

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
JAN 24 2005
DEPARTMENT OF REAL ESTATE

By K. Helder

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-30967 LA
12 MICHAEL J. HOLDEN,)
13 Respondent.) STIPULATION
14) AND
15) AGREEMENT

16 It is hereby stipulated by and between MICHAEL J.
17 HOLDEN (sometimes referred to as Respondent) and his attorney,
18 Josef G. Magyar, Esq. of the Law Offices of Herman Thordsen, and
19 the Complainant, acting by and through Elliott Mac Lennan,
20 Counsel for the Department of Real Estate, as follows for the
21 purpose of settling and disposing the Amended Accusation
22 ("Accusation") filed in this matter on June 24, 2004:

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

1 thereof be submitted solely on the basis of the provisions of
2 this 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 timely filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense he thereby waives his right to
13 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 he will waive other rights
16 afforded to him in connection with the hearing such as the right
17 to present evidence in 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 filed in this proceeding.
21 In the interest of expedience and economy, Respondent chooses not
22 to contest these factual allegations, but to remain silent and
23 understands that, as a result thereof, these factual statements,
24 will serve as a prima facie basis for the disciplinary action
25 stipulated to herein. The Real Estate Commissioner shall not be
26 required to provide further evidence to prove such allegations.

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

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

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

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1 Code and the following limitations, conditions and restrictions
2 imposed under authority of Section 10156.6 of that Code:

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

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

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

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

6 5. Six months after the issuance of the restricted
7 license, and at six month intervals thereafter during the term of
8 any restricted license issued pursuant to this Decision,
9 Respondent shall provide proof acceptable to the Real Estate
10 Commissioner that, during the preceding six months, Respondent
11 has, each and every week, attended one or more sessions of
12 Alcoholics Anonymous, or that such attendance in any week was
13 impractical due to travel for work, the illness of Respondent or
14 a member of Respondent's family, vacation, incarceration,
15 residential treatment for substance abuse, extreme personal
16 hardship for Respondent or a member of Respondent's family, or
17 family emergency. Respondent shall submit such proof to the Los
18 Angeles Crisis Response Team Manager of the Department of Real
19 Estate. The Commissioner may suspend the restricted license
20 issued to Respondent pending a hearing held in accordance with
21 Section 11500, et seq., of the Government Code, if such proof is
22 not timely submitted as provided for herein, or as provided for
23 in a subsequent agreement between the Respondent and the
24 Commissioner. The suspension shall remain in effect until such
25 proof is submitted or until Respondent enters into an agreement
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1 satisfactory to the Commissioner to provide such proof, or until
2 a decision providing otherwise is adopted following a hearing
3 held pursuant to this condition.

4
5 DATED: 12-8-04

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

7 * * *

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

19
20 Respondent can signify acceptance and approval of the
21 terms and conditions of this Stipulation and Agreement by faxing
22 a copy of its signature page, as actually signed by Respondent,
23 to the Elliott Mac Lennan, Esq. c/o the Department of Real Estate
24 at the following telephone/fax number: (213) 576-6917.

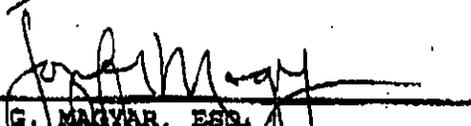
25 Respondent agrees, acknowledges and understands that by
26 electronically sending to the Department a fax copy of his actual
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1 signature as it appears on the Stipulation and Agreement, that
 2 receipt of the faxed copy by the Department shall be as binding
 3 on Respondent as if the Department had received the original
 4 signed Stipulation and Agreement.

5
 6 DATED: 12/14/04


 7 MICHAEL J. HOLDEN, Respondent

8
 9 DATED: 12/14/04


 10 JOSEF G. MAKVAR, ESQ.
 11 Law Offices of Herman Thordson
 12 Counsel for Respondent
 13 Approved as to Form

14 * * *
 15 The foregoing Stipulation and Agreement is hereby
 16 adopted as my Decision as to Respondent MICHAEL J. HOLDEN and
 17 shall become effective at 12 o'clock noon

18 on _____
 19 IT IS SO ORDERED 1-4-05

20 JEFF DAVI
 21 Real Estate Commissioner
 22
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1 signature as it appears on the Stipulation and Agreement, that
2 receipt of the faxed copy by the Department shall be as binding
3 on Respondent as if the Department had received the original
4 signed Stipulation and Agreement.

5
6 DATED: _____

7 MICHAEL J. HOLDEN, Respondent

8
9
10 DATED: _____

11 JOSEF G. MAGYAR, ESQ.
12 Law Offices of Herman Thordsen
13 Counsel for Respondent
14 Approved as to Form

15 * * *

16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision as to Respondent MICHAEL J. HOLDEN and
18 shall become effective at 12 o'clock noon
19 on FEB 14 2005

20 IT IS SO ORDERED 1-4-05

21 JEFF DAVI
22 Real Estate Commissioner

23 
24 _____

Handwritten initials

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

FILED
SEP 15 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

MICHAEL J. HOLDEN,

By *K. M. DeHolt*

Case No. 30967 LA

OAH No. L-2003080009

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 Office of Administrative Hearings, 320 West Fourth Street, Ste. 630, Los Angeles, CA on December 15, 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.

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 15 2004

By *ELM*
ELLIOTT MAC LENNAN, Counsel

cc: Michael J. Holden
Jozef G. Magyar, Esq..
Sacto/OAH/LF

Handwritten initials/signature

FILED
JUN 24 2004
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
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8 Telephone: (213) 576-6911 (direct)
9 -or- (213) 576-6982 (office)

By *K. Neuberholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30967 LA
MICHAEL J. HOLDEN,)	<u>FIRST AMENDED</u>
Respondent.)	<u>ACCUSATION</u>

The Accusation filed on June 9, 2004, is amended in its entirety as follows:

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against MICHAEL J. HOLDEN, is informed and alleges in her official capacity as follows:

1.

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

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2.

Respondent was originally licensed by the Department of Real Estate of the State California as a real estate broker on February 27, 1989.

3.

On June 10, 2003, in the Superior Court of California, County of Orange, Harbor Judicial District, in Docket/Case Number 2SM04360, respondent was convicted upon a guilty plea to one count of Penal Code Section 273.5(a) (corporal injury - former spouse), and one count of Penal Code Section 242 (battery), misdemeanor crimes.

4.

On June 10, 2003, in the Superior Court of California, County of Orange, Harbor Judicial District, in Docket/Case Number 03SM00269, respondent was convicted upon a guilty plea to two counts of Penal Code Section 273.6(a) (disobeying protective court order), and one count of Penal Code Section 646.9(a) (stalking), misdemeanor crimes.

5.

On June 10, 2003, in the Superior Court of California, County of Orange, Harbor Judicial District, in Docket/Case Number 03SM01580, respondent was convicted upon a guilty plea to one count of Penal Code Section 273.6(a) (disobeying protective court order), a misdemeanor crime.

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1 6.

2 On June 10, 2003, in the Superior Court of California,
3 County of Orange, Harbor Judicial District, in Docket/Case Number
4 03SM01216 respondent was convicted upon a guilty plea to one
5 count of Penal Code Section 166(c)(1) (disobey court order), a
6 misdemeanor crime.

7 7.

8 The convictions alleged in Paragraphs 3 through 6, by
9 their facts and circumstances, involve moral turpitude and are
10 substantially related under Section 2910, Chapter 6, Title 10 of
11 the California Code of Regulations, to the qualifications,
12 functions or duties of a real estate licensee.

13 8.

14 The convictions alleged in Paragraphs 3 through 6,
15 constitute cause for the suspension or revocation of the license
16 and license rights of respondent under Code Sections 490 and
17 10177(b).

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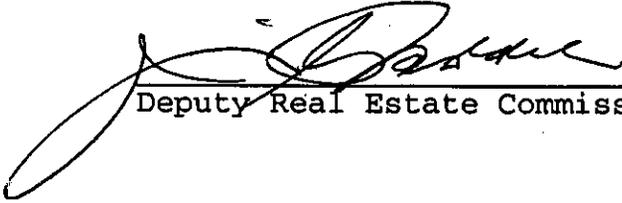
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary action
4 against the license and license rights of respondent MICHAEL J.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

8 Dated at Los Angeles, California

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10 This *June 23, 2004*

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12 
13 Deputy Real Estate Commissioner
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24 cc: Michael J. Holden
25 Sacto
26 Janice Waddell
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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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

FILED
JUN - 9 2004
DEPARTMENT OF REAL ESTATE

By *K. Medsker*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30967 LA
MICHAEL J. HOLDEN,)	<u>ACCUSATION</u>
Respondent.)	

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1 Respondent was originally licensed by the Department of
2 Real Estate of the State California as a real estate broker on
3 February 27, 1989.
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7 County of Orange, Harbor Judicial District, in Docket/Case Number
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22 County of Orange, Harbor Judicial District, in Docket/Case Number
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3 proof thereof, a decision be rendered imposing disciplinary action
4 against the license and license rights of respondent MICHAEL J.
5 HOLDEN under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provision of law.
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9 Dated at Los Angeles, California

10 This *May 26, 2004*

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12 
13 Deputy Real Estate Commissioner
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24 cc: Michael J. Holden
25 Sacto
26 Janice Waddell
27 LF