

1 ELLIOTT MAC LENNAN, Counsel. (SBN 66674)  
2 Department of Real Estate  
3 320 W. 4<sup>TH</sup> Street, Suite 350  
4 Los Angeles, CA 90013-1105

**FILED**  
AUG 10 2001  
DEPARTMENT OF REAL ESTATE

5 Telephone: (213) 576-6982 (Office)  
6 -or- (213) 576-6911 (Direct)

By *R. Truderkolt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-28947 LA
12	SHARON KLINE HARDWICK,	)	<u>STIPULATION</u>
13	Respondent.	)	<u>AND AGREEMENT</u>
14		)	

15 It is hereby stipulated by and between Respondent  
16 SHARON KLINE HARDWICK (sometimes referred to herein as  
17 "Respondent") represented by Frank M. Buda, Esq., and the  
18 Complainant, acting by and through Elliott Mac Lennan, Counsel  
19 for the Department of Real Estate, as follows for the purpose of  
20 settling and disposing of the Accusation filed on January 31,  
21 2001, in this matter.

22  
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 ("Stipulation").

3           2. Respondent has received, read and understands  
4 the Statement to Respondent, the Discovery Provisions of the  
5 APA and the Accusation, filed by the Department of Real Estate  
6 ("Department") in this proceeding.

7           3. On March 12, 2001, Respondent 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. Respondent hereby freely and voluntarily withdraws  
11 said Notice of Defense. Respondent acknowledges that she  
12 understands that by withdrawing said Notice of Defense, she will  
13 thereby waive her 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 she will waive  
16 other rights afforded to her 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. This Stipulation and Agreement is based on the  
20 factual allegations contained in the Accusation filed in this  
21 proceeding. In the interest of expedience and economy,  
22 Respondent chooses not to contest these factual allegations, but  
23 to remain silent and understands that, as a result thereof, these  
24 factual statements, without being admitted or denied, will serve  
25 as a prima facie basis for the disciplinary action stipulated to  
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1 herein. This Stipulation and Respondent's decision not to  
2 contest the Accusation are hereby expressly limited to this  
3 proceeding and made for the sole purpose of reaching an agreed  
4 disposition of this proceeding. Respondent's decision not to  
5 contest the factual allegations is made solely for the purpose of  
6 effectuating this Stipulation and is intended by Respondent to be  
7 non-binding upon Respondent in any actions against Respondent by  
8 third parties. The Real Estate Commissioner shall not be  
9 required to provide further evidence to prove such allegations.

10 5. This Stipulation and any Order made pursuant to  
11 this Stipulation shall have no collateral estoppel or res  
12 judicata effect in any proceedings in which the Respondent and  
13 the Department (or the Department's representative) are not  
14 parties. This Stipulation is made by Respondent and received  
15 by the Commissioner and the Department, with the express  
16 understanding and agreement that it is for the purpose of  
17 settling these proceedings only, and that this Stipulation is  
18 not intended as, and shall not be deemed, used, or accepted as  
19 an acknowledgment or admission of fact in any other judicial,  
20 administrative, or other proceeding to which the Department is  
21 not a party.

23 6. It is understood by the parties that the Real  
24 Estate Commissioner may adopt the Stipulation as her decision  
25 in this matter, thereby imposing the penalty and sanctions on  
26 Respondent's real estate license and license rights as set forth  
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1 in the below "Order." In the event that the Commissioner in her  
2 discretion does not adopt the Stipulation, the Stipulation shall  
3 be void and of no effect, and Respondent shall retain the right  
4 to a hearing on the Accusation under all the provisions of the  
5 APA and shall not be bound by any stipulation or waiver made  
6 herein.

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

13           8. Respondent understands that by agreeing to this  
14 Stipulation, Respondent agrees to pay, pursuant to Business and  
15 Professions Code Section 10148, the cost of the audit which led  
16 to this disciplinary action. The amount of said cost is \$2,000.  
17

18           9. Respondent has received, read, and understands the  
19 "Notice Concerning Costs of Subsequent Audit". Respondent  
20 further understands that by agreeing to this Stipulation, the  
21 findings set forth below in the Determination of Issues become  
22 final, and the Commissioner may charge Respondent for the cost of  
23 any subsequent audit conducted pursuant to Business and  
24 Professions Code Section 10148 to determine if the violations  
25 have been corrected. The maximum cost of the subsequent audit  
26 will not exceed \$2,000.  
27

1 DETERMINATION OF ISSUES

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

6 The conduct, acts and/or omissions of Respondent  
7 SHARON KLINE HARDWICK, as set forth in the Paragraph 4,  
8 constitutes cause to suspend or revoke the real estate broker  
9 license and license rights of Respondent under the provisions of  
10 Code Section 10177(d) of the Business and Professions Code for  
11 violation of Section 10145 of said code and Sections 2831, 2831.2  
12 and 2832.1 of Title 10, Chapter 6, California Code of  
13 Regulations.

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 I.

17  
18 The real estate broker license and licensing rights of  
19 Respondent SHARON KLINE HARDWICK, under the Real Estate Law are  
20 revoked; provided, however, a restricted real estate broker  
21 license shall be issued to Respondent SHARON KLINE HARDWICK,  
22 pursuant to Section 10156.5 of the Business and Professions Code,  
23 if Respondent:

24 (A) makes application therefor and pays to the  
25 Department of Real Estate the appropriate fee for the restricted  
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1 license within ninety (90) days from the effective date of this  
2 Decision.

3 (B) Prior to the issuance of any restricted license,  
4 Respondent shall first provide evidence satisfactory to the  
5 Commissioner that the trust fund deficit set forth in Audit  
6 Report LA 000125, in the amount of \$4,216.98, as of August 4,  
7 2000, has been cured, including the identity of the source of  
8 funds used to cure it.. The restricted license issued to  
9 Respondent shall be subject to all of the provisions of Section  
10 10156.7 of the Code and the following limitations, conditions and  
11 restrictions imposed under authority of Section 10156.6 of that  
12 Code:

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

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

24 3. Respondent shall not be eligible to apply for the  
25 issuance of an unrestricted real estate license nor for the  
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1 removal of any of the conditions, limitations or restrictions of  
2 a restricted license until two (2) years have elapsed from the  
3 effective date of this Decision.

4 4. Respondent shall, within nine (9) months from the  
5 effective date of this Decision, present evidence satisfactory to  
6 the Real Estate Commissioner that Respondent has, since the most  
7 recent issuance of an original or renewal real estate license,  
8 taken and successfully completed the continuing education  
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
10 for renewal of a real estate license. If Respondent fails to  
11 satisfy this condition, the Commissioner may order the suspension  
12 of the restricted license until the Respondent presents such  
13 evidence. The Commissioner shall afford Respondent the  
14 opportunity for a hearing pursuant to the Administrative  
15 Procedure Act to present such evidence.

17 5. Respondent shall within six (6) months from the  
18 effective date of the restricted license, take and pass the  
19 Professional Responsibility Examination administered by the  
20 Department including the payment of the appropriate examination  
21 fee. If respondent fails to satisfy this condition, the  
22 Commissioner may order suspension of the restricted license  
23 until respondent passes the examination.

24 6. Pursuant to Section 10148 of the Business and  
25 Professions Code, Respondent shall pay the Commissioner's  
26 reasonable cost for: (a) the audit which led to this  
27

1 disciplinary action and (b) a subsequent audit to determine if  
2 Respondent SHARON HARDWICK is now in compliance with the Real  
3 Estate Law. The cost of the audit which led to this disciplinary  
4 action is \$2,000. In calculating the amount of the  
5 Commissioner's reasonable cost, the Commissioner may use the  
6 estimated average hourly salary for all persons performing audits  
7 of real estate brokers, and shall include an allocation for  
8 travel time to and from the auditor's place of work. Said amount  
9 for the prior and subsequent audits shall not exceed \$4,000.

10 Respondents shall pay such cost within 60 days of  
11 receiving an invoice from the Commissioner detailing the  
12 activities performed during the audit and the amount of time  
13 spent performing those activities.

14 The Commissioner may suspend the license of Respondents  
15 pending a hearing held in accordance with Section 11500, et seq.,  
16 of the Government Code, if payment is not timely made as provided  
17 for herein, or as provided for in a subsequent agreement between  
18 the Respondents and the Commissioner. The suspension shall  
19 remain in effect until payment is made in full or until a  
20 Respondent enters into an agreement satisfactory to the  
21 Commissioner to provide for payment, or until a decision  
22 providing otherwise is adopted following a hearing held pursuant  
23 to this condition.  
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II.

All licenses and licensing rights of Respondent SHARON KLINE HARDWICK under the Real Estate Law are suspended for a period of thirty (30) days from the issuance of any restricted license; provided, however, that if Respondent petitions said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

2. 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.

3. No further cause for disciplinary action against the real estate license of Respondents occur within two (2) years from the effective date of the Decision in this matter.

4. 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 Respondent shall not be entitled to any repayment nor

1 credit, prorated or otherwise, for money paid to the Department  
2 under the terms of this Decision.

3 5. If Respondent pays the monetary penalty and if no  
4 further cause for disciplinary action against the real estate  
5 licenses of Respondent occur within two (2) years from the  
6 effective date of the Decision, the stay hereby granted shall  
7 become permanent.

8 DATED: 7-13-01

E. J. L.  
9 ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

10 \* \* \*

11 EXECUTION OF THE STIPULATION

12 I have read the Stipulation and Agreement, and have  
13 discussed it with my counsel. Its terms are understood by me and  
14 are agreeable and acceptable to me. I understand that I am  
15 waiving rights given to me by the California Administrative  
16 Procedure Act (including but not limited to Sections 11506,  
17 11508, 11509 and 11513 of the Government Code), and I willingly,  
18 intelligently and voluntarily waive those rights, including the  
19 right of requiring the Commissioner to prove the allegations in  
20 the Accusation at a hearing at which I would have the right to  
21 cross-examine witnesses against me and to present evidence in  
22 defense and mitigation of the charges.

24 FACSIMILE TRANSMISSION

25 Respondent can signify acceptance and approval of the  
26 terms and conditions of this Stipulation and Agreement by faxing  
27

1 a copy of its signature page, as actually signed by Respondent,  
 2 to the Department at the following telephone/fax number: (212)  
 3 576-6917, Attention: Elliott Mac Lennan. Respondent agrees,  
 4 acknowledges and understands that by electronically sending to  
 5 the Department a fax copy of Respondent's actual signature as it  
 6 appears on the Stipulation and Agreement, that receipt of the  
 7 faxed copy by the Department shall be as binding on Respondent as  
 8 if the Department had received the original signed Stipulation  
 9 and Agreement.

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DATED: 7-11-01

*Sharon Kline Hardwick*  
 SHARON KLINE HARDWICK,  
 Respondent

DATED: 7-12-01

*Frank M. Buda*  
 FRANK M. BUDA, Attorney for  
 SHARON KLINE HARDWICK, Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby  
 adopted as my Decision as to Respondent SHARON KLINE HARDWICK,  
 and shall become effective at 12 o'clock noon  
 on \_\_\_\_\_

IT IS SO ORDERED \_\_\_\_\_

PAULA REDDISH ZINNEBANN  
 Real Estate Commissioner

1 a copy of its signature page, as actually signed by Respondent,  
2 to the Department at the following telephone/fax number: (213)  
3 576-6917, Attention: Elliott Mac Lennan. Respondent agrees,  
4 acknowledges and understands that by electronically sending to  
5 the Department a fax copy of Respondent's actual signature as it  
6 appears on the Stipulation and Agreement, that receipt of the  
7 faxed copy by the Department shall be as binding on Respondent as  
8 if the Department had received the original signed Stipulation  
9 and Agreement.

10  
11 DATED: \_\_\_\_\_

\_\_\_\_\_  
SHARON KLINE HARDWICK,  
Respondent

12  
13  
14 DATED: \_\_\_\_\_

\_\_\_\_\_  
FRANK M. BUDA, Attorney for  
SHARON KLINE HARDWICK, Respondent

15  
16 \* \* \*

17 The foregoing Stipulation and Agreement is hereby  
18 adopted as my Decision as to Respondent SHARON KLINE HARDWICK,  
19 and shall become effective at 12 o'clock noon  
20 on August 30, 2001

21 IT IS SO ORDERED

August 1, 2001.

22  
23 PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

24  
25 Paula Reddish  
26  
27

SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
MAY 10 2001  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SHARON KLINE HARDWICK,

By [Signature]

Case No. H-28947 LA

OAH No. 2001020365

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on June 14, 2001, at the hour of 9:00 a.m., 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 3, 2001

By [Signature]

cc: Sharon Kline Hardwick  
Frank M. Buda, Esq.  
Sacto OAH LF

Counsel

kw

*Sacto JKL*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
MAR 12 2001  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SHARON KLINE HARDWICK,

By *K. K. Kline*

Case No. H-28947 LA

OAH No. L-2001020365

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, 320 West Fourth St., Ste. 630, Los Angeles, CA on May 8, 2001, at the hour of 9:00 a.m., 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: March 12, 2001

By *K. K. Kline*  
Counsel

cc: Sharon Kline Hardwick  
Sacto  
OAH  
LF

kw



1 All references to the "Code" are to the California  
2 Business and Professions Code and all references to "Regulations"  
3 are to Title 10, Chapter 6, California Code of Regulations.

4 3

5 At all times mentioned, HARDWICK was licensed or had  
6 license rights issued by the Department of Real Estate  
7 (Department) as a real estate broker. On March 19, 1983,  
8 HARDWICK was originally licensed as a real estate salesperson.  
9 On June 3, 1992, she became licensed as a real estate broker.

10 4

11 At all times mentioned, in the City of Canyon Lake,  
12 Riverside County, HARDWICK acted as a real estate broker, within  
13 the meaning of Section 10131(b) of the Code, including conducting  
14 licensed activities as a property management business.

15 5

16 At all times mentioned, in connection with the  
17 activities described in Paragraph 4, HARDWICK accepted or  
18 received funds in trust (trust funds) from or on behalf of actual  
19 or prospective tenants, lessors and lessees. Thereafter HARDWICK  
20 made disposition of such funds. HARDWICK maintained the  
21 following trust account into which she deposited certain of these  
22 funds:

23 "Sharon Sadler Hardwick dba Cameo Property Management  
24 Account No. 3801030531"  
25 Guaranty Federal Bank  
26 Sun City, California

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On October 11, 2000, the Department completed an audit examination of the books and records of HARDWICK dba Cameo Properties pertaining to the activities described in Paragraphs 4 and 5 that require a real estate license. The audit examination covered a period of time beginning on January 1, 1999 and terminating on August 4, 2000. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

With respect to the trust funds referred to in Paragraph 5, HARDWICK:

(a) Permitted, allowed or caused the disbursement of trust funds from the trust account where the disbursement of said funds reduced the total of aggregate funds in the trust account, to an amount which, on August 4, 2000, was \$4,216.98, less than the existing aggregate trust fund liability of Respondent to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Section 10145 of the Code and Section 2832.1 of the Regulations;

(b) Failed to maintain a complete and accurate control record in the form of a columnar record in chronological order of all trust funds received, as required by Section 2831 of the Regulations;

(c) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records

1 maintained pursuant to Section 2831.1 of the Regulations with the  
2 record of all trust funds received and disbursed by the trust  
3 account, including failing to reconcile the bank statements and  
4 the control record, as required by Section 2831.2 of the  
5 Regulations;

6 (d) Failed to place funds, including an earnest money  
7 deposit received and accepted on behalf of another into the hands  
8 of the owner of the funds, a neutral escrow depository or into a  
9 trust fund account in the name of the trustee at a bank or other  
10 financial institution not later than three business days  
11 following receipt of the funds by the broker or by the broker's  
12 salesperson, as required by Section 2832 of the Regulations;

13 (e) Failed to properly designate the broker trust  
14 account as a trust account with the broker, HARDWICK, as trustee,  
15 as required by Section 2832(a) of the Regulations; and,

16 (f) Maintained an interest-bearing trust account, not  
17 properly designated as a trust account, without the knowledge of  
18 the account obligors, without disclosing to the obligors how  
19 interest will be calculated or paid, as required by Section 10145  
20 of the Code and 2830.1 of the Regulations; and

21 (g) Failed to obtain written instruction from the  
22 person entitled to the funds deposited and maintained in the  
23 trust account, prior to making unauthorized withdrawals to  
24 herself and prior to making loans to third parties not entitled  
25 to said funds, in violation of Section 10145(a)(1) of the Code.  
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The conduct of HARDWICK, described in Paragraph 7 above, violated the Code and the Regulations as set forth below:

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PARAGRAPH

PROVISIONS VIOLATED

7(a) Section 10145 of the Code and Section 2832.1 of the Regulations

7(c) Section 10145 of the Code and Sections 2831 of the Regulations

7(c) Section 10145 of the Code and Sections 2831.2 of the Regulations

7(d) Section 10145 of the Code and Section 2832 of the Regulations

7(e) Section 10145 of the Code and Section 2832(a) of the Regulations

7(f) Section 10145 of the Code and Section 2830.1 of the Regulations

7(g) Section 10145(a)(1) of the Code

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of HARDWICK under the provisions of Section 10177(d) of the Code.



The overall conduct of Respondent HARDWICK constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of her real estate license and license rights under Section 10177(g) 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 the license and license rights of Respondent SHARON KLINE HARDWICK 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 applicable provisions of law.

Dated at Los Angeles, California  
this 31st day of January, 2001.

THOMAS MC CRADY  
Deputy Real Estate Commissioner

cc: Sharon Kline Hardwick  
Sacto  
LF  
TM