

FILED

JAN 30 2013

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-37646 LA
GLOBAL VACATIONS MARKETING) L-2011120744
CORP, as a corporation and)
doing business as Global)
Exchange Vacation Club; and)
RICHARD DALE SARGENT,)
individually and as designated)
officer of Global Vacations)
Marketing Corp,)
Respondents.)

STIPULATION AND AGREEMENT

AND

DECISION AFTER REJECTION

It is hereby stipulated by and between Respondents
GLOBAL VACATIONS MARKETING CORP, as a corporation and doing
business as Global Exchange Vacation Club, and RICHARD DALE
SARGENT, individually and as designated officer of Global
Vacations Marketing Corp (sometimes collectively referred to as
"Respondents"), and their attorney of record, Raymond J.

1 Gaskill of LAW OFFICE OF RAYMOND J. GASKILL, and the
2 Complainant, acting by and through Amelia V. Vetrone, Counsel
3 for the Department of Real Estate, as follows for the purpose
4 of settling and disposing of the Accusation ("Accusation")
5 filed on November 7, 2011, in this matter:

6 1. This Stipulation is based on the factual
7 allegations contained in the Accusation filed in this
8 proceeding. In the interest of expedience and economy,
9 Respondents choose not to contest these factual allegations, and
10 understand that as a result thereof, these factual statements
11 will serve as a prima facie basis for the disciplinary action
12 stipulated to herein. The Real Estate Commissioner shall not be
13 required to provide further evidence to prove such allegations.

14 2. Respondents further acknowledge that the Real
15 Estate Commissioner held a hearing on this Accusation on August
16 14, 2012, before the Office of Administrative Hearings for the
17 purpose of proving the allegations therein. Respondents were
18 present at the hearing in which they were represented by counsel
19 and participated therein. Further, Respondents have had an
20 opportunity to read and review the Proposed Decision of the
21 Administrative Law Judge.

22 3. Respondents understand that pursuant to Government
23 Code Section 11517(c), the Real Estate Commissioner has rejected
24 the Proposed Decision of the Administrative Law Judge.
25 Respondents further understand that pursuant to the same Section
26 11517(c), the Real Estate Commissioner may decide this case upon
27 the record, including the transcript, without taking any

1 additional evidence, after affording Respondents the opportunity
2 to present written argument to the Real Estate Commissioner.

3 4. Respondents further understand that by signing
4 this Stipulation and Agreement, Respondents are waiving their
5 right to seek a dismissal of the Accusation through proceedings
6 under Government Code Section 11517(c) if this Stipulation and
7 Agreement ("Stipulation") is accepted by the Real Estate
8 Commissioner.

9 5. 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 Respondents' real estate licenses and license rights as set
13 forth in the below "Order". In the event that the Commissioner
14 in his discretion does not adopt the Stipulation, the
15 Stipulation shall be void and of no effect and Respondents shall
16 retain the right to further proceedings under the Administrative
17 Procedure Act (beginning at Government Code Section 11500).

18 6. 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 1. Respondents GLOBAL VACATIONS MARKETING CORP and
2 RICHARD DALE SARGENT shall each pay a monetary penalty pursuant
3 to Code Section 10175.2 of \$10,000.

4 2. Said payment shall be in the form of a cashier's
5 check or certified check made payable to the Recovery Account of
6 the Real Estate Fund. Said check shall be submitted to the
7 attention of Department Counsel Amelia V. Vetrone at Legal
8 Section, Department of Real Estate, 320 W. 4th Street, Suite
9 350, Los Angeles, CA 90013-1105, on or before the effective
10 date of this Decision.

11 3. No further cause for disciplinary action against
12 the real estate licenses of Respondents GLOBAL VACATIONS
13 MARKETING CORP and RICHARD DALE SARGENT occurs within one (1)
14 year from the effective date of the Decision in this matter.

15 4. If Respondents GLOBAL VACATIONS MARKETING CORP
16 and RICHARD DALE SARGENT, or either of them, fails to pay the
17 monetary penalty in accordance with the terms and conditions of
18 the Decision, the Commissioner may, without a hearing, order
19 the immediate execution of all or any part of the stayed
20 suspension for the Respondent who failed to pay the penalty, in
21 which event that Respondent shall not be entitled to any
22 repayment nor credit, prorated or otherwise, for money paid to
23 the Department under the terms of this Decision.

24 5. If Respondents GLOBAL VACATIONS MARKETING CORP
25 and RICHARD DALE SARGENT pay the monetary penalty and if no
26 further cause for disciplinary action against the real estate
27 licenses of Respondents GLOBAL VACATIONS MARKETING CORP and

1 RICHARD DALE SARGENT occurs within one (1) year from the
2 effective date of the Decision, the stay hereby granted shall
3 become permanent.

4 II.

5 All licenses and licensing rights of Respondents

6 GLOBAL VACATIONS MARKETING CORP and RICHARD DALE SARGENT are
7 indefinitely suspended unless or until Respondents provide proof
8 satisfactory to the Commissioner that restitution in the amount
9 of \$3,979.96 has been made in full to Gerry D. Turner.

10 Such proof shall be in the form of a cashier's check
11 or certified check made payable to Gerry Turner and Kathryn
12 Turner and shall be submitted to the attention of Department
13 Counsel Amelia V. Vetrone at Legal Section, Department of Real
14 Estate, 320 W. 4th Street, Suite 350, Los Angeles, CA 90013-
15 1105, on or before the effective date of this Decision.

16 III.

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

1 Administrative Procedure Act to present such evidence.

2 B. Respondent RICHARD DALE SARGENT shall within six
3 (6) months from the effective date of the Decision herein, take
4 and pass the Professional Responsibility Examination
5 administered by the Department including the payment of the
6 appropriate examination fee. If Respondent fails to satisfy
7 this condition, the Commissioner may order suspension of
8 Respondent's license until the Respondent passes the
9 examination. The Commissioner shall afford Respondent the
10 opportunity for a hearing pursuant to the Administrative
11 Procedure Act to present such evidence.

12
13
14 1-14-13
15 DATED

Amelia V. Vetrone
16 Amelia V. Vetrone, Counsel
17 Department of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

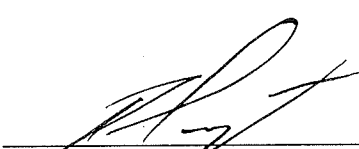
20 We have read the Stipulation, and have discussed it
21 with our counsel. Its terms are understood by us and are
22 agreeable and acceptable to us. We understand that we are
23 waiving rights given to us by the California Administrative
24 Procedure Act (beginning at Government Code Section 11500), and
25 we willingly, intelligently and voluntarily waive those rights,
26 including the right to require the Commissioner to provide
27 additional evidence in support of the Accusation or as a basis
for the disciplinary action stipulated to herein.

MAILING AND FACSIMILE

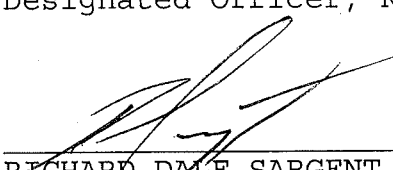
Respondents (1) shall mail the original signed signature page of the stipulation herein to Amelia V. Vetrone: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of a signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Amelia V. Vetrone.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation.

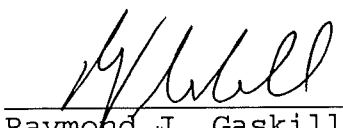
DATED: 1/4/13


GLOBAL VACATIONS MARKETING CORP
BY: RICHARD DALE SARGENT, as
Designated Officer, Respondent

DATED: 1/4/13


RICHARD DALE SARGENT, individually
and as designated officer of
Global Vacations Marketing Corp,
Respondent

DATED: 1/8/13


Raymond J. Gaskill, Esq.
Counsel for Respondents
Approved as to Form

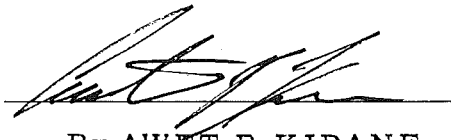
* * *

The foregoing Stipulation and Agreement and Decision
After Rejection is hereby adopted as my Decision as to
Respondents GLOBAL VACATIONS MARKETING CORP, as a corporation
and doing business as Global Exchange Vacation Club, and RICHARD
DALE SARGENT, individually and as designated officer of Global
Vacations Marketing Corp and shall become effective at 12
o'clock noon on February 19, 2013.

IT IS SO ORDERED

4/23/13

Real Estate Commissioner



By AWET P. KIDANE
Chief Deputy Commissioner

fact

FILED

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DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

GLOBAL VACATIONS MARKETING
CORP., as a corporation and doing business as
Global Exchange Vacation Club; and
RICHARD DALE SARGENT, individually
and as designated officer of Global Vacations
Marketing Corp.,

Respondents.

No. H-37646 LA

OAH No. 2011120744

NOTICE

TO: GLOBAL VACATIONS MARKETING CORP., and RICHARD DALE SARGENT,
Respondents, and RAYMOND J. GASKILL, their Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated
October 25, 2012, of the Administrative Law Judge is not adopted as the Decision of the Real
Estate Commissioner. A copy of the Proposed Decision dated October 25, 2012, 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

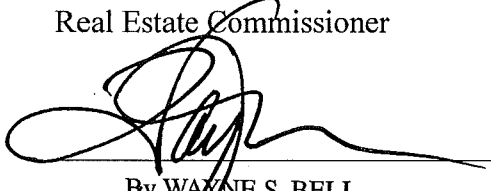
1 herein including the transcript of the proceedings held on August 14, 2012, any written argument
2 hereafter submitted on behalf of Respondents and Complainant.

3 Written argument of Respondents to be considered by me must be submitted
4 within 15 days after receipt of the transcript of the proceedings of August 14, 2012, at the Los
5 Angeles office of the Department of Real Estate unless an extension of the time is granted for
6 good cause shown.

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

10 DATED: 11/16/2012

11 Real Estate Commissioner

12
13 
14 By WAYNE S. BELL
15 Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GLOBAL VACATIONS MARKETING
CORP., as a corporation and doing business
as Global Exchange Vacation Club; and
RICHARD DALE SARGENT, individually
and as designated officer of Global Vacations
Marketing Corp.,

Respondents.

Case No. H-37464 LA

OAH No. 2011120744

PROPOSED DECISION

Administrative Law Judge Deena Ghaly, Office of Administrative Hearings, State of California, heard this matter on August 14, 2012, in Los Angeles, California.

Amelia Vetrone, counsel for the Department of Real Estate, represented Maria Suarez (Complainant), a Deputy Real Estate Commissioner, Department of Real Estate, State of California (Department).

Raymond J. Gaskill, Esq. represented Global Vacations (Respondent Global Vacations) and Richard Sargent (Respondent Sargent) (collectively, Respondents).

Procedural Issues

1. The record was held open to allow Complainant the opportunity to review Respondents' proffered collection of documents, a leather-bound binder which Respondent Sargent represented was typical of that given to all new purchasers of the time share units Respondents sell, marked as Respondents' Exhibit A for identification. Complainant was given until August 21, 2012 to raise any objections to Respondents' Exhibit A. No objections were raised; Respondents' Exhibit A is admitted into evidence.

2. The record was also held open to allow the parties to submit written closing arguments. Complainant was to submit any closing brief by August 21, 2012, Respondent

was to submit any closing brief by August 31, 2012, and Complainant was to submit any reply to Respondent's closing brief by September 7, 2012. The parties timely filed their submissions. Complainant's initial brief and reply brief were respectively marked Complainant's Exhibit 14 and Complainant's Exhibit 15 for identification and incorporated into the record. Respondents' brief was marked Respondent's Exhibit D for identification and incorporated into the record. The record was closed and the matter deemed submitted on September 7, 2012.

3. In its written closing submission, Complainant proffered arguments essentially adding counts to the Accusation. During the hearing, Complainant's counsel had attempted to elicit testimony from her witness regarding potential misconduct by the Respondents that was not alleged in the Accusation and, on that ground, Respondents objected. The objections were sustained; however, the administrative law judge gave Complainant the opportunity to amend the Accusation, subject to Respondents' opportunity to defend against any new counts. Complainant expressly rejected moving to amend the Accusation.

An essential component of Respondent's rights under the California Administrative Procedure Act is notice of the charges against him or her and the opportunity to defend against them. (Gov. Code § 11425.10, subd. (a)(1).) Here, by refusing the opportunity to amend the Accusation, Complainant expressly limited the allegations to those set forth in it. Under these circumstances, Complainant's arguments of additional wrongdoing cannot be considered in this proceeding. The only arguments considered in determining the outcome of this case are those regarding the counts charged in the Accusation.

FACTUAL FINDINGS

1. This matter was brought by Complainant in her official capacity.

2. Respondent Sargent has been a licensed real estate salesman since 1986 and a real estate broker since 1995. He is both the owner and designated officer of Global Exchange Vacation Club (Global Exchange), the licensed fictitious business name of Respondent Global Vacations, a licensed real estate corporate broker. Global Exchange is a vacation time share program in which participants purchase points to use to access vacation properties for designated periods.

3. In November 2008, Gerry and Kathryn Turner entered into a contract with Global Exchange to purchase 30,000 points to use to access vacation properties in Global Exchange. Under the agreement, the parties also agreed that the Turners would be able to exchange two time-share interests they had previously acquired from another vacation club for additional points to use in Respondents' vacation club.

4. At the closing for the Global Exchange vacation club, the Turners received and acknowledged receipt of a public report for the time-share interest they had purchased, Public

Report No. 110147HS-A09 (A09); however, A09 had expired by then and has been superceded by Public Report No. 110147HS-A10 (A10), which had issued two months prior in September 2008. The Turners did not receive A10.

5. A10 contained material information not included in the A09 report. The new information consisted of a provision requiring the developer to provide purchaser with a number of disclosures such as covenants, conditions and restrictions of the time-share plan and articles of incorporation for the plan; an updated address for Global Vacation's Nevada headquarters; the availability of and details regarding an additional time-share property, Fantasyworld, in Orlando, Florida; increased numbers and additional types of available units in one of the program's locations, Mesquite, Nevada; statistics regarding the historical occupancy rate of the program's properties during each of the seasons of the year; removal of the annual budget information for the program and an addition of an "exhibit" reflecting the current budget; and the addition of a provision advising purchasers that if they wanted to review the documents the developer had submitted to the Department which provided the information upon which the public report was prepared, they could contact the Department and giving the Department address and phone number.

6. Respondent credibly testified that public reports were timely prepared and submitted to the Department by his attorney, and that, once approved, they were copied and placed in binders containing all the documents purchasers received at the conclusion of the transaction. Personnel were generally instructed to keep the most current copies of the public reports in the binders. Respondent further testified that occasionally purchasers who rescind their contracts send back their binders and those get mixed in with the new binders. Respondent surmised that the Turners inadvertently received an old binder through that process.

LEGAL CONCLUSIONS

1. As the moving party, Complainant bears the burden of proof for establishing a basis for disciplining Respondent's license. (Evid. Code § 500.) The standard of proof for matters involving the disciplining of professionals, including real estate brokers, is "convincing proof to a reasonable certainty." (See *Small v. Smith* (1971) 16 Cal. App.3d 450, 457.)

2. Business and Professions Code section¹ 11212, subdivision (i) defines "developer" to be "any person who created a time-share plan or is in the business of selling time-share interests."

3. Section 11212, subdivision (r) defines "public report" to be a disclosure statement used in connection with the offering of time-share interests.

¹ All further statutory references are to the Business and Professions Code unless otherwise specified.

4. Sections 11081.1(a) and 11234 both provide that public reports must be prepared by the developer of a time-share plan, issued by the Department's commissioner and delivered to each purchaser of a time share interest at the time of purchase.

5. Section 11245, entitled "Prohibited Acts," lists 21 separate prohibitions by which licensees developing and selling time-share units must abide. Under this provision, licensees are prohibited from the following: making material misrepresentations; making predictions regarding increases in the price or value of time-shares; materially misrepresenting any characteristics of the time-share plan; materially misrepresenting the current or future availability of a resale or rental program offered by or on behalf of the developer; materially misrepresenting any "incidental benefit" of the program; failing to provide promised promotional items; failing to disclose any available certificate, coupon or rain check for future purposes; stating that the purchase of a time-share interest constitutes a financial investment; failing to disclose annual maintenance and association dues or any separately billed taxes; failing to disclose in writing and obtaining express written permission to automatically bill or charge purchasers initial or periodic amounts; where negotiations were undertaken in certain enumerated languages, failing to provide written disclosures regarding contract rescission in the language in which the contract was negotiated; failing to provide adequate time for purchasers to read key documents or failing to allow purchasers to return the next calendar day in order to complete the review of the documents before executing a contract; falsely informing prospective purchasers that they are finalists or have won a prize; offering promotional incentives that require redeemers to incur telephone charges other than normal telephone tolls; offering air travel or hotel accommodations under a schedule that does not allow for disclosure of the terms and conditions of the offer before the gift is redeemed; failing to disclose any required attendance at a presentation in offering promotions; failing to provide a purchaser attempting to rescind a contract with all the information necessary for effectuating the rescission; failing to cancel a purchase upon the receipt of a valid timely written notice of rescission and to return an applicable refund of money; and failing to provide a fair and accurate apportionment of expenses between the time-share association and any commercial operation on the property.

6. Code section 10159.2, subdivision (a), defines the responsibilities of a designated corporate officer: "the officer designated by a corporate broker licensee...shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division."

7. Code sections 10176 and 10177 set out grounds for suspending or revoking the license of a real estate licensee, including the license of a corporation if an officer, director or an owner of ten per cent or more of the corporation's stock has engaged in conduct constituting grounds for suspension or revocation. Among these grounds under section 10176 are subdivision (a), "[m]aking any substantial misrepresentations" and subdivision (i), which prohibits conduct constituting fraud or dishonest dealings. Under section 10177, grounds for suspension or revocation include subdivision (d), willfully disregarding applicable laws and regulations of the Department, subdivision (g), "[d]emonstrated negligence or incompetence in performing an act for which he or she is required to hold a license, and subdivision (h), "[a]s a broker licensee, failing to exercise reasonable supervision over the activities of his or her

salespersons, or, as the officer designated by a corporate broker licensee, failing to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.”

8. Code of California Regulations, title 10, section 2725 provides that a broker shall exercise reasonable supervision over the work of his or her salespeople and that such supervision includes establishing appropriate policies, procedures and systems of oversight regarding, among others, managing “[d]ocuments which may have a material effect upon the rights and obligations of the party to the transaction.”

9. Cause exists to discipline Respondents’ licenses for failure provide the Turners with a current public report pursuant to sections 11018, subdivision (a) and 11234 in conjunction with section 10176, subdivision (a) in that the expired report lacked material information to which the Turners were entitled and therefore constituted material misrepresentations. (Factual Finding 5, and Legal Conclusions 4 and 7.)

10. Cause exists to discipline Respondents’ licenses for willful disregard of applicable laws and regulations pursuant to section 11707, subdivision (d) in that Respondents, through their agents, failed to provide the Turners with the correct public report in violation of sections 11018.1, subdivision (a) and 11234. (Factual Findings 4-6, and Legal Conclusion 4.) The record does not establish that Respondents intended to violate the law; however, they intended to transact business with the Turners and, in the process, violated the laws. Under those circumstances, these actions constitute a willful disregard of applicable law. (See, *Milner v. Fox* (1980) (Violations of section 11707, subdivision (d) do not require an intent to violate the law but, rather, only an intent to engage in an act resulting in violation of law.))

11. Cause does not exist to discipline Respondents’ licenses for fraud or dishonest acts pursuant to section 10176, subdivision (i). Complainant did not present any evidence tending to prove that Respondents’ conduct constituted fraud or dishonest dealings and nothing in the record contravenes Respondent Sargent’s representation that the failure to provide the Turners with the correct public report was the result of nothing more than the company’s practice of recycling binders.

12. Cause does not exist to discipline Respondents’ licenses for negligence or incompetence pursuant to section 11707, subdivision (g). In a licensing context, negligence is generally considered to be a less serious version of the gross negligence standard used in discipline cases, which is extreme departure from ordinary standard of conduct. (See, *Gromis v. Medical Board*, 8 CA 4th 589.) Here, Complainant did not present any evidence regarding the applicable standard of conduct for brokers’ professional practices in these types of transactions. Therefore, there is no basis for determining whether Respondents failed to meet any such standards. With respect to incompetence, in the context of license discipline, courts have defined it to be “an absence of qualification, ability or fitness to perform a prescribed duty or function.” (*Kearl v. Board of Med. Quality Assur.* (1986) 189 CA3d 1096, 1109). Complainant did not present any evidence regarding Respondents’ qualifications, ability or fitness therefore there is no basis for determining that they were incompetent.

13. Cause does not exist to discipline licenses for violations of section 11245. Complainant did not allege or prove any facts specifically tied to this lengthy and multi-faceted provision. Complainant's reference to such a provision without further detail or connection to the charges alleged do not provide adequate notice to the Respondent or the administrative law judge regarding what conduct is at issue and therefore cannot be the basis of a finding.

14. Cause exists to discipline Respondent Sargent's license for failure to provide adequate supervision to his staff as required by sections 10159.2, 10177, subdivision (g), and 10177 (h). Disclosure is of paramount importance to the regulatory scheme addressing time-shares. (§ 11211, subd.(a) (The purpose of the Vacation Ownership and Time-Share Act of 2004 is to provide "full and fair disclosure to the purchasers and prospective purchasers of time-shares.")) Respondent Sargent, as an experienced licensee, should have had a firm understanding and appreciation of these requirements and sufficient systems in place such that no transaction could slip between the cracks. Respondent's testimony indicates some effort to comply but no safety procedures in place to prevent outdated documents from being included in the lengthy and complicated paperwork that is part of each of these transactions. Respondent failed to establish that anything close to best practices were in place to prevent these types of mistakes. (Factual Finding 7, and Legal Conclusions 7 through 9.)

15. In mitigation, Respondent has not been previously disciplined by the Department and the Department's evidence against him regarding expired public reports consisted solely of the one instance involving the Turners. Moreover, the Department did not establish that Respondent acted with malice or an intentional disregard for the law. Under these circumstances, a suspended license with conditions as set forth below is appropriate for ensuring the protection of the public.

ORDER

All licenses and licensing rights of Respondents GLOBAL VACATIONS MARKETING CORP., as a corporation and doing business as Global Exchange Vacation Club; and RICHARD DALE SARGENT, individually and as designated officer of Global Vacations Marketing Corp., under the Real Estate Law are suspended for a period of 60 days from the effective date of this Decision; provided, however, that said suspension shall be stayed for one (1) year upon the following terms and conditions:

1. Respondents 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. Respondent Sargent 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 Sargent fails to satisfy this condition, the Commissioner may order suspension of Respondents' licenses until Respondent Sargent passes the examination.
3. Respondents shall pay a monetary penalty of \$50,000. Said payment shall be

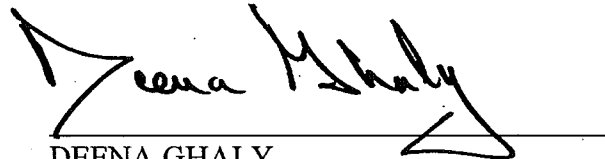
in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

4. No further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision in this matter.

5. If Respondents fail to meet any of the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

6. If Respondents meet all of the terms and conditions of the Decision and if no further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

Dated: October 25, 2012



DEENA GHALY
Administrative Law Judge
Office of Administrative Hearings