposed under authority of  
23 Section 10156.6 of that Code:

24       (1) Any restricted license issued to Respondent pursuant to  
25 this Decision shall be suspended for sixty <sup>30</sup>~~60~~ days  
26 from the date of issuance of said restricted license.  
27 Thirty (30) days shall be stayed to two (2) years on the

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*modified*

terms and conditions herein. As to the remaining thirty (30) days, if Respondent petitions, said suspension (or a portion thereof) shall be stayed upon condition that:

- (a) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$75.00 per day, for each day of the suspension, for a total maximum monetary penalty of \$2,250.00;
- (b) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter;
- (c) No further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision in this matter;
- (d) If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision; and,
- (e) If Respondent pays the monetary penalty and if no further cause for disciplinary action against the

1 real estate license of Respondent occurs within  
2 two (2) years from the effective date of the  
3 Decision, the stay hereby granted shall become  
4 permanent.

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

11 (3) The restricted license issued to Respondent may be  
12 suspended prior to hearing by Order of the Real  
13 Estate Commissioner on evidence satisfactory to  
14 the Commissioner that Respondent has violated  
15 provisions of the California Real Estate Law, the  
16 Subdivided Lands Law, Regulations of the Real  
17 Estate Commissioner, or conditions attaching to the  
18 restricted license.

19 (4) Respondent shall not be eligible to apply for the  
20 issuance of an unrestricted real estate license, nor  
21 the removal of any of the conditions of the restricted  
22 license, until two (2) years have elapsed from the  
23 effective date of this Decision.

24 (5) Respondent shall, within nine (9) months from the  
25 effective date of this Decision, present evidence  
26 satisfactory to the Real Estate Commissioner that  
27 Respondent has, since the most recent issuance of an

1 original or renewal real estate license, taken and  
2 successfully completed the continuing education  
3 requirements of Article 2.5 of Chapter 3 of the Real  
4 Estate Law for renewal of a real estate license. If  
5 Respondent fails to satisfy this condition, the  
6 Commissioner may order the suspension of the restricted  
7 license until the Respondent presents such evidence.  
8 The Commissioner shall afford Respondent the opportunity  
9 for hearing pursuant to the Administrative Procedure Act  
10 to present such evidence.

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

19 (7) Respondent shall submit with any application for license  
20 under an employing broker, or any application for  
21 transfer to a new employing broker, a statement signed  
22 by the prospective employing real estate broker on a  
23 form approved by the Department of Real Estate which  
24 shall certify:

25 (a) That the employing broker has read the Decision of  
26 the Commissioner which granted the right to a  
27 restricted license; and,



1 (b) That the employing broker will exercise close  
2 supervision over the performance by the restricted  
3 licensee relating to activities for which a real  
4 estate license is required.

5 (8) Respondent shall not have any ownership interest in any  
6 employing broker during the term of any restricted  
7 license issued herein, including but not limited to any  
8 interest as a sole proprietor, association, joint  
9 venture, partnership, or owner of any shares of any  
10 employing broker of Respondent.

11  
12 October 21, 2002  
13 DATED

11  
12 Deidre L. Johnson  
13 DEIDRE L. JOHNSON  
14 Counsel for the Complainant

14 \* \* \*

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

25  
26 OCT. 17 02  
27 DATED

25  
26 Kevin Gerard Hunter  
27 KEVIN GERARD HUNTER  
Respondent

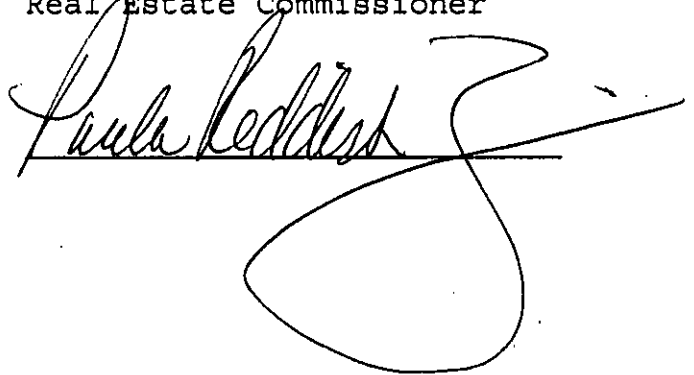
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on February 11, 2003.

IT IS SO ORDERED October 30, 2002.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



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

FILED  
JAN 22 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 KEVIN GERARD HUNTER, and ) NO. H-8065 SF  
14 ROBERT RULAND FITZ-STEPHENS, ) STIPULATION AND AGREEMENT  
15 Respondents. )  
16

17 It is hereby stipulated by and between ROBERT RULAND  
18 FITZ-STEPHENS, represented by Stephen R. Gianelli, Attorney at  
19 Law, and the Complainant, acting by and through Deidre L.  
20 Johnson, Counsel for the Department of Real Estate, as follows  
21 for the purpose of settling and disposing the Accusation as to  
22 him filed on March 6, 2002, in this matter:

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 Procedures 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 the  
4 Statement to Respondent, and the Discovery Provisions of the APA  
5 filed by the Department of Real Estate in this proceeding.

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

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

24           5. Without admitting the truth of the allegations  
25 pertaining to him contained in the remaining paragraphs of the  
26 Accusation pertaining to him, in conjunction with Paragraph XVIII  
27 of the Third Cause of Action, Respondent stipulates that he will

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

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

20           7. The Order or any subsequent Order of the Real  
21 Estate Commissioner made pursuant to this Stipulation and  
22 Agreement shall not constitute an estoppel, merger or bar to any  
23 further administrative or civil proceedings by the Department of  
24 Real Estate with respect to any matters which were not  
25 specifically alleged to be causes for Accusation in this  
26 proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and  
3 waivers, and for the purpose of settlement of the pending  
4 Accusation as to Respondent without a hearing, it is stipulated  
5 and agreed that the following determination of issues shall be  
6 made:

7 The acts and/or omissions of Respondent ROBERT RULAND  
8 FITZ-STEPHENS as stipulated above constitute grounds for  
9 disciplinary action against the real estate broker license(s) and  
10 license rights of Respondent under the provisions of  
11 Section 10177(h) of the California Business and Professions Code.

12 \* \* \*

13 ORDER

14 A. All real estate license(s) and license rights of  
15 Respondent ROBERT RULAND FITZ-STEPHENS are hereby revoked.

16 B. A restricted real estate broker license shall be  
17 issued to Respondent pursuant to Section 10156.6 of the Code if  
18 he makes application therefor and pays to the Department of Real  
19 Estate the appropriate fee for said license within ninety (90)  
20 days from the effective date of the decision.

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

26 (1) The restricted license issued to Respondent may be  
27 suspended prior to hearing by Order of the Real

1 Estate Commissioner in the event of Respondent's  
2 conviction or plea of nolo contendere to a crime  
3 which is substantially related to Respondent's  
4 fitness or capacity as a real estate licensee.

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

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

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

1 suspension of the restricted license until the  
2 Respondent presents such evidence. The  
3 Commissioner shall afford Respondent the  
4 opportunity for hearing pursuant to the  
5 Administrative Procedure Act to present such  
6 evidence.

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

16  
17  
18 October 17, 2002  
DATED

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

19  
20  
21 \* \* \*


22 I have read the Stipulation and Agreement, have  
23 discussed it with my counsel, and its terms are understood by me  
24 and are agreeable and acceptable to me. I understand that I am  
25 waiving rights given to me by the California Administrative  
26 Procedure Act, and I willingly, intelligently and voluntarily  
27 waive those rights, including the right of requiring the



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

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10/15/02  
DATED

  
ROBERT RULAND FITZ-STEPHENS  
Respondent

10 Approved as to form:

11  
12  
13  
14

October 11, 2002  
DATED

  
STEPHEN R. GIANELLI  
Attorney for Respondent

\* \* \*

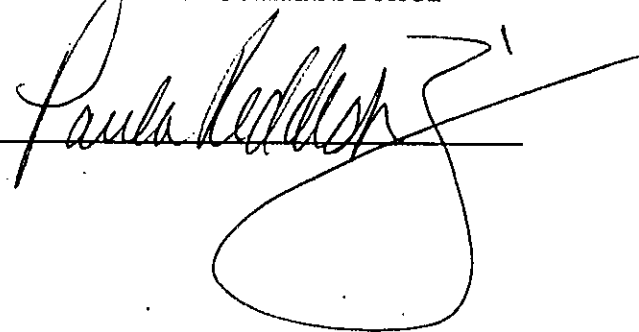
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on February 11, 2003.

20  
21

IT IS SO ORDERED October 30, 2002.

22  
23  
24  
25  
26  
27

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner  


FILED  
AUG 27 2002

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

*In the Matter of the Accusation of*

KEVIN GERARD HUNTER, and  
ROBERT RULAND FITZ-STEPHENS,

}

Case No. H-8065 SF

OAH No. N-2002050527

*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, THE ELIHU HARRIS STATE BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **OCTOBER 22, 2002**, 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: AUGUST 27, 2002

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel

FILED  
JUL - 2 2002

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

*In the Matter of the Accusation of*

KEVIN GERARD HUNTER, and  
ROBERT RULAND FITZ-STEPHENS,

}  
}

Case No. H-8065 SF

OAH No. N-2002050527

\_\_\_\_\_  
*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 **OFFICE OF ADMINISTRATIVE HEARINGS, THE ELIHU HARRIS STATE BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **AUGUST 29, 2002**, 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.

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DEPARTMENT OF REAL ESTATE

Dated: JULY 1, 2002

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel

1 DEIDRE L. JOHNSON, Counsel  
SBN 66322  
2 Department of Real Estate  
P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAR - 6 2002

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 KEVIN GERARD HUNTER, and ) NO. H-8065 SF  
14 ROBERT RULAND FITZ-STEPHENS, )  
15 Respondents. ) ACCUSATION

16  
17 The Complainant, Les R. Bettencourt, a Deputy Real  
18 Estate Commissioner of the State of California, for causes of  
19 Accusation against KEVIN GERARD HUNTER and ROBERT RULAND FITZ-  
20 STEPHENS, is informed and alleges as follows:

21 PRELIMINARY ALLEGATIONS

22  
23 I

24 The Complainant, Les R. Bettencourt, a Deputy Real  
25 Estate Commissioner of the State of California, makes this  
26 Accusation against Respondents in his official capacity and not  
27 otherwise.

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II

Respondents KEVIN GERARD HUNTER and ROBERT RULAND FITZ-STEPHENS are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter the Code).

III

At all times herein mentioned, Respondent ROBERT RULAND FITZ-STEPHENS (hereafter FITZ-STEPHENS) was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker. At some times herein mentioned, Respondent FITZ-STEPHENS was licensed by the Department to do business under the fictitious business name of AMERICAN MORTGAGE ASSOCIATES at the main office address of record for Respondent FITZ-STEPHENS.

IV

At some times herein mentioned, Respondent KEVIN GERARD HUNTER (hereafter HUNTER) was and is licensed by the Department as a real estate salesperson. The license expired on or about September 28, 1998. On or about July 16, 1999, the license was renewed. At no time between September 28, 1998, and July 16, 1999, was Respondent licensed by the Department as either a real estate broker or salesperson.

V

At some times herein mentioned, Respondents FITZ-STEPHENS and HUNTER engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate company, AMERICAN MORTGAGE ASSOCIATES, within the State of California, for or in expectation of compensation, including the

1 operation and conduct of a mortgage loan brokerage business with  
2 the public wherein lenders and/or borrowers were solicited for  
3 loans secured directly or collaterally by liens on real property,  
4 and wherein such loans were arranged, negotiated, processed,  
5 and/or consummated.

6  
7 FIRST CAUSE OF ACTION

8 VI

9 HUNTER and FITZ-STEPHENS entered into a general  
10 partnership for the operation of AMERICAN MORTGAGE ASSOCIATES in  
11 or about June of 1995. From about June of 1995 to at least March  
12 of 1999, Respondent HUNTER was employed or associated with FITZ-  
13 STEPHENS as a loan agent, and HUNTER performed activities for  
14 FITZ-STEPHENS for which a real estate license is required, for or  
15 in expectation of compensation, and operated AMERICAN MORTGAGE  
16 ASSOCIATES from HUNTER's home address at 1781 Thornwood Drive,  
17 Concord, CA 94521.

18 VII

19 Beginning on and after September 28, 1998, when  
20 HUNTER's real estate license expired, Respondent HUNTER performed  
21 activities for which a real estate license is required in various  
22 secured loan transactions, for or in expectation of compensation,  
23 including but not limited to the following: solicitation and/or  
24 negotiation of a purchase money loan in the sum of about \$340,000  
25 on and after about February 7, 1999, on behalf of Jose and Marie  
26 Rosales, to be secured by real property they were purchasing  
27 located at 467 Obsidian Way, Clayton, California.

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VIII

As of February of 1999, Respondent FITZ-STEPHENS failed to have a branch office license issued by the Department to do business as AMERICAN MORTGAGE ASSOCIATES at HUNTER's home address alleged above.

IX

The acts and/or omissions of Respondent HUNTER as alleged above violate Section 10130 of the Code, and constitute grounds for disciplinary action under Sections 10137 and 10177(d) of the Code.

X

The acts and/or omissions of FITZ-STEPHENS as alleged above violate Section 2728 of Title 10, California Code of Regulations (hereafter the Regulations), and constitute grounds for disciplinary action against FITZ-STEPHENS pursuant to Sections 10137 and 10177(d) of the Code.

SECOND CAUSE OF ACTION

XI

Beginning on or about February 7, 1999, HUNTER, while unlicensed and sometimes employed by FITZ-STEPHENS as above alleged, solicited and/or negotiated a purchase money loan in the sum of about \$340,000 on behalf of Jose and Maria Rosales (hereafter Buyers) to be secured by real property they were purchasing located at 467 Obsidian Way, Clayton, California.

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XII

The Buyers' purchase contract provided that the contract was contingent on Buyers obtaining specified purchase financing, and that escrow was scheduled to close on or about March 18, 1999.

XIII

Beginning on and after about February 7, 1999, FITZ-STEPHENS and HUNTER owed to Buyers fiduciary duties of honesty and due diligence to process their loan application with qualified lenders to meet the terms of the contract, and the financial requirements of the Buyers.

XIV

Respondents FITZ-STEPHENS and HUNTER failed to prepare and deliver to Buyers, or cause to be delivered, a written borrower disclosure statement as required by Section 10240 of the Code within three business days after receipt of a completed written loan application, or prior to Buyers becoming obligated on the note, whichever is earlier; and/or failed to retain executed copies of such a disclosure statement with the records of the company.

XV

On or about March 11, 1999, Buyers terminated Respondent HUNTER's services and successfully closed escrow with another broker and lender.

XVI

The acts and/or omissions of Respondent HUNTER as alleged above violate Section 10130 of the Code, and constitute



1 grounds for disciplinary action under Section 10177(d) of the  
2 Code.

3 XVII

4 The acts and/or omissions of Respondent FITZ-STEPHENS  
5 as alleged above violate Section 10240 of the Code, and  
6 constitute grounds for disciplinary action under Section 10177(d)  
7 of the Code.

8  
9 THIRD CAUSE OF ACTION

10 XVIII

11 At all times mentioned herein, FITZ-STEPHENS failed to  
12 exercise reasonable supervision and control of the activities of  
13 AMERICAN MORTGAGE ASSOCIATES and HUNTER for which a real estate  
14 license is required. In particular, FITZ-STEPHENS permitted,  
15 ratified and/or caused some or all of the conduct alleged above  
16 to occur, and/or failed to take reasonable steps to oversee the  
17 daily operations of the company, including but not limited to the  
18 establishment and implementation of policies, rules, procedures,  
19 and systems to review, oversee, inspect and manage employee  
20 licensing records and loan files in progress, and systems to  
21 monitor the full compliance of the company and employees with the  
22 Real Estate Law.

23 XIX

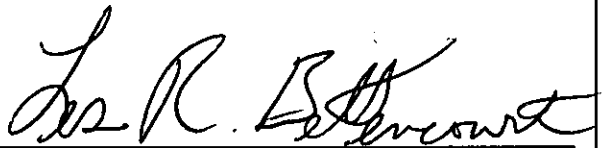
24 The acts and/or omissions of FITZ-STEPHENS as alleged  
25 above constitute grounds for disciplinary action under the  
26 provisions of Section 10177(h) of the Code and Section 2725 of  
27 the Regulations.

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PRIOR PROCEEDINGS

Effective October 23, 1984, in Case No. H-5450 SF before the Department of Real Estate, the Real Estate Commissioner denied the application of Respondent FITZ-STEPHENS for a real estate salesperson license, and granted the right to a restricted license on grounds of violation of Sections 480 and 10177(b) of the Code.

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 licenses and license rights of Respondents 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 13<sup>th</sup> day of December, 2001.