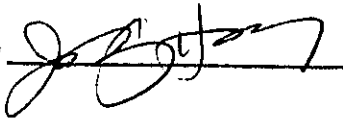


1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105  
4  
5 Telephone: (213) 576-6982  
6  
7

**FILED**  
FEB 5 2003

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-29548 LA  
12 BRANDON C. CALDARELLA ) OAH No. L-2002070318  
13 Respondent. ) STIPULATION AND AGREEMENT  
14

15 It is hereby stipulated by and between BRANDON C.  
16 CALDARELLA (Respondent) and his attorney of record, Robert M.  
17 Viefhuas, Esq., and the Complainant, acting by and through  
18 Darlene Averetta, Counsel for the Department of Real Estate of  
19 the State of California (Department), as follows for the purpose  
20 of settling and disposing of the Accusation filed on June 12,  
21 2002, in this matter:

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

///

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement (Stipulation).  
3

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

7           3. On June 3, 2002, Respondent filed a Notice of  
8 Defense on Accusation pursuant to Section 11506 of the  
9 California Government Code for the purpose of requesting a  
10 hearing on the allegations in the Accusation. Respondent hereby  
11 freely and voluntarily withdraws said Notice of Defense on  
12 Accusation. Respondent acknowledges that he understands that  
13 by withdrawing said Notice of Defense on Accusation he will  
14 thereby waive his right to require the Real Estate Commissioner  
15 of the State of California (Commissioner) to prove the  
16 allegations in the Accusation at a contested hearing held in  
17 accordance with the provisions of the APA and that he will waive  
18 other rights afforded to him in connection with the hearing such  
19 as the right to present evidence in defense of the allegations  
20 in the Accusation and the right to cross-examine witnesses.  
21

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1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation filed in this  
3 proceeding. In the interest of expedience and economy,  
4 Respondent chooses not to contest these factual allegations  
5 but to remain silent and understands that, as a result thereof,  
6 these factual statements, without being admitted or denied,  
7 will serve as a prima facie basis for the disciplinary action  
8 stipulated to herein. This Stipulation and Respondent's  
9 decision not to contest the Accusation are hereby expressly  
10 limited to this proceeding and made solely for the purpose of  
11 reaching a disposition of this proceeding. Respondent's  
12 decision not to contest the factual allegations is made solely  
13 for the purpose of effectuating this Stipulation and is intended  
14 by her to be non-binding upon him in any actions against him  
15 by third parties. The Commissioner shall not be required to  
16 provide further evidence to prove such allegations.  
17

18                   5. This Stipulation and any Order of the Commissioner  
19 made pursuant to this Stipulation shall have no collateral  
20 estoppel or res judicata effect in any proceedings in which  
21 Respondent and the Department (or the Department's  
22 representative) are not parties. This Stipulation is made and  
23 received by the Commissioner and the Department with the express  
24 understanding and agreement that this Stipulation is not  
25 intended as, and shall not be deemed, used or accepted as, an  
26 acknowledgment or admission of fact in any other judicial,  
27

1 administrative or other proceeding to which the Department is  
2 not a party.

3 6. It is understood by the parties that the  
4 Commissioner may adopt the Stipulation as her Decision in this  
5 matter thereby imposing the penalty and sanctions on  
6 Respondent's real estate salesperson license and license rights  
7 as set forth in the below Order. In the event that the  
8 Commissioner in her discretion does not adopt the Stipulation,  
9 it shall be void and of no effect and Respondent shall retain  
10 the right to a hearing and proceeding on the Accusation under  
11 all the provisions of the APA and shall not be bound by any  
12 admission or waiver made herein.

13 DETERMINATION OF ISSUES

14 By reason of the foregoing stipulations, admissions  
15 and waivers and solely for the purpose of settlement of the  
16 pending Accusation without a hearing, it is stipulated and  
17 agreed that the following Determination of Issues  
18 (Determination) shall be made:  
19

20 The conduct of Respondent, as described in Paragraph  
21 III of the Accusation, is grounds for suspension or revocation  
22 of her real estate salesperson license and license rights under  
23 the provisions of Sections 490 and 10177(b) of the California  
24 Business and Professions Code (Code).

25 ///

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27 ///

ORDER

1                   WHEREFORE, THE FOLOWING ORDER is hereby made:  
2

3                   All licenses and licensing rights of Respondent  
4 BRANDON C. CALDARELLA, under the Real Estate Law are revoked;  
5 provided, however, a restricted real estate salesperson license  
6 shall be issued to Respondent pursuant to Section 10156.5 of  
7 the Code if he makes application therefor and pays to the  
8 Department the appropriate fee for the restricted license within  
9 90 days from the effective date of this Decision.

10                   The restricted license issued to Respondent shall be  
11 subject to all of the provisions of Section 10156.7 of the Code  
12 and to the following conditions, limitations and restrictions  
13 imposed under the authority of Section 10156.6 of the Code:

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

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

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26                   ///

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

6                   4. Respondent shall submit with any application for  
7 license under an employing broker, or any application for  
8 transfer to a new employing broker, a statement signed by the  
9 prospective employing real estate broker, on a form approved by  
10 the Department, which shall certify:

11                   (a) That the employing broker has read the Decision  
12 of the Commissioner which granted the right to a restricted  
13 license;

14                   and

15                   (b) That the employing broker will exercise close  
16 supervision over the performance by the restricted licensee  
17 relating to activities for which a real estate salesperson  
18 license is required.  
19

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

13 DATED: January 23, 2003

  
DARLENE AVERETTA, Counsel  
for the Complainant, the  
Department of Real Estate

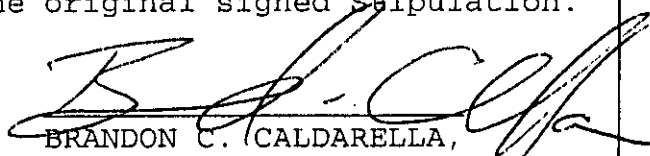
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1 \* \* \*

2 I have read the Stipulation and its terms are  
3 understood by me and are agreeable and acceptable to me. I  
4 understand that I am waiving rights given to me by the APA  
5 (including, but not limited to, Sections 11506, 11508, 11509  
6 and 11513 of the Gov. Code) and I willingly, intelligently and  
7 voluntarily waive those rights, including the right of requiring  
8 the Commissioner to prove the allegations in the Accusation at a  
9 hearing at which I would have the right to cross-examine  
10 witnesses against me and to present evidence in defense and  
11 mitigation of the charges.

12  
13 Respondent can signify acceptance and approval of the  
14 terms and conditions of this Stipulation by faxing a copy of  
15 the signature page, as actually signed by Respondent, to the  
16 Department at the following fax number: (213) 576-6917.  
17 Respondent agrees, acknowledges and understands that by  
18 electronically sending to the Department a fax copy of his  
19 actual signature as it appears on the Stipulation, that receipt  
20 of the fax copy by the Department shall be as binding on him as  
21 if the Department had received the original signed Stipulation.

22  
23 DATED: 1/22/03

  
BRANDON C. CALDARELLA,  
Respondent

24  
25 ///

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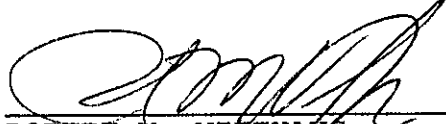
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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED: 1/22/03

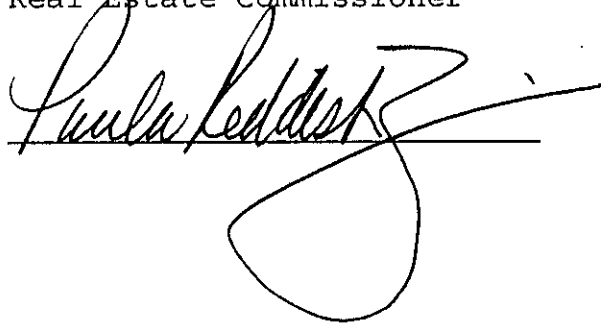
  
ROBERT M. VIEFHAUS  
Counsel for the Respondent

\* \* \*

The foregoing Stipulation is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on February 25, 2003

IT IS SO ORDERED January 31, 2003

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

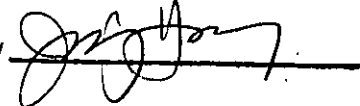
In the Matter of the Accusation of )  
 )  
 **BRANDON D. CALDARELLA,** )  
 )  
 \_\_\_\_\_ )  
 Respondent

Case No. **H-29548 LA**

OAH No. L-2002070318

**FILED**  
NOV 6 2002  
DEPARTMENT OF REAL ESTATE

**NOTICE OF CONTINUED HEARING ON ACCUSATION**

By 

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, Suite 630, Los Angeles, CA 90013-1105 on **FRIDAY, JANUARY 17, 2003**, 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 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: November 6, 2002

By   
DARLENE AVERETTA,  
Assistant Chief Counsel

cc: Brandon C. Caldarella  
First Team Real Estat-Orange County  
Robert M. Viefhaus, Esq.  
Sacto.  
OAH

SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )  
 )  
 **BRANDON C. CALDARELLA,** )  
 )  
 \_\_\_\_\_ )  
 Respondent.

Case No. **H-29548 LA**  
OAH No. L-2002070318

**FILED**  
JUL 31 2002  
DEPARTMENT OF REAL ESTATE

**NOTICE OF HEARING ON ACCUSATION** By 

**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, Suite 630, Los Angeles, CA 90013-1105 on **THURSDAY, OCTOBER 10, 2002**, 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 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.

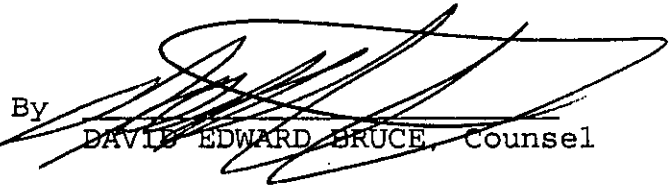
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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

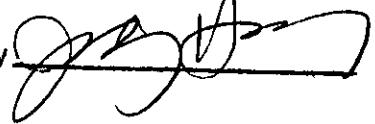
Dated: July 31, 2002

By   
**DAVID EDWARD BRUCE, Counsel**

cc: Brandon C. Caldarella  
First Team Real Estate - Orange County  
Robert M. Viefhuas, Esq.  
Sacto.  
OAH

SATO

1 DAVID EDWARD BRUCE, Counsel (SBN 212539)  
Department of Real Estate  
2 320 West Fourth Street, Suite 350  
Los Angeles, California 90013-1105  
3  
4 Telephone: (213) 576-6905 (direct)  
(213) 576-6982 (office)

**FILED**  
JUN 12 2002  
DEPARTMENT OF REAL ESTATE  
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-29548 LA  
12 BRANDON C. CALDARELLA, ) ACCUSATION  
13 Respondent. )  
14

15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against BRANDON C. CALDARELLA (Respondent), is informed and  
18 alleges in her official capacity as follows:

19 I

20 Respondent is presently licensed and/or has license  
21 rights as a real estate salesperson under the Real Estate Law  
22 (Part 1 of Division 4 of the California Business and Professions  
23 Code) (Code).  
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II

Respondent was originally licensed by the Department of Real Estate of the State California as a real estate salesperson on or about December 2, 1999.

III

On or about May 21, 2001, in the Superior Court of California, County of Riverside, Respondent was convicted by a guilty plea to two (2) counts of violating Section 11359 (Possession for Sale [Controlled Substance]) of the California Health and Safety Code and Section 591 (Injuring or Tapping Telegraph, Telephone or Cable Television Line) of the California Penal Code. These felony crimes involve moral turpitude and are substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

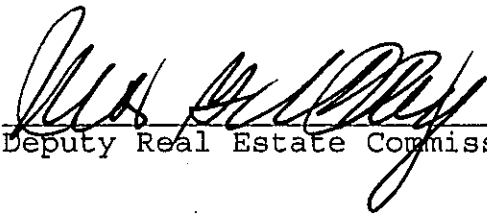
The facts, as alleged in Paragraph III above, constitute cause for suspension or revocation of the license and license rights of Respondent under Sections 490 and 10177(b) of the Code.

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1           WHEREFORE, the Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against the license and license rights of Respondent,  
5 BRANDON C. CALDARELLA, under the Real Estate Law (Part 1 of  
6 Division 4 of the California Business and Professions Code) and  
7 for such other and further relief as may be proper under other  
8 applicable provisions of law.

9 Dated at Los Angeles, California,

10 this 10th day of June, 2002.

11  
12  
13   
14 Deputy Real Estate Commissioner  
15  
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17  
18  
19  
20  
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22  
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24

25 cc: Brandon C. Caldarella  
26 First Team Real Estate - Orange County  
27 ✓ Sac  
KA