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JUL 01 1998
DEPARTMENT OF REAL ESTATE
By *[Signature]*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-27508 LA
)
FIRST TEAM REAL ESTATE-ORANGE) STIPULATION AND AGREEMENT
COUNTY, CAMERON NATHAN MERAGE,)
and DERIK A. BRIAN,)
)
Respondents.)
_____)

It is hereby stipulated by and between FIRST TEAM REAL ESTATE-ORANGE COUNTY, CAMERON NATHAN MERAGE, and DERIK A. BRIAN, (sometimes referred to as Respondents), and their attorney Fredric W. Trester, and the Complainant, acting by and through James R. Peel, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 28, 1998, in this matter.

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative 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. 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 February 17, 1998, Respondents filed a Notice of
8 Defense, pursuant to Section 11506 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 acknowledge that they
12 understand that by withdrawing said Notice of Defense they will
13 thereby waive their right 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 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, although not admitting or denying the truth of the
21 allegations, will not contest the factual allegations contained in
22 the Accusation filed in this proceeding and the Real Estate
23 Commissioner shall not be required to provide further evidence of
24 such allegations.

25 5. It is understood by the parties that the Real Estate
26 Commissioner may adopt the Stipulation and Agreement as his
27 decision in this matter thereby imposing the penalty and sanctions



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

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

14 7. This Stipulation is entered into by each party with
15 the express understanding and agreement that it is to be used for
16 the purposes of settling these proceedings only and that this
17 Stipulation shall not be deemed, used, or accepted as an
18 acknowledgment or stipulation in any other civil or administrative
19 proceeding to which this Department is not a party.

20 DETERMINATION OF ISSUES

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

25 I

26 The conduct of Respondent, FIRST TEAM REAL ESTATE-ORANGE
27 COUNTY, as alleged in the Accusation, is grounds for the



1 suspension or revocation of all of the real estate licenses and
2 license rights of Respondent under the provisions of Regulations
3 2726, 2731, 2752, and 2831 and Section 10177(d) of the Business
4 and Professions Code.

5 The conduct of Respondent, CAMERON NATHAN MERAGE, as
6 alleged in the Accusation, is grounds for the suspension or
7 revocation of all of the real estate licenses and license rights
8 of Respondent under the provision of Section 10177(h) of the
9 Business and Professions Code.

10 The conduct of Respondent, DERIK A. BRIAN, as alleged in
11 the Accusation, is grounds for the suspension or revocation of all
12 of the real estate licenses and license rights of Respondent under
13 the provisions of Sections 10130 and 10177(d) of the Business and
14 Professions Code.

15 ORDER

16 1. Prior to the effective date of this Order,
17 Respondents FIRST TEAM REAL ESTATE-ORANGE COUNTY, and CAMERON
18 NATHAN MERAGE, shall pay to the Department of Real Estate \$7,900
19 for a new chargeable audit. If this payment is not made the
20 "STAY" set forth in paragraph 2 shall be two (2) years. If the
21 audit costs are less than \$7,900 the difference shall be returned
22 to Respondents.

23 2. All licenses and licensing rights of Respondents FIRST
24 TEAM REAL ESTATE-ORANGE COUNTY, and CAMERON NATHAN MERAGE and
25 DERIK A. BRIAN, under the Real Estate Law are suspended for a
26 period of sixty (60) days from the effective date of this Order;
27



1 provided, however, that all sixty (60) days of said suspension
2 shall be stayed for one (1) year upon the following terms and
3 conditions.

4 a. Respondent shall obey all laws, rules and
5 regulations governing the rights, duties and responsibilities of a
6 real estate licensee in the State of California; and

7 b. That no final subsequent determination be made,
8 after hearing or upon stipulation that cause for disciplinary
9 action occurred within one (1) year of the effective date of this
10 Order. Should such a determination be made, the Commissioner
11 may, in his discretion, vacate and set aside the stay order and
12 reimpose all or a portion of the stayed suspension. Should no
13 such determination be made, the stay imposed herein shall become
14 permanent.

15 c. Pursuant to Section 10148 of the Business and
16 Professions Code, Respondents FIRST TEAM REAL ESTATE-ORANGE
17 COUNTY, and CAMERON NATHAN MERAGE, shall pay the Commissioner's
18 reasonable cost for an audit to determine if Respondent FIRST TEAM
19 REAL ESTATE-ORANGE COUNTY, has corrected the trust fund violations
20 found in paragraph I of the Determination of Issues. In
21 calculating the amount of the Commissioner's reasonable cost, the
22 Commissioner may use the estimated average hourly salary for all
23 persons performing audits of real estate brokers, and shall
24 include an allocation for travel costs, including mileage, time to
25 and from the auditor's place of work, and per diem. The
26 Commissioner's reasonable cost shall in no event exceed \$7,900.

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Should no order vacating the stay be issued, the stay imposed herein shall become permanent.

DATED: MAY 5, 1998

James R. Peel
JAMES R. PEEL
Counsel for Complainant

* * * *

I have read the Stipulation and Agreement in Settlement, 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 (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including 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.

DATED: 5/10/98


Richard P. [Signature]
FIRST TEAM REAL ESTATE-ORANGE COUNTY
Respondent

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DATED: 5/14/98


CAMERON NATHAN MERAGE,
Respondent

DATED: 5/14/98

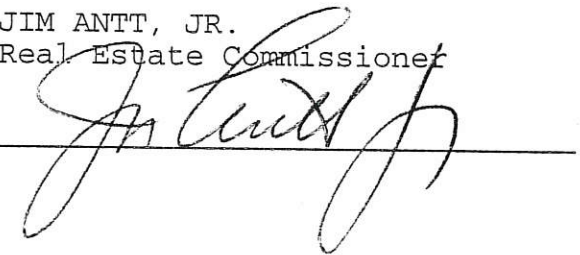

DERIK A. BRIAN,
Respondent

DATED: 5/6/98


FREDRIC W. TRESTLER,
Counsel for Respondents

The foregoing Stipulation and Agreement is hereby adopted as
my Decision in this matter and shall become effective at 12 o'
clock noon on July 21, 1998.

IT IS SO ORDERED 5/28, 1998.

JIM ANTT, JR.
Real Estate Commissioner


JRP:rgp

SAC TO
FLAG

FILED
JAN 28 1998
DEPARTMENT OF REAL ESTATE
By [Signature]

1 JAMES R. PEEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 State Bar 47055
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12 (213) 897-3937

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) NO. H-27508 LA
12 FIRST TEAM REAL ESTATE-ORANGE)
13 COUNTY, CAMERON NATHAN MERAGE,) ACCUSATION
14 and DERIK A. BRIAN,)
15 Respondents.)

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against FIRST TEAM REAL ESTATE-ORANGE COUNTY, CAMERON NATHAN
19 MERAGE, and DERIK A. BRIAN, alleges as follows:

20 I.

21 The Complainant, Thomas McCrady, acting in his official
22 capacity as a Deputy Real Estate Commissioner of the State of
23 California, makes this Accusation against FIRST TEAM REAL ESTATE-
24 ORANGE COUNTY, CAMERON NATHAN MERAGE, and DERIK A. BRIAN.

25 II.

26 FIRST TEAM REAL ESTATE-ORANGE COUNTY, CAMERON NATHAN
27 MERAGE, and DERIK A. BRIAN, (hereinafter referred to as

1 respondents) are presently licensed and/or have license rights
2 under the Real Estate Law, Part 1 of Division 4 of the Business
3 and Professions Code (hereinafter referred to as "the Code").

4 III.

5 At all times herein mentioned, respondent FIRST TEAM
6 REAL ESTATE-ORANGE COUNTY, was licensed by the Department of Real
7 Estate of the State of California as a corporate real estate
8 broker, respondent CAMERON NATHAN MERAGE, was licensed as the
9 designated broker officer of said corporation, and ordered,
10 authorized, or participated in the illegal conduct of respondent
11 FIRST TEAM REAL ESTATE-ORANGE COUNTY, as alleged in this
12 Accusation, and respondent DERIK A. BRIAN was licensed as a real
13 estate salesperson employed by respondent FIRST TEAM REAL ESTATE-
14 ORANGE COUNTY.

15 IV

16 At all times herein mentioned, respondent FIRST TEAM
17 REAL ESTATE-ORANGE COUNTY, on behalf of others in expectation of
18 compensation, engaged in the business, acted in the capacity of,
19 advertised or assumed to act as a real estate broker in the State
20 of California within the meaning of Section 10131(a) and (b) of
21 the Code, including soliciting buyers and sellers and negotiating
22 the sale of real property, as well as soliciting renters and
23 owners and collecting rents on behalf of the owners of real
24 property.

25 V.

26 During 1996, in connection with the aforesaid real
27 estate brokerage activities, respondent FIRST TEAM REAL ESTATE-



1 ORANGE COUNTY, accepted or received funds from buyers/sellers and
2 renters/owners and thereafter made disbursements of such funds.

3 VI.

4 In connection with respondents' activities as a real
5 estate broker as described above, respondents FIRST TEAM REAL
6 ESTATE-ORANGE COUNTY and CAMERON NATHAN MERAGE, acted in violation
7 of the Real Estate Law, Business and Professions Code (hereinafter
8 Code), and California Code of Regulations (hereinafter
9 Regulations), Title 10, Chapter 6, as follows:

10 1. Violated Section 10145(a) of the Code and Regulation
11 2832.1 by maintaining a shortage in trust account No. 00973-34347
12 as of Octobers 31, 1996, in the amount of \$352.18.

13 2. Violated Regulation 2830/2832 in that not all
14 trust accounts were maintained in the broker's name as trustee,
15 and earnest money deposits and rents collected were not
16 deposited into a trust account by the next business day.

17 3. Violated Regulation 2831 in that the columnar
18 records did not always show a running daily balance. There was
19 no record maintained for some earnest money deposits received in
20 sales transactions.

21 4. Violated Regulation 2834 by allowing salespersons
22 JOAN COURTNEY, TOMI LAKATOSH, JUDITH LAUREN, ANDY LAKATOSH,
23 GERRI DUARTE, and GARY HOUSLEY, who were not licensed to
24 respondents to be trust account signatories. There was no
25 fidelity bond converge.

26 5. Violated Regulation 2831.2 by failing to maintain
27 a monthly record of trust fund account reconciliation. The



1 columnar record was not reconciled to the separate records on a
2 monthly basis for account Nos. 00973-34347 and 01039135.

3 6. Violated Section 10148 of the Code by failing to
4 maintain copies of all bank statements, canceled checks and
5 invoices prior to October 1996 for account No. 00977-34784.

6 7. Violated Regulation 2731 by using the unlicensed
7 fictitious business names "Nolan Real Estate", "First Team Real
8 Estate", and "First Team Nolan Real Estate" in its real estate
9 brokerage business.

10 8. Violated Regulation 2752 by failing to notify the
11 Department of Real Estate when salespersons JOAN COURTNEY, GARY
12 HAWLEY, ANDREW LAKATOSH, TOMI LAKATOSH, CODY FERRIS, and WILLIAM
13 ROLFING were employed by respondents.

14 9. Violated Regulation 2726 by failing to maintain
15 employment contracts with salespersons JOAN COURTNEY, GARY
16 HAWLEY, JUDITH LAUREN, WILLIAM ROLFING, CHARLES GRANT, and
17 DONNA COLBERT.

18 10. Violated Section 10137 of the Code by employing
19 respondent DERIK A. BRIAN to perform activities requiring a real
20 estate license in sales transactions after his license was
21 suspended on July 25, 1996.

22 11. Violated Regulation 2831.1 in that separate records
23 were not always maintained for sales transactions for rents
24 received and disbursed.

25 VII

26 The conduct of respondent FIRST TEAM REAL ESTATE-ORANGE
27 COUNTY, as alleged above, subjects its real estate license and



1 license rights to suspension or revocation pursuant to Sections
2 10177(d), 10177(g), and 10137 of the Code.

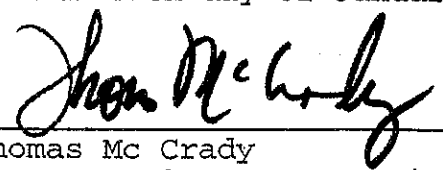
3 VIII

4 The conduct of respondent CAMERON NATHAN MERAGE, as
5 alleged above, as the responsible individual, by allowing and
6 permitting respondent FIRST TEAM REAL ESTATE-ORANGE COUNTY, to
7 engage in the conduct specified in Paragraph VI above, subjects
8 his real estate licenses and license rights to suspension or
9 revocation pursuant to Sections 10177(d) and 10177(h) of the Code.

10 IX

11 The conduct of respondent DERIK A. BRIAN, as alleged
12 above, was in violation of Section 10130 of the Code, and subjects
13 his real estate license to suspension or revocation pursuant to
14 Section 10177(d) of the Code.

15 WHEREFORE, Complainant prays that a hearing be conducted
16 on the allegations of this Accusation and, that upon proof
17 thereof, a decision be rendered imposing disciplinary action
18 against all licenses and license rights or respondents FIRST TEAM
19 REAL ESTATE-ORANGE COUNTY, CAMERON NATHAN MERAGE, and DERIK A.
20 BRIAN under the Real Estate Law (Part 1 of Division 4 of the
21 Business and Professions Code) and for such other and further
22 relief as may be proper under other applicable provisions of law.
23 Dated at Los Angeles, California this 28th day of January 1998.

24 

25 Thomas Mc Crady
26 Deputy Real Estate Commissioner

27 JRP:rgp