

1 ELLIOTT MAC LENNAN, SBN 66674  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)  
6 -or- (213) 576-6982 (office)

FILED  
MAR -3 2005  
DEPARTMENT OF REAL ESTATE

By K. Mederholt

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) DRE No. H-30336 LA  
12 )  
13 MOJGAN COX )  
14 doing business as )  
15 Re/Max Southland Realty, )  
16 )  
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25 )  
26 )  
27 )  
Respondent.

STIPULATION  
AND  
AGREEMENT

16 It is hereby stipulated by and between MOJGAN COX  
17 (sometimes referred to as "Respondent"), represented by Frank M.  
18 Buda, Esq., and the Complainant, acting by and through Elliott  
19 Mac Lennan, Counsel for the Department of Real Estate, as follows  
20 for the purpose of settling and disposing of the Accusation filed  
21 on September 17, 2003, 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           2. Respondent has received, read and understands the  
4 Statement to Respondent, the Discovery Provisions of the APA and  
5 the Accusation filed by the Department of Real Estate in this  
6 proceeding.

7           3. Respondent filed a Notice of Defense pursuant to  
8 Section 11506 of the Government Code for the purpose of  
9 requesting a hearing on the allegations in the Accusation.  
10 Respondent hereby freely and voluntarily withdraws said Notice of  
11 Defense. Respondent acknowledges that she understands that by  
12 withdrawing said Notice of Defense she thereby waives her right  
13 to require the Commissioner to prove the allegations in the  
14 Accusation at a contested hearing held in accordance with the  
15 provisions of the APA and that she will waive other rights  
16 afforded to her in connection with the hearing such as the right  
17 to present evidence in her defense of the allegations in the  
18 Accusation and the right to cross-examine witnesses.

19           4. This Stipulation is based on the factual  
20 allegations contained in the Accusation. In the interest of  
21 expedience and economy, Respondent chooses not to contest these  
22 allegations, but to remain silent and understands that, as a  
23 result thereof, these allegations, without being admitted or  
24 denied, will serve as a prima facie basis for the disciplinary  
25 action stipulated to herein. The Real Estate Commissioner shall  
26 not be required to provide further evidence to prove said  
27 allegations.

1           5. This Stipulation and Respondent's decision not to  
2 contest the Accusation is made for the purpose of reaching an  
3 agreed disposition of this proceeding and is expressly limited to  
4 this proceeding and any other proceeding or case in which the  
5 Department of Real Estate ("Department"), or another licensing  
6 agency of this state, another state or if the federal government  
7 is involved, and otherwise shall not be admissible in any other  
8 criminal or civil proceeding.

9           6. It is understood by the parties that the Real  
10 Estate Commissioner may adopt this Stipulation as his Decision  
11 in this matter thereby imposing the penalty and sanctions on  
12 Respondent's real estate license and license rights as set forth  
13 in the "Order" herein below. In the event that the Commissioner,  
14 in his discretion, does not adopt the Stipulation, it shall be  
15 void and of no effect and Respondent shall retain the right to  
16 a hearing and proceeding on the Accusation under the provisions  
17 of the APA and shall not be bound by any stipulation or waiver  
18 made herein.

19           7. The Order or any subsequent Order of the Real  
20 Estate Commissioner made pursuant to this Stipulation shall not  
21 constitute an estoppel, merger or bar to any further  
22 administrative or civil proceedings by the Department of Real  
23 Estate with respect to any matters which were not specifically  
24 alleged to be causes for Accusation in this proceeding but do  
25 constitute a bar, estoppel and merger as to any allegations  
26 actually contained in the Accusation against Respondent herein.

27



1 or revocation of Respondent's broker license pursuant to Section  
2 10177(d) of the Business and Professions Code.

3 ORDER

4 WHEREFORE THE FOLLOWING ORDER IS HEREBY MADE:

5 I.

6 All licenses and licensing rights of Respondent

7 MOJGAN COX, under the Real Estate Law are revoked;

8 provided, however, a restricted real estate broker license shall

9 be issued to Respondent, pursuant to Section 10156.5 of the

10 Business and Professions Code, if Respondent makes application

11 therefor and pays to the Department of Real Estate the

12 appropriate fee for the restricted license within ninety (90)

13 days from the effective date of this Decision. The restricted

14 license issued to Respondent shall be subject to all of the

15 provisions of Section 10156.7 of the Code and the following

16 limitations, conditions and restrictions imposed under authority

17 of Section 10156.6 of that Code:

18 1. The restricted license issued to Respondent may be

19 suspended prior to hearing by Order of the Real Estate

20 Commissioner in the event of Respondent's conviction or plea of

21 nolo contendere to a crime which is substantially related to

22 Respondent's fitness or capacity as a real estate licensee.

23 2. The restricted license issued to Respondent may

24 be suspended prior to hearing by Order of the Real Estate

25 Commissioner on evidence satisfactory to the Commissioner that

26

27

1 Respondent has violated provisions of the California Real Estate  
2 Law, the Subdivided Lands Law, Regulations of the Real Estate  
3 Commissioner or conditions attaching to the restricted license.

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

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

22 5. Respondent shall within six months from the  
23 effective date of the restricted license, take and pass the  
24 Professional Responsibility Examination administered by the  
25 Department including the payment of the appropriate examination  
26 fee. If Respondent fails to satisfy this condition, the  
27

1 Commissioner may order suspension of the restricted license until  
2 respondent passes the examination.

3 6. All licenses and licensing rights of Respondent are  
4 indefinitely suspended unless or until Respondent provides proof  
5 satisfactory to the Commissioner, of having taken and  
6 successfully completed the continuing education course on trust  
7 fund accounting and handling specified in paragraph (3) of  
8 subdivision (a) of Section 10170.5 of the Business and  
9 Professions Code. Proof of satisfaction of this requirement  
10 includes evidence that respondent has successfully completed the  
11 trust fund account and handling continuing education course  
12 within 120 days prior to the effective date of the Decision in  
13 this matter.

14 II.

15 Pursuant to Section 10148 of the Business and  
16 Professions Code, Respondent shall pay the Commissioner's  
17 reasonable cost for (a) the audit which led to this disciplinary  
18 action and (b) a subsequent audits to determine if Respondent  
19 MOJGAN COX is now in compliance with the Real Estate Law. The  
20 cost of the audit which led to this disciplinary action is  
21 \$9,178.08. In calculating the amount of the Commissioner's  
22 reasonable cost, the Commissioner may use the estimated average  
23 hourly salary for all persons performing audits of real estate  
24 brokers, and shall include an allocation for travel time to and  
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1 from the auditor's place of work. Said amount for the prior and  
2 subsequent audits shall not exceed \$18,356.16.

3 Respondent shall pay such cost within 60 days of  
4 receiving an invoice from the Commissioner detailing the  
5 activities performed during the audit and the amount of time  
6 spent performing those activities.

7 The Commissioner may suspend the license of Respondent  
8 pending a hearing held in accordance with Section 11500, et seq.,  
9 of the Government Code, if payment is not timely made as provided  
10 for herein, or as provided for in a subsequent agreement between  
11 the Respondent and the Commissioner. The suspension shall remain  
12 in effect until payment is made in full or until Respondent  
13 enters into an agreement satisfactory to the Commissioner to  
14 provide for payment, or until a decision providing otherwise is  
15 adopted following a hearing held pursuant to this condition.  
16

17  
18 DATED: 1-27-05

ELI  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

19  
20 \* \* \*

21  
22 I have read the Stipulation and Agreement, have  
23 discussed it with my counsel. Its terms are understood by me and  
24 are agreeable and acceptable to me. I understand that I am  
25 waiving rights given to me by the California Administrative  
26 Procedure Act (including but not limited to Sections 11506,  
27 11508, 11509 and 11513 of the Government Code), and I willingly,



1 intelligently and voluntarily waive those rights, including the  
2 right of requiring the Commissioner to prove the allegations in  
3 the Accusation at a hearing at which I would have the right to  
4 cross-examine witnesses against me and to present evidence in  
5 defense and mitigation of the charges.

6 Respondent MOJGAN COX can signify acceptance and  
7 approval of the terms and conditions of this Stipulation and  
8 Agreement by faxing a copy of its signature page, as actually  
9 signed by Respondent, to the Department at the following  
10 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
11 Lennan. Respondent agrees, acknowledges and understands that by  
12 electronically sending to the Department a fax copy of  
13 Respondent's actual signature as it appears on the Stipulation  
14 and Agreement, that receipt of the faxed copy by the Department  
15 shall be as binding on Respondent as if the Department had  
16 received the original signed Stipulation and Agreement.  
17

18  
19 DATED: \_\_\_\_\_


\_\_\_\_\_  
MOJGAN COX, Respondent

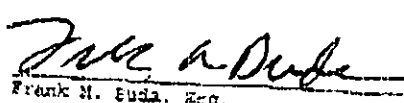
20  
21  
22 DATED: \_\_\_\_\_

\_\_\_\_\_  
Frank M. Buda, Esq.  
Attorney for Mojgan Cox  
Approved as to form

1 intelligently and voluntarily waive these rights, including the  
 2 right of requiring the Commissioner to prove the allegations in  
 3 the accusation at a hearing at which I would have the right to  
 4 cross-examine witnesses against me and to present evidence in  
 5 defense and mitigation of the charges.

6 Respondent MORGAN COX can signify acceptance and  
 7 approval of the terms and conditions of this Stipulation and  
 8 Agreement by faxing a copy of its signature page, as actually  
 9 signed by Respondent, to the Department at the following  
 10 telephone/fax number: (212) 376-6917, Attention: Elliott Mac  
 11 Lennan. Respondent agrees, acknowledges and understands that by  
 12 electronically sending to the Department a fax copy of  
 13 Respondent's actual signature as it appears on the Stipulation  
 14 and Agreement, that receipt of the faxed copy by the Department  
 15 shall be as binding on Respondent as if the Department had  
 16 received the original signed Stipulation and Agreement.

19 DATED: 1-27-05   
 20 MORGAN COX Respondent

23 DATED: 1-27-05   
 24 Frank M. Buda, Esq.  
 25 Attorney for Morgan Cox  
 26 Approved as to Form

\* \* \*

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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at  
12 o'clock noon on APR -4 , 2005.

IT IS SO ORDERED 2-23, 2005.

JEFF DAVI  
Real Estate Commissioner



*Handwritten initials*

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

**FILED**  
SEP 21 2004  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

*By K. M. ...*

MOJGAN COX,

}  
}

Case No. H-30336 LA

OAH No. L-2003120123

*Respondent*

**NOTICE OF CONTINUED 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 **320 W. Fourth Street, Ste. 630, Los Angeles, CA** on **January 27-28, 2005**, 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: **SEP 21 2004**

By *EL*  
**ELLIOTT MAC LENNAN, Counsel**

cc: Mojgan Cox  
Frank M. Buda, Esq.  
Sacto/OAH/LA

*Sacto*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
APR 12 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

MOJGAN COX,

}

By *K. Friedrich*  
Case No. H-30336 LA

OAH No. L-2003120123

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 320 W. Fourth Street, Ste. 630, Los Angeles, CA on July 15-16, 2004, 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.

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DEPARTMENT OF REAL ESTATE

Dated: APR 12 2004

By *E. Lennan*  
ELLIOTT MAC LENNAN, Counsel

cc: Mojgan Cox  
Frank M. Buda, Esq.  
Sacto/OAH/OA

*Handwritten initials*

**FILED**  
SEP 17 2003  
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, SBN 66674  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105  
5  
6  
7  
8 Telephone: (213) 576-6911 (direct)  
9 -or- (213) 576-6982 (office)

By *K. Niederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of ) No. H-30336 LA  
12 )  
13 MOJGAN COX, doing business as ) A C C U S A T I O N  
14 Re/Max Southland Realty, )  
15 Respondents. )

16 The Complainant, Maria Suarez, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against MOJGAN COX dba Re/Max Southland Realty and M C Realty  
19 ("COX"), alleges as follows:

1. 20

21 The Complainant, Maria Suarez, acting in her official  
22 capacity as a Deputy Real Estate Commissioner of the State of  
23 California makes this Accusation against COX.  
24

25 ///  
26 ///

1 2.

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

5 3.

6 At all times mentioned, COX was licensed or had license  
7 rights issued by the Department of Real Estate (Department) as a  
8 real estate broker. On February 13, 1991, COX was originally  
9 licensed as a real estate broker.

10 4.

11 At all times mentioned, in the City of Rancho  
12 Cucamonga, County of Los Angeles, COX acted as a real estate  
13 broker and conducted licensed activities within the meaning of:

14 A. Section 10131(a) of the Code in that COX operated a  
15 residential resale brokerage dba Re/Max Southland Realty; and

16 B. Conducted broker-controlled escrows through her  
17 escrow division under the exemption set forth in California  
18 Financial Code Section 17006(a)(4) for real estate brokers  
19 performing escrows incidental to a real estate transaction where  
20 the broker is a party and where the broker is performing acts for  
21 which a real estate license is required.

22 5.

23  
24 On April 30, 2003, the Department completed an audit  
25 examination of the books and records of COX dba Re/Max Southland  
26 Realty pertaining to the residential resale and broker-escrow  
27 activities described in Paragraph 4 that require a real estate

1 license. The audit examination covered a period of time  
2 beginning on June 1, 2001 through December 31, 2002. The audit  
3 examination revealed violations of the Code and the Regulations  
4 as set forth in the following paragraphs, and more fully  
5 discussed in Audit Reports LA 020264 and LA 020265 and the  
6 exhibits and workpapers attached to said audit reports.

7 6.

8 At all times mentioned, in connection with the  
9 activities described in Paragraph 4, above, COX accepted or  
10 received funds in trust (trust funds) from or on behalf of  
11 purchasers and sellers and thereafter made disposition of such  
12 funds. COX maintained the following escrow trust account during  
13 the audit period into which were deposited certain of these funds  
14 at:

15 "Mojgan Cox, dba Re/Max Southland Realty Broker's Trust Account  
16 Account No. 238120519"  
17 Citizen's Business Bank  
18 1555 East Highland Avenue  
19 San Bernardino, California  
20 (escrow trust account)

21 7.

22 With respect to the trust funds referred to in  
23 Paragraph 6, it is alleged that COX:

24 (a) Permitted, allowed or caused the disbursement of  
25 trust funds from the escrow trust account where the disbursement  
26 of funds reduced the total of aggregate funds in the escrow trust  
27 account, to an amount which, on December 31, 2002, was \$80,259.42  
less than the existing aggregate trust fund liability of COX to



1 every principal who was an owner of said funds, without first  
2 obtaining the prior written consent of the owners of said funds,  
3 as required by Code Section 10145 and Regulations 2832.1, 2950(g)  
4 and 2951.

5 (b) Failed to place funds, including escrow receipts,  
6 into a trust fund account in the name of the broker as trustee at  
7 a bank or other financial institution. COX deposited trust funds  
8 in the amount of \$3,718.49, in err into another broker's (Tan Huy  
9 Vu) trust account. Additionally, COX failed to deposit all trust  
10 funds into her escrow trust account, as required by Code Section  
11 10145 and Regulations 2832 and 2951.

12 (c) Failed to maintain an adequate or complete control  
13 record in the form of a columnar record in chronological order of  
14 all trust funds received in escrow trust account, as required by  
15 Code Section 10145 and Regulations 2831, 2950(d) and 2951.  
16

17 (d) Failed to maintain an accurate and complete  
18 separate record for each beneficiary or transaction, thereby  
19 failing to account for all trust funds received, deposited into,  
20 and disbursed from the escrow trust account, as required by Code  
21 Section 10145 and Regulations 2831.1, 2950(d) and 2951.

22 (e) While acting in the capacity of an escrow holder in  
23 four purchase and sale transactions, failed to place trust funds,  
24 including earnest money deposits, accepted on behalf of another  
25 into the hands of the owner of the funds, a neutral escrow  
26 depository or into a trust fund account in the name of the broker  
27

1 at a bank or other financial institution not later than the next  
2 business day following receipt of the funds by the broker or by  
3 the broker's salesperson, as required by Code Section 10145 and  
4 Regulations 2832(e) and 2950(f).

5 (f) Failed to perform a monthly reconciliation of the  
6 balance of all separate beneficiary or transaction records  
7 maintained pursuant to Regulation 2831.1 with the control record  
8 of all trust funds received and disbursed by the escrow trust  
9 account as required by Regulation 2831, in violation of Code  
10 Section 10145 and Regulations 2831.2, 2950(d) and 2951.

11 (g) Used the fictitious name of "Re/Max Southland" to  
12 conduct residential resale and broker-controlled escrow  
13 activities on behalf COX without holding a license bearing this  
14 fictitious business name, in violation of Regulation 2731; and

15 (h) Failed to notify the Department of the employment  
16 and termination of Louis Fernando Valverde, real estate  
17 salesperson licensed to COX, as required by Code Section 10161.8  
18 of the Code and Regulation 2752.

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1 8.

2 The conduct of Respondent COX, described in Paragraph  
3 8, above, violated the Code and the Regulations as set forth  
4 below:

5 <u>PARAGRAPH</u>	6 <u>PROVISIONS VIOLATED</u>
7 7(a)	Code Section 10145 and Regulations 8 2832.1, 2950(g) and 2951
9 7(b)	Code Section 10145 and Regulations 10 2832 and 2951
11 7(c)	Code Section 10145 and Regulations 12 2831, 2950(d) and 2951
13 7(d)	Code Section 10145 and Regulations 14 2831.1, 2950(d) and 2951
15 7(e)	Code Section 10145 and Regulations 16 2832(e) and 2950(f)
17 7(f)	Code Section 10145 and Regulations 18 2831.2, 2950(d) and 2951
19 7(g)	Regulation 2731
20	
21 7(h)	Code Section 10161.8 and Regulation 22 2752

23 The foregoing violation constitutes cause for the suspension or  
24 revocation of the real estate license and license rights of COX  
25 under the provisions of Code Sections 10177(d) and/or 10177(g).  
26  
27

PRIOR DEPARTMENT ACTION

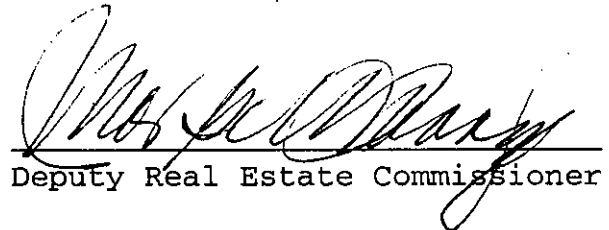
9.

On December 4, 1998, in Case No. H-27936 LA, an ORDER TO DESIST AND REFRAIN was filed against respondent MOJGAN COX dba Re/Max Southland Realty inter alia, under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Code Section 10145 and Sections 2831 and 2832 of Title 10, Chapter 6, California Code of Regulations.

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 MOJGAN COX dba Re/Max Southland Realty and M C Realty, 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 9th day of September 2013.

  
Deputy Real Estate Commissioner

cc: Mojgan Cox  
Maria Suarez  
Sacto  
LA  
Audits