

1 DEPARTMENT OF REAL ESTATE
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013

4 (213) 576-6982

FILED
JUL 29 1999
DEPARTMENT OF REAL ESTATE

By R. Niederholt

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12 CEDRIC AGE, dba, "Ace Realty,")
13)
14 Respondent.)

No. H-28045 LA

STIPULATION AND
AGREEMENT

15
16 It is hereby stipulated by and between CEDRIC AGE
17 ("Respondent"), represented by Frank Buda, Esq., and the
18 Complainant, acting by and through Martha J. Rosett, Counsel for
19 the Department of Real Estate, as follows, for the purpose of
20 settling and disposing of the Accusation filed on March 16, 1999,
21 in this matter:

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



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

3 2. Respondent has received, read and understands 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 April 13, 1999, Respondent filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of defense, 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 below,
17 although not admitting or denying the truth of the allegations,
18 will not contest the factual allegations contained in the
19 Accusation filed in this proceeding and the Real Estate
20 Commissioner shall not be required to provide further evidence of
21 such allegations.

22 5. It is understood by the parties that the Real Estate
23 Commissioner may adopt the Stipulation and Agreement in Settlement
24 as his decision in this matter thereby imposing the penalty and
25 sanctions on Respondent's real estate licenses and license rights
26 as set forth below in the "Order." In the event that the
27 Commissioner in his discretion does not adopt the Stipulation and



1 Agreement in Settlement, it shall be void and of no effect, and
2 Respondent shall retain the right to a hearing and proceeding on
3 the Accusation under all the provisions of the APA and shall not
4 be bound by any stipulation or waiver made herein.

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

14 7. The Stipulation is entered into by each party with the
15 express understanding and agreement that it is to be used for the
16 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. Said
20 stipulation is expressly limited to these proceedings and to any
21 further proceeding initiated by or brought before the Department
22 of Real Estate, and shall have no collateral estoppel or res
23 judicata effect in any proceeding other than a proceeding brought
24 by the Department of Real Estate.

25 8. This Stipulation contains the full and complete agreement
26 of the parties hereto with regard to the disposition of these
27 administrative proceedings, only, and this Stipulation supersedes



1 in their entirety all negotiations, discussions, agreements,
2 and/or proposals which may have been issued or made by the
3 respective parties and/or by attorneys for the respective parties
4 prior to the date of execution of this Stipulation.

5 DETERMINATION OF ISSUES

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

10 I

11 The conduct of Respondent, CEDRIC AGE, as alleged in
12 Paragraphs I through VI and Paragraph VII (b) and (d) of the
13 Accusation, was in violation of the Commissioner's Regulations
14 numbers 2831, 2831.2, and Business and Professions Code Section
15 10145 and is grounds for the suspension or revocation of all of
16 the real estate licenses and license rights of Respondent under
17 the provisions of 10177(d) of the Business and Professions Code.

18 Order

19 WHEREFORE, THE FOLLOWING ORDER is hereby made:

20 1. All licenses and license rights of Respondent CEDRIC AGE
21 under the Real Estate Law are suspended for a period of
22 ninety (90) days from the effective date of this Order;
23 provided however, that if Respondent petitions, thirty (30)
24 days of said suspension shall be permanently stayed upon the
25 terms and conditions of this paragraph:

26 a) Respondent pays a monetary, pursuant to Section
27 10175.2 of California Business and Professions Code, at the



1 rate of \$50 for each day of said suspension stayed, for a
2 total monetary penalty of \$1,500;

3 (b) Said payment shall be in the form of a cashier's
4 check or certified check made payable to the Recovery Account
5 of the Real Estate Fund. Payment must be made prior to the
6 effective date of the Order in this matter;

7 (c) If Respondent fails to pay the monetary penalty in
8 accordance with the terms of this paragraph or this Order,
9 the Commissioner may, without a hearing, order the immediate
10 execution of all or any part of the 30 day stayed suspension,
11 in which event the Respondent shall not be entitled to any
12 repayment nor credit, prorated or otherwise, for money paid
13 to the Department under the terms of this Order.

14 2. The remaining sixty (60) days of the ninety (90) day
15 suspension provided in Paragraph 1 shall be stayed for two
16 years upon the following terms and conditions:

17 (a) Respondent shall obey all laws, rules and
18 regulations governing the rights, duties and
19 responsibilities of a real estate licensee in the State
20 of California;

21 (b) That no final subsequent determination be made,
22 after hearing or upon stipulation, that cause for
23 disciplinary action occurred within two (2) years of the
24 effective date of this Order;

25 (c) That Respondent pays, within 45 days from receipt
26 of the invoice referred to in Paragraph "3" below, the
27 Commissioner's reasonable cost for an audit, and if no



1 further cause for disciplinary action against the real
2 estate license of Respondent occurs within two (2) years
3 from the effective date of this Order, the sixty (60)
4 day stay granted pursuant to this paragraph shall become
5 permanent.

6 3. Pursuant to Section 10148 of the Business and Professions
7 Code, Respondent shall pay the Commissioner's reasonable cost for
8 an audit to determine if Respondent is now in compliance with the
9 Real Estate Law. In calculating the amount of the Commissioner's
10 reasonable cost, the Commissioner may use the estimated average
11 hourly salary for all persons performing audits of real estate
12 brokers, and shall include an allocation for travel costs,
13 including mileage, time to and from the auditor's place of work
14 and per diem.

15 (a) Respondent shall pay such cost within 45 days of
16 receiving an invoice from the Commissioner detailing the
17 activities performed during the audit and the amount of time spent
18 performing those activities;

19 (b) Notwithstanding the provisions of paragraphs "1" and "2"
20 herein, if Respondent fails to pay, within 45 days from receipt of
21 the invoice specified above, the Commissioner's reasonable costs
22 for an audit to determine if Respondent is now in compliance with
23 the Real Estate Law, the Commissioner may order the indefinite
24 suspension of Respondent's real estate license and license rights.
25 The suspension shall remain in effect until payment is made in
26 full, or until Respondent enters into an agreement satisfactory to
27 the Commissioner to provide for such payment. The Commissioner



1 may impose further reasonable disciplinary terms and conditions
2 upon Respondent's real estate license and license rights as part
3 of any such agreement.

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DATED: 6/18/99

Martha J. Rosett
MARTHA J. ROSETT
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: 7/8/99

Cedric Age

DATED: 6-30-99

F.M. Buda

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The foregoing Stipulation and Agreement in Settlement is
hereby adopted as my Order and shall become effective at 12
o'clock noon on August 18, 1999.

IT IS SO ORDERED July 26, 1999

JOHN R. LIBERATOR,
Acting Real Estate Commissioner

John R. Liberator



facto glo

1 MARTHA J. ROSETT, Counsel
2 State Bar # 142072
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012
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8 (213) 897-3937

FILED
MAR 16 1999
DEPARTMENT OF REAL ESTATE

By *R. Meluholt*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of) No. H-28045 LA
12 CEDRIC AGE, dba "Ace Realty,") A C C U S A T I O N
13 Respondent.)
14

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against CEDRIC AGE, dba, "Ace Realty," is informed and alleges as
18 follows:

I

19 The Complainant, Thomas McCrady, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation in
21 his official capacity.

II

22 Respondent CEDRIC AGE, dba "Ace Realty," (hereinafter
23 "Respondent,") is presently licensed and/or has license rights
24 under the Real Estate Law, Part 1 of Division 4 of the California
25
26
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1 Business and Professions Code (hereinafter "Code"), as a real
2 estate broker.

3 III

4 All further references to "Respondent," unless otherwise
5 specified, include the party identified in Paragraph II above, and
6 also include the employees, agents and real estate licensees
7 employed by or associated with said party, who at all times
8 material herein were engaged in the furtherance of the business or
9 operations of said party and who were acting within the course and
10 scope of their authority, agency or employment.

11 IV

12 At all times material herein, Respondent engaged in the
13 business of, acted in the capacity of, advertised or assumed to
14 act as a real estate broker in the State of California, within the
15 meaning of Code Sections 10131(a) and (b), for another or others,
16 for or in expectation of compensation. Said activity included the
17 representation of buyers and sellers in the sale or purchase of
18 real property and the operation and conduct of a property
19 management business with the public wherein he leased or rented,
20 or offered to lease or rent. solicited prospective tenants, or
21 collected rents from real property on behalf of another or others.

22 V

23 During 1997 and 1998, in connection with the aforesaid
24 real estate brokerage activities, Respondent accepted or received
25 funds to be held as deposits on the purchase of real property, as
26 well as funds from renters and owners of properties managed, and
27 thereafter made disbursements of such funds. Respondent



1 maintained one trust account at Bank of America, in Palmdale,
2 California, account number 01734-21324.

3 VI

4 On or about October 8, 1998, the Department completed an
5 audit of Respondent's books and records, pertaining to the real
6 estate activities described in Paragraphs IV and V above, covering
7 a period from approximately January 1, 1997 through July 31, 1998,
8 which examination revealed violations of the Code and of Title 10,
9 Chapter 6, California Code of Regulations ("Regulations"), as set
10 forth below.

11 VII

12 In the course of activities described in Paragraphs IV
13 and V above, and during the examination period described in
14 Paragraph VI, Respondent acted in violation of the Code and the
15 Regulations in that:

16 (a) The Trust Account contained an unidentified
17 shortage of \$4,895.59, in violation of Section 10145, and of
18 Regulation 2832.1;

19 (b) Respondent failed to maintain a record of all
20 property management and earnest fund deposits received and
21 disbursed during the audit period, in violation of Regulation
22 2831;

23 (c) Respondent failed to maintain complete and accurate
24 separate records for the accounts of each property managed, in
25 violation of Regulation 2831.1;

26 (d) Respondent failed to perform monthly trust account
27 reconciliation during the audit period, in violation of Regulation



1 2831.2.

2 Each of the foregoing violations constitute cause for
3 the suspension or revocation of Respondent's real estate licenses
4 and license rights of under the provisions of Code Section
5 10177(d).

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

13 Dated at Los Angeles, California

14 this 16th day of March, 1999.

15 THOMAS MC CRADY

16 Deputy Real Estate Commissioner

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cc: CEDRIC AGE
Sacto.
DB
Audits

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