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MAR 11 2002  
DEPARTMENT OF REAL ESTATE  
*Anna B. Brown*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	NO. H-28963 LA
	)	L-2001040294
MARYELLEN HILL, INC.,	)	
MARYELLEN HILL, and	)	
LEE JULIUS DRUMMOND,	)	
	)	
Respondents.	)	

ORDER DENYING RECONSIDERATION

On January 10, 2002, a Decision was rendered in the above-entitled matter. The Decision was to become effective on January 31, 2002 but was stayed by separate Orders to March 11, 2002.

On January 28, 2002, Respondents petitioned for reconsideration of the Decision of January 10, 2002.

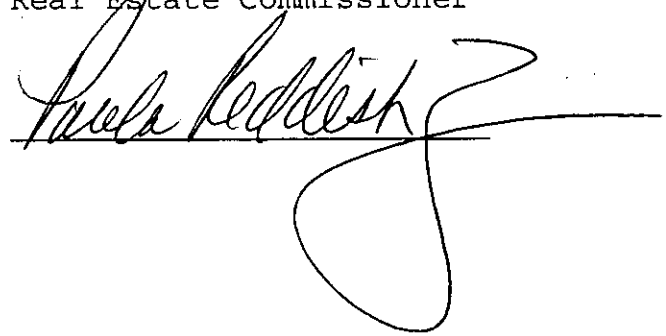
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I have given due consideration to the petition of Respondents. I find no good cause to reconsider the Decision of January 10, 2002, and reconsideration is hereby denied.

IT IS SO ORDERED March 8, 2002.

PAULA REDDISH ZINNE MANN  
Real Estate Commissioner

A handwritten signature in cursive script, reading "Paula Reddish Zinnemann", written over a horizontal line. The signature is large and fluid, with a prominent loop at the end.



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The Decision of January 10, 2002, shall become effective at 12 o'clock noon on March 11, 2002.

DATED: February 25, 2002

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

By: *[Signature]* for  
DOLORES RAMOS  
Regional Manager *Dolores Ramos*

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**FILED**  
JAN 30 2002  
DEPARTMENT OF REAL ESTATE

*Laura B. Cron*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of ) NO. H-28963 LA  
) L-2001040294  
MARYELLEN HILL, INC., )  
MARYELLEN HILL, and )  
LEE JULIUS DRUMMOND, )  
)  
Respondents. )

ORDER STAYING EFFECTIVE DATE

On January 10, 2002, a Decision was rendered in the above entitled matter to become effective January 31, 2002.

IT IS HEREBY ORDERED that the effective date of the Decision of January 10, 2002, is stayed for a period of 30 days.

The Decision of January 10, 2002, shall become effective at 12 o' clock noon on March 1, 2002.

DATED: January 30, 2002

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

By: *Dolores Ramos*  
DOLORES RAMOS  
Regional Manager

*Laura B. Orm*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-28963 LA
MARYELLEN HILL, INC.,	)	L-2001040294
MARYELLEN HILL, and	)	
LEE JULIUS DRUMMOND,	)	
	)	
Respondents.	)	

DECISION AFTER REJECTION

The matter of MARYELLEN HILL, INC., MARYELLEN HILL, and LEE JULIUS DRUMMOND came on for hearing before H. Stuart Waxman, Administrative Law Judge, of the Office of Administrative Hearings, in Los Angeles, California, on June 19, 2001.

James R. Peel, Counsel, represented the complainant, Thomas McCrady, Deputy Real Estate Commissioner. Respondent MARYELLEN HILL, INC. was represented by its designated broker officer, MARYELLEN HILL ("HILL"), who also represented herself. Respondent LEE JULIUS DRUMMOND ("DRUMMOND") was present and represented himself.

1           At the hearing, Complainant amended the Accusation at  
2 page 3, lines 11-14, to read as follows: "1. Violated Section  
3 10137 of the Code by employing Respondent DRUMMOND, who had an  
4 expired real estate salesperson license, to solicit and negotiate  
5 sales of real property, as set forth below."

6           Oral and documentary evidence was received. The record  
7 was held open until July 13, 2001 for Respondents to submit  
8 copies of their escrow checklist and listing checklist.  
9 Complainant waived the opportunity to respond. The listing  
10 checklist, listing file and presentation package, and escrow  
11 checklists were received on June 22, 2001 and were marked and  
12 admitted collectively as Respondents' Exhibit "D". Included with  
13 Exhibit "D" was a letter from Respondents HILL and DRUMMOND,  
14 addressed to the Administrative Law Judge and to Complainant's  
15 counsel, explaining the purpose of Exhibit "D" and offering  
16 further explanation concerning some of the allegations in the  
17 Accusation. The letter was marked for identification as  
18 Respondents' Exhibit "E". No objection to Exhibit "E" having  
19 been received, the exhibit is admitted.

20           Evidence was received, the hearing was closed, and the  
21 matter was submitted for Decision on July 13, 2001.

22           On August 6, 2001, the Administrative Law Judge  
23 submitted a Proposed Decision which I declined to adopt as my  
24 Decision.

25           Pursuant to Section 11517(c)(2)(E), formerly 11517(c)  
26 of the Government Code of the State of California, Respondents  
27 were served with notice of my determination not to adopt the

1 Proposed Decision of the Administrative Law Judge along with a  
2 copy of said Proposed Decision. Respondents were notified that  
3 the case would be decided by me upon the record including the  
4 transcript of the proceedings held on June 19, 2001, and upon any  
5 written argument offered by Respondents and Complainant.

6 On October 5, 2001, the transcript for the June 19,  
7 2001, hearing was received. Respondents were requested to submit  
8 argument within fifteen (15) days thereof. On October 25, 2001,  
9 Respondents submitted argument. On November 8, 2001, Complainant  
10 submitted argument.

11 I have given careful consideration to the record in  
12 this case including the transcript of proceedings of June 19,  
13 2001. I have also considered arguments submitted by Respondent  
14 and Complainant.

15 The following shall constitute the Decision of the Real  
16 Estate Commissioner in this proceeding:

17 1. The Accusation was made by Thomas McCrady,  
18 Complainant, who is a Deputy Real Estate Commissioner of the  
19 State of California, acting in his official capacity.

20 2. Respondent MARYELLEN HILL, INC., was issued a  
21 license as a corporate real estate broker by the Department of  
22 Real Estate ("the Department") on November 20, 1979. The license  
23 will expire on November 19, 2003.

24 3. Respondent HILL was issued a license as a real  
25 estate broker by the Department on May 25, 1979, having been  
26 licensed as a real estate salesperson on April 30, 1975. The  
27 Department issued a license to HILL as officer of MARYELLEN HILL,



1 INC. on November 20, 1979. The license will expire on November  
2 19, 2003 unless renewed.

3 4. Respondent DRUMMOND was issued a license as a real  
4 estate salesperson by the Department on July 29, 1987. The  
5 license expired on July 28, 1991 and a new salesperson license  
6 was issued on March 20, 1995. That license expired on March 19,  
7 1999 and was renewed as of September 19, 2000. The license will  
8 expire on September 18, 2004 unless renewed.

9 5. Respondents admitted the truth of Paragraph VI,  
10 subparagraphs 1, 2 and 3 of the Accusation, as amended. Those  
11 allegations are repeated verbatim below:

12 "VI

13 "In connection with Respondents' activities as a  
14 real estate broker as described above, Respondents MARYELLEN  
15 HILL, INC. and MARYELLEN HILL, acted in violation of the Real  
16 Estate Law, Business and Professions Code (hereinafter Code), and  
17 California Code of Regulations (hereinafter Regulations), Title  
18 10, Chapter 6, as follows:

19 "1. Violated Section 10137 of the Code by  
20 employing Respondent DRUMMOND, who had an expired real estate  
21 salesperson license, to solicit and negotiate sales of real  
22 property, as set forth below. These activities require a real  
23 estate license under Section 10131(a) of the Code.

24 "a. The sale of 2155 E. Tachevah Dr., Palm  
25 Springs, Cal. to Sheldon C. and Margaret D. Chaffer.

26 "b. The sales of 2011 N. Deborah Rd., Palm  
27 Springs, Cal. to Michael S. and Marilyn S. Steely.

1                    "c. The listing for sale of 2905 La Puesta Del  
2 Sol, Palm Springs, Cal. from owners Richard Greenberg and Todd  
3 Miner.

4                    "d. The sale of vacant land/APN 507-195-013 to  
5 Marlo Berardi.

6                    "e. The sale of 37010 Bankside Dr., Chathedral  
7 City to R&A Equities.

8                    "f. The sale of 1540 Chaparral Rd., Palm Springs,  
9 Cal. to R&A Equities.

10                   "2. Violated Regulation 2831 by not maintaining a  
11 record of all trust funds received and not placed into a trust  
12 account.

13                   "3. Violated Regulation 2832 in that not all  
14 earnest money deposits received from buyers were forwarded to  
15 escrow within 3 business days after acceptance of the offer."

16                   5. Respondents dispute the allegations in subparagraph  
17 4 of paragraph VI which reads: "Violated Regulation 2725 by not  
18 establishing appropriate policies, rules, procedures and systems  
19 to insure reasonable supervision over the activities of their  
20 salespersons."

21                   6. On September 14 and 20, 2000, the Department  
22 conducted an audit of the accounting and records of Respondent,  
23 MARYELLEN HILL, INC, for the period covering January 1, 1999 to  
24 July 31, 2000. The results of the audit formed the basis for the  
25 allegations in Paragraph VI of the Accusation, as set forth  
26 above.

27 //

1           7. The Department's auditor found that MARYELLEN HILL,  
2 INC.'s bank account records were accurate, its accounting system  
3 was computerized and sophisticated, its records were easily  
4 accessible, that there was no shortage or overage in its trust  
5 fund, and that its property management record keeping was perfect  
6 in accordance with accounting standards. However, certain  
7 information was missing from the trust fund's columnar records.  
8 Money received as deposits did not go into the trust account but  
9 rather was logged in and sent directly to the escrow company, and  
10 some of the deposits received were not forwarded within the  
11 requisite three-day period. Nonetheless, the auditor determined  
12 the discrepancies and violations to be minimal and not indicative  
13 of a pattern.

14           8. On one of the four occasions that deposit funds  
15 that were not deposited into escrow within three days, the funds  
16 were deposited by the fourth or fifth day. On two other  
17 occasions, MARYELLEN HILL, INC. was the listing agent and the  
18 funds were deposited directly into escrow by the buyer's broker.  
19 Since MARYELLEN HILL, INC. was neither the buyer's broker nor the  
20 selling agent, the earnest money deposit was never sent to its  
21 office and therefore an entry into its columnar records of the  
22 deposit would have been improper. On the fourth occasion, the  
23 sale involved a commercial transaction and the deposit into  
24 escrow was made directly from the buyer's accomodator account,  
25 without being sent to MARYELLEN HILL, INC. Thus, on only one  
26 occasion did MARYELLEN HILL, INC. fail to timely forward earnest  
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1 money deposit funds to escrow and/or enter those funds into its  
2 columnar records.

3           9. HILL does not maintain an employee manual for  
4 supervision purposes. However, she maintains a specific,  
5 efficient and adequate system through which she properly  
6 supervises her approximately 18 salespersons. That system  
7 includes detailed check off lists for all transactions and  
8 escrows. Included in the lists are the listing checklist,  
9 listing file and presentation package, and escrow checklists as  
10 represented by Respondents' Exhibit "D". In addition, HILL is  
11 present in the office every day and maintains an open door policy  
12 toward her salespersons. As a member of the Risk Management  
13 Section of the California Association of Real Estate Brokers, she  
14 discusses with her agents issues addressed in the section's  
15 publication.

16           10. HILL is a Director on the Palm Springs Chamber of  
17 Commerce and is Director and Treasurer of the Palm Springs  
18 Economic Development Corporation. She is past President of the  
19 Palm Springs Board of Realtors and has been active on that board  
20 for approximately 15 years. DRUMMOND credibly described HILL as  
21 the most conscientious person he knows. None of HILL'S real  
22 estate licenses has ever been disciplined and, in the part 18  
23 years, she has received only two telephone calls and one visit  
24 from the Department regarding complaints.

25           11. DRUMMOND allowed his real estate salesperson's  
26 license to expire through inadvertence and the press of work and  
27 a family medical emergency. Since his first license expired

1 without renewal, he had not been through the renewal process  
2 before and was unfamiliar with the renewal requisites. He was  
3 unaware that he was operating under an expired license until he  
4 received a letter to that effect from the Department. He then  
5 took immediate steps to rectify the situation. He was credible  
6 in his remorse for missing the renewal deadline and for failing  
7 to properly renew his license.

8           12. Although HILL has maintained a list of the  
9 salespersons in her office, she has not made it a practice to  
10 check the expiration dates of their respective licenses. She has  
11 now initiated such a practice so as to ensure that none of her  
12 salespersons will operate under an expired license again.

13                           LEGAL CONCLUSIONS

14           Pursuant to the foregoing Factual Findings, the  
15 Administrative Law Judge makes the following legal conclusions:

16           1. Cause exists to revoke or suspend Respondent  
17 MARYELLEN HILL, INC.'S corporate real estate broker's license  
18 pursuant to Business and Professions Code Sections 10137 and  
19 10177(d) and (g) for employing a real estate salesperson who had  
20 an expired license, as set forth in Findings 4, 6, 11 and 12.

21           2. Cause exists to revoke or suspend Respondent  
22 MARYELLEN HILL, INC.'S corporate real estate broker's license  
23 pursuant to Title 10, Chapter 6, California Code of Regulations,  
24 Section 2831 and Business and Professions Code Sections 10177(d)  
25 and (g) for failure to maintain a record of all trust funds  
26 received, as set forth in Findings 4, 6, 7, and 8.

27 //

1                   3. Cause exists to revoke or suspend Respondent  
2 MARYELLEN HILL, INC'S corporate real estate broker's license  
3 pursuant to Title 10; Chapter 6, California Code of Regulations,  
4 Section 2832 and Business and Professions Code Sections 10177(d)  
5 and (g) for failure to forward all earnest money deposits to  
6 escrow within three business days after acceptance of the offer,  
7 as set forth in Findings 4, 6, 7 and 8.

8                   4. Cause does not exist to revoke or suspend  
9 Respondent MARYELLEN HILL, INC'S corporate real estate broker's  
10 license pursuant to Title 10, Chapter 6, California Code of  
11 Regulations, Section 2725 and Business and Professions Code  
12 Sections 10177(d) and (g) for failure to establish appropriate  
13 policies, rules, procedures and systems to insure reasonable  
14 supervision of salespersons' activities, as set forth in Findings  
15 5 and 9.

16                   5. Cause exists to revoke or suspend Respondent  
17 MARYELLEN HILL'S real estate broker's license pursuant to  
18 Business and Professions Code Sections 10137 and 10177(d) for  
19 employing a real estate salesperson who had an expired license.  
20 as set forth in Findings 4, 6, 11 and 12.

21                   6. Cause exists to revoke or suspend Respondent  
22 MARYELLEN HILL'S real estate broker's license pursuant to Title  
23 10, Chapter 6, California Code of Regulations, Section 2831 and  
24 Business and Professions Code Section 10177(d) for failure to  
25 maintain a record of all trust funds received, as set forth in  
26 Findings, 4, 6, 7 and 8.

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1                   7. Cause exists to revoke or suspend Respondent  
2 MARYELLEN HILL'S real estate broker's license pursuant to Title  
3 10, Chapter 6, California Code of Regulations, Section 2832 and  
4 Business and Professions Code Section 11077(d) for failure to  
5 forward all earnest money deposits to escrow within three  
6 business days after acceptance of the offer, as set forth in  
7 Findings 4, 6, 7 and 8.

8                   8. Cause does not exist to revoke or suspend  
9 Respondent MARYELLEN HILL'S real estate broker's license pursuant  
10 to Title 10, Chapter 6, California Code of Regulations, Section  
11 2725 and Business and Professions Code Sections 10177(d) and (h)  
12 for failure to establish appropriate policies, rules, procedures  
13 and systems to insure reasonable supervision of salespersons'  
14 activities, as set forth in Findings 5 and 9.

15                   9. Cause exists to revoke or suspend Respondent LEE  
16 JULIUS DRUMMOND'S real estate salesperson license pursuant to  
17 Business and Professions Code Sections 10130 and 10177(d) for  
18 engaging in the business and acting in the capacity of a real  
19 estate salesperson without a valid license, as set forth in  
20 Findings 4, 6, 11 and 12.

21                   The violations of the Real Estate Law attributable to  
22 Respondents MARYELLEN HILL, INC. and MARYELLEN HILL are limited  
23 to one trust fund violation and MARYELLEN HILL'S continued  
24 employment of Respondent DRUMMOND while his salesperson's license  
25 was expired. HILL has taken steps to ensure that the latter  
26 violation will not be repeated. Except for this matter, the  
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1 professional records of Respondents MARYELLEN HILL, INC. and  
2 MARYELLEN HILL have been exemplary.

3 Charged with knowledge of his license renewal  
4 requirements, Respondent DRUMMOND'S violation was apparently due  
5 to inadvertence and unfamiliarity with Departmental requisites  
6 rather than intentional wrongdoing. He is remorseful and has now  
7 obtained the necessary information to preclude another such  
8 violation. The following Order is consistent with the public  
9 interest:

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 I. All licenses and licensing rights of Respondent  
13 MARYELLEN HILL, INC., MARYELLEN HILL, and LEE JULIUS DRUMMOND are  
14 suspended for a period of sixty (60) days from the effective date  
15 of this Decision; provided, however, that if Respondents  
16 petition, said suspension or a portion thereof, shall be stayed  
17 for two (2) years upon the following terms and conditions:

18 1. Respondent MARYELLEN HILL INC., pays a monetary  
19 penalty pursuant to Section 10175.2 of the Business and  
20 Professions Code at the rate of \$150.00 for each day of the  
21 suspension for a total monetary penalty to \$9,000.

22 Respondent MARYELLEN HILL pays a monetary penalty  
23 pursuant to Section 10175.2 of the Business and Professions Code  
24 at the rate of \$150.00 for each day of the suspension for a total  
25 monetary penalty of \$9,000.

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1                    Respondent LEE JULIUS DRUMMOND pays a monetary penalty  
2 pursuant to Section 10175.2 of the Business and Professions Code  
3 at the rate of \$150.00 for each day of the suspension for a total  
4 monetary penalty of \$9,000.

5                    a. Said payments shall be in form of a cashier's check  
6 or certified check made payable to the Recovery Account of the  
7 Real Estate Fund. Said checks must be received by the Department  
8 prior to the effective date of the Decision in this matter.

9                    b. If a Respondent fails to pay the monetary penalty  
10 in accordance with the terms and conditions of the Decision, the  
11 Commissioner may, without a hearing, order the immediate  
12 execution of all or any part of the stayed suspension in which  
13 event the Respondent shall not be entitled to any repayment nor  
14 credit, prorated or otherwise, for money paid to the Department  
15 under the terms of this Decision.

16                    c. If a Respondent pays the monetary penalty and if no  
17 further cause for disciplinary action against the real estate  
18 license of a Respondent occurs within two years from the  
19 effective date of the Decision, the stay hereby granted shall  
20 become permanent.

21                    d. Respondents shall obey all laws, rules and  
22 regulations governing the rights, duties and responsibilities  
23 of a real estate licensee in the State of California.

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1 e. The Commissioner may, if a final subsequent  
2 determination is made, after hearing or upon stipulation, that  
3 cause for disciplinary action occurred during the term of the  
4 suspension provided for in condition "I", vacate and set aside  
5 the stay order including any further stay imposed pursuant to  
6 Section 10175.2. Should no order vacating the stay be made  
7 pursuant to this condition or condition "II" below, the stay  
8 imposed herein shall become permanent.

9 II. Pursuant to Section 10148 of the Business and  
10 Professions Code, Respondents MARYELLEN HILL, INC. and MARYELLEN  
11 HILL shall pay the Commissioner's reasonable cost for: a) the  
12 audit which led to this disciplinary action and, b) a subsequent  
13 audit to determine if Respondent has corrected the trust fund  
14 violation(s) found in paragraphs 2, 3, 6 and 7, of the  
15 Determination of Issues. In calculating the amount of the  
16 Commissioner's reasonable cost, the Commissioner may use the  
17 estimated average hourly salary for all persons performing audits  
18 of real estate brokers, and shall include an allocation for  
19 travel costs, including mileage, time to and from the auditor's  
20 place of work and per diem. Respondents shall pay such cost  
21 within 45 days of receiving an invoice from the Commissioner  
22 detailing the activities performed during the audit and the  
23 amount of time spent performing those activities. The  
24 Commissioner may, in his discretion, vacate and set aside the  
25 stay order, if payment is not timely made as provided for herein,  
26 or as provided for in a subsequent agreement between the  
27 Respondents and the Commissioner. The vacation and the set aside

1 of the stay shall remain in effect until payment is made in full,  
2 or until Respondent enters into an agreement satisfactory to the  
3 Commissioner to provide for payment. Should no order vacating the  
4 stay be issued, either in accordance with this condition or  
5 condition "I.e.", the stay imposed herein shall become permanent.

6           This Decision shall become effective at 12 o'clock noon  
7 on January 31, 2002.

8 IT IS SO ORDERED

*January 10, 2002.*

9 PAULA REDDISH ZINNEMANN  
10 Real Estate Commissioner

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**FILED**  
SEP 4 2001  
DEPARTMENT OF REAL ESTATE

*Laura B. Liu*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-28963 LA
MARYELLEN HILL, INC.,	)	
MARYELLEN HILL, and	)	L-2001040294
LEE JULIUS DRUMMOND,	)	
Respondents.	)	

NOTICE

TO: MARYELLEN HILL, INC., MARYELLEN HILL, and LEE JULIUS DRUMMOND, Respondents.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 6, 2001, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 6, 2001, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 19,

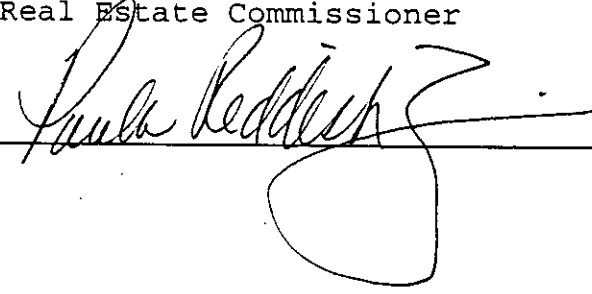
1 2001, and any written argument hereafter submitted on behalf of  
2 Respondent and Complainant.

3           Written argument of Respondent to be considered by me  
4 must be submitted within 15 days after receipt of the transcript  
5 of the proceedings of June 19, 2001, at the Los Angeles office of  
6 the Department of Real Estate unless an extension of the time is  
7 granted for good cause shown.

8           Written argument of Complainant to be considered by me  
9 must be submitted within 15 days after receipt of the argument of  
10 Respondent at the Los Angeles office of the Department of Real  
11 Estate unless an extension of the time is granted for good cause  
12 shown.

13           DATED: August 27, 2001

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15           PAULA REDDISH ZINNEMANN  
16           Real Estate Commissioner

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

**In the Matter of the Accusation of:**

**MARYELLEN HILL, INC.,  
MARYELLEN HILL, and  
LEE JULIUS DRUMMOND,**

**Respondent.**

**Case No. H-28963 LA**

**OAH No. L2001040294**

**PROPOSED DECISION**

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on June 19, 2001.

Complainant, Thomas McCrady, was represented by James R. Peel, Staff Counsel.

Respondent, Maryellen Hill, Inc. was represented by its designated broker officer, Maryellen Hill ("Hill"), who also represented herself. Respondent, Lee Julius Drummond ("Drummond"), was present and represented himself.

At the hearing, Complainant amended the Accusation at page 3, lines 11-14, to read as follows: "1. Violated Section 10137 of the Code by employing respondent DRUMMOND, who had an expired real estate salesperson license, to solicit and negotiate sales of real property, as set forth below."

///

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Oral and documentary evidence was received. The record was held open until July 13, 2001 for Respondents to submit copies of their escrow checklist and listing checklist. Complainant waived the opportunity to respond. The listing checklist, listing file and presentation package, and escrow checklists were received on June 22, 2001 and were marked and admitted collectively as Respondents' Exhibit "D." Included with Exhibit "D" was a letter from Respondents Hill and Drummond, addressed to the Administrative Law Judge and to Complainant's counsel, explaining the purpose of Exhibit "D" and offering further explanation concerning some of the allegations in the Accusation. The letter was marked for identification as Respondents' Exhibit "E." No objection to Exhibit "E" having been received, the exhibit is admitted.

On July 13, 2001, the record was closed and the matter was deemed submitted for decision.

### FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Accusation was made by Thomas McCrady, Complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.
2. Respondent, Maryellen Hill, Inc., was issued a license as a corporate real estate broker by the Department of Real Estate ("the Department") on November 20, 1979. The license will expire on November 19, 2003.
3. Respondent Hill was issued a license as a real estate broker by the Department on May 25, 1979, having been licensed as a real estate salesperson on April 30, 1975. The Department issued a license to Hill as officer of Maryellen Hill, Inc. on November 20, 1979. The license will expire on November 19, 2003 unless renewed.
3. Respondent Drummond was issued a license as a real estate salesperson by the Department on July 29, 1987. The license expired on July 28, 1991 and a new salesperson license was issued on March 20, 1995. That license expired on March 19, 1999 and was renewed as of September 19, 2000. The license will expire on September 18, 2004 unless renewed.

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4. Respondents admitted the truth of Paragraph VI, subparagraphs 1, 2 and 3 of the Accusation, as amended. Those allegations are repeated verbatim below:

“VI

“In connection with respondents’ activities as a real estate broker as described above, respondents MARYELLEN HILL, INC., and MARYELLEN HILL, acted in violation of the Real Estate Law, Business and Professions Code (hereinafter Code), and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

“1. Violated Section 10137 of the Code by employing respondent DRUMMOND, who had an expired real estate salesperson license, to solicit and negotiate sales of real property, as set forth below. These activities require a real estate license under Section 10131 (a) of the Code.

“a. The sale of 2155 E. Tachevah Dr., Palm Springs, Cal. To Sheldon C. and Margaret D. Chaffer.

“b. The sales of 2011 N. Deborah Rd., Palm Springs, Cal. To Michael S. and Marilyn S. Steely.

“c. The listing for sale of 2905 La Puesta Del Sol, Palm Springs, Cal. From owners Richard Greenberg and Todd Miner.

“d. The sale of vacant land/APN 507-195-013 to Marlo Berardi.

“e. The sale of 37010 Bankside Dr., Cathedral City to R&A Equities.

“f. The sale of 1540 Chaparral Rd., Palm Springs, Cal. To R&A Equities.

“2. Violated Regulation 2831 by not maintaining a record of all trust funds received and not placed into a trust account.

3. Violated Regulation 2832 in that not all earnest money deposits received from buyers were forwarded to escrow within 3 business days after acceptance of the offer.”

5. Respondents dispute the allegations in subparagraph 4 of paragraph VI which reads: “Violated Regulation 2725 by not establishing appropriate policies, rules, procedures and systems to insure reasonable supervision over the activities of their salespersons.”

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6. On September 14, and 20, 2000, the Department conducted an audit of the accounting and other records of Respondent, Maryellen Hill, Inc. for the period covering January 1, 1999 to July 31, 2000. The results of the audit formed the basis for the allegations in Paragraph VI of the Accusation, as set forth above.

7. The Department's auditor found that Maryellen Hill, Inc.'s bank account records were accurate, its accounting system was computerized and sophisticated, its records were easily accessible, that there was no shortage or overage in its trust fund, and that its property management record keeping was perfect in accordance with accounting standards. However, certain information was missing from the trust fund's columnar records. Money received as deposits did not go into the trust account but rather was logged in and sent directly to the escrow company, and some of the deposits received were not forwarded within the requisite three-day period. Nonetheless, the auditor determined the discrepancies and violations to be minimal and not indicative of a pattern.

8. On one of the four occasions that deposit funds that were not deposited into escrow within three days, the funds were deposited by the fourth or fifth day. On two other occasions, Maryellen Hill, Inc. was the listing agent and the funds were deposited directly into escrow by the buyer's broker. Since Maryellen Hill, Inc. was neither the buyer's broker nor the selling agent, the earnest money deposit was never sent to its office and therefore an entry into its columnar records of the deposit would have been improper. On the fourth occasion, the sale involved a commercial transaction and the deposit into escrow was made directly from the buyer's accomodator account, without being sent to Maryellen Hill, Inc. Thus, on only one occasion did Maryellen Hill, Inc. fail to timely forward earnest money deposit funds to escrow and/or enter those funds into its columnar records.

9. Hill does not maintain an employee manual for supervision purposes. However, she maintains a specific, efficient and adequate system through which she properly supervises her approximately 18 salespersons. That system includes detailed check off lists for all transactions and escrows. Included in the lists are the listing checklist, listing file and presentation package, and escrow checklists as represented by Respondents' Exhibit "D." In addition, Hill is present in the office every day and maintains an open door policy toward her salespersons. As a member of the Risk Management Section of the California Association of Real Estate Brokers, she discusses with her agents issues addressed in the section's publication.

10. Hill is a Director on the Palm Springs Chamber of Commerce and is Director and Treasurer of the Palm Springs Economic Development Corporation. She is Past President of the Palm Springs Board of Realtors and has been active on that board for approximately 15 years. Drummond credibly described Hill as the most conscientious person he knows. None of Hill's real estate licenses has ever been disciplined and, in the past 18 years, she has received only two telephone calls and one visit from the Department regarding complaints.

11. Drummond allowed his real estate salesperson's license to expire through inadvertence and the press of work and a family medical emergency. Since his first license expired without renewal, he had not been through the renewal process before and was unfamiliar with the renewal requisites. He was unaware that he was operating under an expired license until he received a letter to that effect from the Department. He then took immediate steps to rectify the situation. He was credible in his remorse for missing the renewal deadline and for failing to properly renew his license.

12. Although Hill has maintained a list of the salespersons in her office, she has not made it a practice to check the expiration dates of their respective licenses. She has now initiated such a practice so as to ensure that none of her salespersons will operate under an expired license again.

### LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to revoke or suspend Respondent Maryellen Hill, Inc.'s corporate real estate broker's license pursuant to Business and Professions Code sections 10137 and 10177 (d) and (g) for employing a real estate salesperson who had an expired license, as set forth in Findings 4, 6, 11 and 12.

2. Cause exists to revoke or suspend Respondent Maryellen Hill, Inc.'s corporate real estate broker's license pursuant to Title 10, California Code of Regulations, section 2831 and Business and Professions Code section 10177 (d) and (g) for failure to maintain a record of all trust funds received, as set forth in Findings 4, 6, 7 and 8.

3. Cause exists to revoke or suspend Respondent Maryellen Hill, Inc.'s corporate real estate broker's license pursuant to Title 10, California Code of Regulations, section 2832 and Business and Professions Code section 10177 (d) and (g) for failure to forward all earnest money deposits to escrow within three business days after acceptance of the offer, as set forth in Findings 4, 6, 7 and 8.

4. Cause does not exist to revoke or suspend Respondent Maryellen Hill, Inc.'s corporate real estate broker's license pursuant to Title 10, California Code of Regulations, section 2725 and Business and Professions Code section 10177 (d) and (g) for failure to establish appropriate policies, rules, procedures and systems to insure reasonable supervision of salespersons' activities, as set forth in Findings 5 and 9.

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5. Cause exists to revoke or suspend Respondent Maryellen Hill's real estate broker's license pursuant to Business and Professions Code sections 10137 and 10177(d) for employing a real estate salesperson who had an expired license, as set forth in Findings 4, 6, 11 and 12.

6. Cause exists to revoke or suspend Respondent Maryellen Hill's real estate broker's license pursuant to Title 10, California Code of Regulations, section 2831 and Business and Professions Code section 10177 (d) for failure to maintain a record of all trust funds received, as set forth in Findings 4, 6, 7 and 8.

7. Cause exists to revoke or suspend Respondent Maryellen Hill's real estate broker's license pursuant to Title 10, California Code of Regulations, section 2832 and Business and Professions Code section 10177 (d) for failure to forward all earnest money deposits to escrow within three business days after acceptance of the offer, as set forth in Findings 4, 6, 7 and 8.

8. Cause does not exist to revoke or suspend Respondent Maryellen Hill's real estate broker's license pursuant to Title 10, California Code of Regulations, section 2725 and Business and Professions Code sections 10177 (d) and (h) for failure to establish appropriate policies, rules, procedures and systems to insure reasonable supervision of salespersons' activities, as set forth in Findings 5 and 9.

9. Cause exists to revoke or suspend Respondent Lee Julius Drummond's real estate salesperson's license pursuant to Business and Professions Code section 10130 and 10177 (d) for engaging in the business and acting in the capacity of a real estate salesperson without a valid license, as set forth in Findings 4, 6, 11 and 12.

The violations of the Real Estate Law attributable to Respondents Maryellen Hill, Inc. and Maryellen Hill are limited to one minor trust fund violation and Maryellen Hill's continued employment of Respondent Drummond while his salesperson's license was expired. The initial violation can only be deemed *de minimis*, and Hill has taken steps to ensure that the latter violation will not be repeated. Except for this matter, the professional records of Respondents Maryellen Hill, Inc. and Maryellen Hill have been exemplary.

Albeit charged with knowledge of his license renewal requirements, Respondent Drummond's violation was due to inadvertence and unfamiliarity with Departmental requisites rather than intentional wrongdoing. He is remorseful and has now obtained the necessary information to preclude another such violation.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

As to Respondent, Maryellen Hill, Inc.:

The Accusation with respect to Respondent, Maryellen Hill, Inc., is sustained without the imposition of discipline.

As to Respondent, Maryellen Hill:

All licenses and licensing rights of Respondent, Maryellen Hill, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

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

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*Not  
Adapted*

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

5. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

6. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violation(s) found in paragraphs 6 and 7 of the Legal Conclusions. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500 et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

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*Not adopted*

As to Respondent, Lee Julius Drummond:

All licenses and licensing rights of Respondent, Lee Julius Drummond, under the Real Estate Law are suspended for a period of nine (9) months from the effective date of this Decision; provided, however, that said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

DATED: August 6, 2001

*H. Stuart Waxman*

H. STUART WAXMAN

Administrative Law Judge

Office of Administrative Hearings

*Sacto  
Jury*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
APR 25 2001  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation )  
MARYELLEN HILL, INC., )  
MARYELLEN HILL, and )  
LEE JULIUS DRUMMOND, )  
Respondent(s). )

Case No. H-28963 )  
OAH No. L-2001040294 )

By *James R. Peel*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JUNE 19, 2001, at the hour of 1:30 p.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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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.

Dated: April 25, 2001

DEPARTMENT OF REAL ESTATE

By: *James R. Peel*  
JAMES R. PEEL, Counsel

cc: Maryellen Hill Inc.  
Maryellen Hill  
Lee J. Drummond  
Sacto., OAH

*Fact to go*

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JAMES R. PEEL, Counsel (SBN 47055)  
Department of Real Estate  
320 West Fourth Street, Ste. 350  
Los Angeles, California 90013-1105  
  
Telephone: (213) 576-6982  
(213) 576-6913 (Direct)

**FILED**  
FEB 15 2001  
DEPARTMENT OF REAL ESTATE

By *K. Kueberholt*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H- 28963 LA
MARYELLEN HILL, INC., )	<b>A C C U S A T I O N</b>
MARYELLEN HILL, and )	
LEE JULIUS DRUMMOND, )	
Respondents. )	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MARYELLEN HILL, INC., MARYELLEN HILL, and LEE JULIUS DRUMMOND, alleges as follows:

I

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against MARYELLEN HILL, INC., MARYELLEN HILL, and LEE JULIUS DRUMMOND.

II

MARYELLEN HILL, INC., MARYELLEN HILL and LEE JULIUS DRUMMOND (hereinafter referred to as respondents) are presently



1  
2 licensed and/or have license rights under the Real Estate Law  
3 (Part 1 of Division 4 of the Business and Professions Code,  
4 (hereinafter Code).

5 III

6 At all times herein mentioned, Respondent MARYELLEN  
7 HILL, INC., was licensed by the Department of Real Estate of the  
8 State of California as a corporate real estate broker, and  
9 respondent MARYELLEN HILL, was licensed as the designated broker  
10 officer of said corporation, and ordered, authorized or  
11 participated in the illegal conduct of respondent MARYELLEN HILL,  
12 INC., as alleged in this Accusation. Respondent LEE JULIUS  
13 DRUMMOND, an expired real estate licensee, was employed by  
14 respondents MARYELLEN HILL, INC., and MARYELLEN HILL as a real  
15 estate salesperson.

16 IV

17 At all times herein mentioned, respondent MARYELLEN  
18 HILL, INC., on behalf of others in expectation of compensation,  
19 engaged in the business, acted in the capacity of, advertised or  
20 assumed to act as a real estate broker in the State of California  
21 within the meaning of Section 10131(a) of the Code, including  
22 soliciting buyers and sellers and negotiating the sale of real  
23 property.

24 V

25 During 1999 and 2000, in connection with the aforesaid  
26 real estate brokerage activities, respondent MARYELLEN HILL,  
27

1  
2 INC., accepted or received funds from buyers and sellers, and  
3 thereafter made disbursements of such funds.

4 VI

5 In connection with respondents' activities as a real  
6 estate broker as described above, respondents MARYELLEN HILL,  
7 INC., and MARYELLEN HILL, acted in violation of the Real Estate  
8 Law, Business and Professions Code (hereinafter Code), and  
9 California Code of Regulations (hereinafter Regulations), Title  
10 10, Chapter 6, as follows:

11 1. Violated Section 10137 of the Code by employing  
12 respondent DRUMMOND, who was not licensed as a real estate  
13 salesperson or broker, to solicit and negotiate sales of real  
14 property, as set forth below. These activities require a real  
15 estate license under Section 10131(a) of the Code.

16 a. The sale of 2155 E. Tachevah Dr., Palm Springs,  
17 Cal. to Sheldon C. and Margaret D. Chaffer.

18 b. The sale of 2011 N. Deborah Rd., Palm Springs, Cal.  
19 to Michael S. and Marilyn S. Steely.

20 c. The listing for sale of 2905 La Puesta Del Sol,  
21 Palm Springs, Cal. from owners Richard Greenberg and  
22 Todd Miner.

23 d. The sale of vacant land/APN 507-195-013 to Mario  
24 Berardi.

25 e. The sale of 37010 Bankside Dr., Cathedral City to  
26 R&A Equities.

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f. The sale of 1540 Chaparral Rd., Palm Springs, Cal. to R&A Equities.

2. Violated Regulation 2831 by not maintaining a record of all trust funds received and not placed into a trust account.

3. Violated Regulation 2832 in that not all earnest money deposits received from buyers were forwarded to escrow within 3 business days after acceptance of the offer.

4. Violated Regulation 2725 by not establishing appropriate policies, rules, procedures and systems to insure reasonable supervision over the activities of their salespersons.

VII

The conduct of respondent MARYELLEN HILL, INC., as alleged above, subjects its real estate license and license rights to suspension or revocation pursuant to Sections 10137, 10177(d), and 10177(g) of the Code.

VIII

The conduct of respondent MARYELLEN HILL, as alleged above, as the responsible broker, by allowing and permitting respondent MARYELLEN HILL, INC., to engage in the conduct specified in paragraph VI above, subjects her real estate licenses and license rights to suspension or revocation pursuant to Sections 10137, 10177(d), and 10177(h) of the Code.

IX

The conduct of respondent, LEE JULIUS DRUMMOND, as alleged above, was in violation of Section 10130 of the Code, and



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subjects his real estate license to suspension or revocation pursuant to Section 10177(d) 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 MARYELLEN HILL, INC., MARYELLEN HILL and LEE JULIUS DRUMMOND 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 15th day of February, 2001.

THOMAS MC CRADY  

---

Deputy Real Estate Commissioner

cc: Maryellen Hill, Inc.  
Maryellen Hill  
Lee Julius Drummond  
Sacto  
DKW