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FILED

MAY 28 2010

DEPARTMENT OF REAL ESTATE

L. Zirin

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of
CHARLOTTE FAY MURPHY,
Respondent.

No. H-1427 FR

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 10, 2007, in Case No. H-1427 FR, a Decision was rendered revoking the real estate salesperson license of Respondent effective February 13, 2001, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on March 5, 2001, and Respondent has operated as a restricted licensee since that time.

On February 11, 2010, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this
4 order:

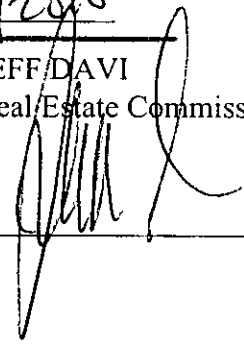
5 1. Submittal of a completed application and payment of the fee for a real
6 estate salesperson license.

7 2. Submittal of proof that you have, within the 12 month period preceding
8 the submittal of an application for an unrestricted license, completed the continuing education
9 courses required for renewal of a license.

10 This Order shall become effective immediately.

11 DATED: 5/27/2010

12 JEFF DAVI
13 Real Estate Commissioner

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SEP - 6 2001

DEPARTMENT OF REAL ESTATE

By Muriel J. Zair

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1427 FRESNO
)	
RAY CLARK MERIDITH,)	
)	
Respondent.)	
)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: RAY CLARK MERIDITH

On December 19, 2000, a restricted real estate broker license was issued by the Department of Real Estate to Respondent RAY CLARK MERIDITH (hereinafter "Respondent") on terms, conditions and restrictions set forth in the Real Estate Commissioner's Decision of October 23, 2000, in Case No. 1427 FRESNO (hereinafter "the Decision").

The Decision granted Respondent the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of

1 said Code. Among those terms, conditions and restrictions,
2 Respondent was required to take and pass the Professional
3 Responsibility Examination within six (6) months from the
4 effective date of the Decision. The Commissioner has determined
5 that, as of June 15, 2001, Respondent has failed to satisfy this
6 condition, and thus is in violation of Section 10177(k) of the
7 Business and Professions Code.

8 NOW, THEREFORE, IT IS ORDERED under the authority of
9 Section 10156.7 of the Business and Professions Code of the
10 State of California that the restricted real estate broker
11 license heretofore issued to Respondent and the exercise of any
12 privileges thereunder is hereby suspended pending final
13 determination made after the hearing on the aforesaid
14 Accusation.

15 IT IS FURTHER ORDERED that all license certificates
16 and identification cards issued by the Department of Real Estate
17 which are in the possession of Respondent be immediately
18 surrendered by personal delivery or by mailing in the enclosed
19 self-addressed, stamped envelope:

20 DEPARTMENT OF REAL ESTATE
21 Attention: Flag Section
22 P. O. Box 187000
Sacramento, CA 95818-7000

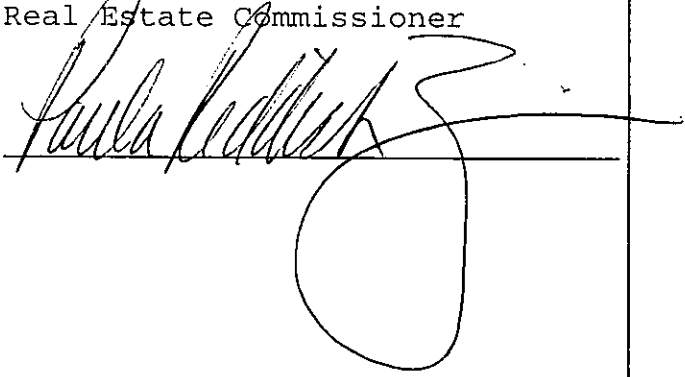
23 HEARING RIGHTS: Pursuant to the provisions of Section
24 10156.7 of the Business and Professions Code, Respondent has the
25 right to a hearing to contest the Commissioner's determination
26 that you are in violation of Section 10177(k). If Respondent
27 desires a hearing, Respondent must submit a written request.

1 The request may be in any form, as long as it is in writing and
2 indicates that Respondent wants a hearing. Unless a written
3 request for a hearing, signed by or on behalf of Respondent, is
4 delivered or mailed to the Department of Real Estate at 2201
5 Broadway, P. O. Box 187000, Sacramento, California 95818-7000,
6 within twenty (20) days after the date that this Order was
7 mailed to or served on you, the Department will not be obligated
8 or required to provide you with a hearing.

9 This Order shall be effective immediately.

10 DATED: August 22, 2001.

11 PAULA REDDISH ZINNEMANN
12 Real Estate Commissioner

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1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

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DEPARTMENT OF REAL ESTATE

By *Muriel Zai*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-1427 FRESNO
12 ICC REALTY, INC.,) OAH No. N-1999090131
13 DONALD LA RUE FLOYD,)
14 RAY CLARK MERIDITH,) STIPULATION AND AGREEMENT
15 CHARLOTTE FAY MURPHY,)
Respondents.)

16 It is hereby stipulated by and between DONALD LA RUE
17 FLOYD (hereinafter "Respondent FLOYD), by and through his
18 attorney, Russell K. Ryan; and the Complainant, acting by and
19 through David A. Peters, Counsel for the Department of Real
20 Estate, as follows for purpose of settling and disposing of the
21 First Amended Accusation filed June 28, 2000 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 First Amended Accusation, which
25 hearing was to be held in accordance with the provisions of the
26 Administrative Procedure Act (APA) (Government Code Section
27 11500 et seq.), shall instead and in place thereof be submitted

1 solely on the basis of the provisions of this Stipulation and
2 Agreement.

3 2. Respondent FLOYD has received, read and
4 understands the Statement to Respondent, the Discovery
5 Provisions of the APA, and the First Amended Accusation filed by
6 the Department of Real Estate in this proceeding.

7 3. On September 9, 1999, Respondent FLOYD filed his
8 Notice of Defense pursuant to Section pursuant to Section 11505
9 of the Government Code for the purpose of requesting a hearing
10 on the allegations in the Accusation. Respondent FLOYD hereby
11 freely and voluntarily withdraws his Notice of Defense.
12 Respondent FLOYD acknowledges that by withdrawing said Notice of
13 Defense he will thereby waive his right to require the
14 Commissioner to prove the allegations in the First Amended
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that he will waive other rights
17 afforded to him in connection with the hearing such as the right
18 to present evidence in defense of the allegations in the First
19 Amended Accusation and the right to cross-examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the First Amended Accusation. In the
22 interests of expedience and economy, Respondent FLOYD chooses
23 not to contest these allegations, but to remain silent and
24 understands that, as a result thereof, these factual
25 allegations, without being admitted or denied, will serve as a
26 prima facie basis for the disciplinary action stipulated to
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The conduct of Respondent DONALD LA RUE FLOYD, as described in the First Amended Accusation, constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent FLOYD under the provisions of Section 10177(h) of the Business and Professions Code and Section 10177(d) of the Business and Professions Code in conjunction with Section 11012 of the Business and Professions Code and Section 2725 of Title 10, California Code of Regulations.

ORDER

I

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

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

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

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

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

27 ///

1 afford Respondent the opportunity for a hearing pursuant to the
2 Administrative Procedure Act to present such evidence.

3 E. Respondent FLOYD shall, within six (6) months
4 from the effective date of this Decision, take and pass the
5 Professional Responsibility Examination administered by the
6 Department including the payment of the appropriate examination
7 fee. If Respondent fails to satisfy this condition, the
8 Commissioner may order suspension of Respondent's license until
9 Respondent passes the examination.

10 F. Any restricted broker license issued to
11 Respondent FLOYD shall be suspended for a period of seventy (70)
12 days; provided, however, that if Respondent FLOYD petitions,
13 forty (40) days of said suspension (or a portion thereof) shall
14 be stayed upon condition that:

15 (1) Respondent pays a monetary penalty pursuant to
16 Section 10172.2 of the Business and Professions
17 Code at the rate of \$100.00 for each day of said
18 stayed suspension for a total monetary penalty of
19 \$4,000.00.

20 (2) Said payment shall be in the form of a cashier's
21 check or certified check made payable to the
22 Recovery Account of the Real Estate Fund. Said
23 check must be delivered to the Department prior
24 to the effective date of the Decision in this
25 matter.

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(3) 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.

(4) If Respondent fails to pay the monetary penalty
in accordance with 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.

(5) If Respondent pays the monetary penalty and if no
further cause for disciplinary action against the
real estate license of Respondent occurs within
one (1) year from the effective date of the
Decision, the stay hereby granted shall become
permanent.

G. Any restricted real estate broker license issued
to Respondent FLOYD may be suspended or revoked for a violation
by Respondent of any of the conditions attaching to the
restricted license.

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1 H. Respondent FLOYD shall not act as a designated
2 broker officer for a real estate broker corporation other than
3 New Market Holdings Inc., or a successor corporation.

4
5 2/22/01
6 DATED

5 David A. Peters
6 DAVID A. PETERS, Counsel
7 DEPARTMENT OF REAL ESTATE

7 * * *

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

19
20 2/6/01
21 DATED

20 Donald La Rue Floyd
21 DONALD LA RUE FLOYD
22 Respondent

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

24
25 January 17, 2001
26 DATED

24 Russell K. Ryan
25 RUSSELL K. RYAN
26 Attorney for Respondent

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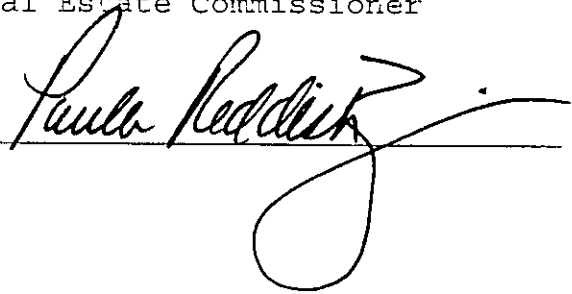
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The foregoing Stipulation and Agreement for
Settlement is hereby adopted by the Real Estate Commissioner as
her Decision and Order and shall become effective at 12 o'clock
noon on May 2, 2001.

IT IS SO ORDERED March 23, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED

JAN 23 2001

DEPARTMENT OF REAL ESTATE

By Laurie J. Fair

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1427 FRESNO
)	
ICC REALTY, INC.,)	OAH No. N-1999090131
DONALD LA RUE FLOYD,)	
RAY CLARK MERIDITH,)	
CHARLOTTE FAY MURPHY,)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On June 28, 2000, a First Amended Accusation was filed in this matter against Respondents.

On November 30, 2000; Respondent ICC REALTY, INC. only petitioned the Commissioner to voluntarily surrender its real estate corporation license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent ICC REALTY, INC.'s petition for voluntary surrender of its real estate corporation license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated ICC REALTY, INC. (attached as Exhibit "A" hereto).

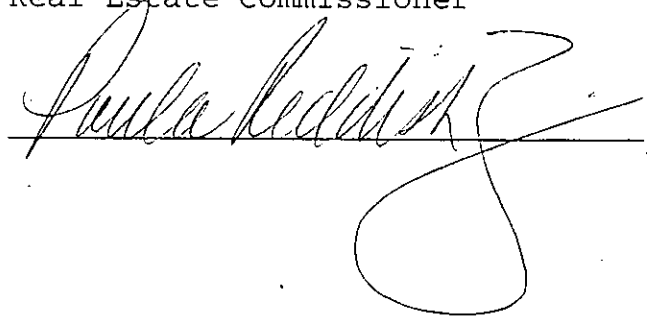
1 Respondent's license certificate and pocket card shall
2 be sent to the below-listed address so that they reach the
3 Department on or before the effective date of this Order:

4 DEPARTMENT OF REAL ESTATE
5 Attention: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock
9 noon on February 13, 2001

10 DATED: January 10, 2001

11 PAULA REDDISH ZINNEMANN
12 Real Estate Commissioner

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1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-1427 FRESNO
12 ICC REALTY, INC.,) OAH No. N-1999090131
13 DONALD LA RUE FLOYD,)
14 RAY CLARK MERIDITH,)
15 CHARLOTTE FAY MURPHY,)
Respondents.)

16 DECLARATION

17 My name is DONALD LA RUE FLOYD and I am currently an
18 Officer of ICC REALTY, INC., which is licensed as a real estate
19 broker and/or has license rights with respect to said license.
20 I am authorized to sign this declaration on behalf of ICC
21 REALTY, INC. ICC REALTY, INC. is represented in this matter by
22 RUSSELL K. RYAN, Attorney at Law.

23 In lieu of proceeding in this matter in accordance
24 with the provisions of the Administrative Procedure Act
25 (Sections 11400 et seq., of the Business and Professions Code)
26 ICC REALTY, INC. wishes to voluntarily surrender its real estate
27



1 license issued by the Department of Real Estate ("Department"),
2 pursuant to Business and Professions Code Section 10100.2.

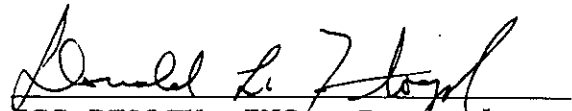
3 I understand that ICC REALTY, INC, by so voluntarily
4 surrendering its license, can only have it reinstated in
5 accordance with the provisions of Section 11522 of the
6 Government Code. I also understand that be so voluntarily
7 surrendering its license, ICC REALTY, INC. agrees to the
8 following:

9 The filing of this Declaration shall be deemed as its
10 petition for voluntary surrender. It shall also be deemed to be
11 an understanding and agreement by ICC REALTY, INC. that, it
12 waives all rights it has to require the Commissioner to prove
13 the allegations contained in the First Amended Accusation filed
14 in this matter at a hearing held in accordance with the
15 provisions of the Administrative Procedure Act (Government Code
16 Sections 11400 et seq.), and that it also waives other rights
17 afforded to it in connection with the hearing such as the right
18 to discovery, the right to present evidence in defense of the
19 allegations in the First Amended Accusation and the right to
20 cross examine witnesses. I further agree on behalf of ICC
21 REALTY, INC. that upon acceptance by the Commissioner, as
22 evidenced by an appropriate order, all affidavits and all
23 relevant evidence obtained by the Department in this matter
24 prior to the Commissioner's acceptance, and all allegations
25 contained in the Accusation filed in the Department Case No.
26 H-1427 FRESNO, may be considered by the Department to be true
27 and correct for the purpose of deciding whether or not to grant

1 reinstatement of ICC REALTY, INC.'s license pursuant to
2 Government Code Section 11522.

3 I declare under penalty of perjury under the laws of
4 the State of California that the above is true and correct and
5 that I am acting freely and voluntarily on behalf of ICC REALTY,
6 INC. to surrender its license and all license rights attached
7 thereto.

8 DATED: 11/30/00

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11 ICC REALTY, INC., Respondent
12 By: Donald La Rue Floyd
13 Designated Officer
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1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

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JAN 23 2001

DEPARTMENT OF REAL ESTATE
Lurial J. Jari

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-1427 FRESNO
12	ICC REALTY, INC.,)	OAH No. N-1999090131
13	DONALD LA RUE FLOYD,)	<u>STIPULATION AND AGREEMENT</u>
14	RAY CLARK MERIDITH,)	
15	CHARLOTTE FAY MURPHY,)	
	Respondents.)	

16 It is hereby stipulated by and between CHARLOTTE FAY
17 MURPHY (hereinafter "Respondent MURPHY"), by and through his
18 attorney, Russell K. Ryan; and the Complainant, acting by and
19 through David A. Peters, Counsel for the Department of Real
20 Estate, as follows for purpose of settling and disposing of the
21 First Amended Accusation filed June 28, 2000 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 First Amended Accusation, which
- 25 hearing was to be held in accordance with the provisions of the
- 26 Administrative Procedure Act (APA) (Government Code Section
- 27 11500 et seq.),

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

3 2. Respondent MURPHY has received, read and
4 understands the Statement to Respondent, the Discovery
5 Provisions of the APA, and the First Amended Accusation filed by
6 the Department of Real Estate in this proceeding.

7 3. On September 9, 1999, Respondent MURPHY filed her
8 Notice of Defense pursuant to Section 11505 of the Government
9 Code for the purpose of requesting a hearing on the allegations
10 in the Accusation. Respondent MURPHY hereby freely and
11 voluntarily withdraws her Notice of Defense. Respondent MURPHY
12 acknowledges that by withdrawing said Notice of Defense she will
13 thereby waive her right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that she will
16 waive other rights afforded to her in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the First Amended Accusation and the right to
19 cross-examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the First Amended Accusation. In the
22 interests of expedience and economy, Respondent MURPHY chooses
23 not to contest these allegations, but to remain silent and
24 understands that, as a result thereof, these factual
25 allegations, without being admitted or denied, will serve as a
26 prima facie basis for the disciplinary action stipulated to

27 ///

1 herein. The Real Estate Commissioner shall not be required to
2 provide further evidence to prove said factual allegations.

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

13 6. The Order or any subsequent Order of the Real
14 Estate Commissioner made pursuant to this Stipulation and
15 Agreement shall not constitute an estoppel, merger or bar to any
16 further administrative or civil proceedings by the Department of
17 Real Estate with respect to any matters which were not
18 specifically alleged to be causes for accusation in this
19 proceeding.

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions
22 and waivers, and solely for the purpose of settlement of the
23 pending Accusation without a hearing, it is stipulated and
24 agreed that the following determination of issues shall be made:

25 I

26 The conduct of Respondent CHARLOTTE FAY MURPHY, as
27 described in the First Amended Accusation, constitutes cause for

1 the suspension or revocation of the real estate license and
2 license rights of Respondent MURPHY under the provisions of
3 Section 10177(d) of the Business and Professions Code in
4 conjunction with Sections 11012, 11018.1(a) and 11018.2 of the
5 Business and Professions Code.

6 ORDER

7 I

8 The real estate salesperson license and all license
9 rights of Respondent CHARLOTTE FAY MURPHY under the Real Estate
10 Law are revoked; however, a restricted real estate salesperson
11 license shall be issued to Respondent pursuant to Section
12 10156.5 of the Business and Professions Code if Respondent makes
13 application therefor and pays to the Department of Real Estate
14 the appropriate fee for the restricted license within ninety
15 (90) days from the effective date of this Decision. Any
16 restricted real estate license issued to Respondent pursuant to
17 this Decision shall be suspended for thirty (30) days from the
18 date of issuance of said restricted license. The restricted
19 license issued to Respondent shall be subject to all of the
20 provisions of Section 10156.7 of the Business and Professions
21 Code and to the following limitations, conditions and
22 restrictions imposed under authority of Section 10156.6 of that
23 Code:

24 A. The restricted license issued to Respondent
25 MURPHY may be suspended prior to hearing by Order of the Real
26 Estate Commissioner in the event of Respondent's conviction or
27

1 plea of nolo contendere to a crime which is substantially
2 related to Respondent's fitness or capacity as a real estate
3 licensee.

4 B. The restricted license issued to Respondent
5 MURPHY may be suspended prior to hearing by Order of the
6 Commissioner on evidence satisfactory to the Commissioner that
7 Respondent has violated provisions of the California Real Estate
8 Law, the Subdivided Lands Law, Regulations of the Real Estate
9 Commissioner or conditions attaching to the restricted license.

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

15 D. Respondent MURPHY shall submit with any
16 application for license under an employing broker, or any
17 application for transfer to a new employing broker, a statement
18 signed by the prospective employing broker on a form approved by
19 the Department of Real Estate which shall certify:

20 (1) That the employing broker has read the Decision
21 of the Commissioner which granted the right to a
22 restricted license; and

23 (2) That the employing broker will exercise close
24 supervision over the performance by the
25 restricted licensee relating to activities for
26 which a real estate license is required.

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

13 F. Respondent MURPHY shall, within six (6) months
14 from the effective date of this Decision, take and pass the
15 Professional Responsibility Examination administered by the
16 Department including the payment of the appropriate examination
17 fee. If Respondent fails to satisfy this condition, the
18 Commissioner may order suspension of Respondent's license until
19 Respondent passes the examination.

20 G. Any restricted real estate salesperson license
21 issued to Respondent MURPHY may be suspended or revoked for a
22 violation by Respondent of any of the conditions attaching to
23 the restricted license.

24
25 12/27/00
26 DATED

25 David A. Peters
26 DAVID A. PETERS, Counsel
27 DEPARTMENT OF REAL ESTATE

27 ///

1 * * *

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

13
14 12/16/2000

15 DATED

16 Charlotte Fay Murphy
17 CHARLOTTE FAY MURPHY
18 Respondent

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

21 12/16/2000

22 DATED

23 Russell K. Ryan
24 RUSSELL K. RYAN
25 Attorney for Respondent

26 * * *

27 The foregoing Stipulation and Agreement for
Settlement is hereby adopted by the Real Estate Commissioner as
her Decision and Order and shall become effective at 12 o'clock
noon on February 13, 2001.

///

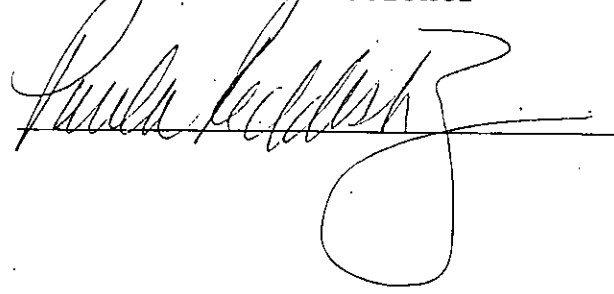
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IT IS SO ORDERED

January 10, 2001

PAULA REDDISH ZINNE MANN
Real Estate Commissioner



1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
NOV 14 2000

DEPARTMENT OF REAL ESTATE
By *Laurie A. Zier*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-1427 FRESNO
12 ICC REALTY, INC.,) OAH No. N-1999090131
13 DONALD LA RUE FLOYD,)
14 RAY CLARK MERIDITH,) STIPULATION AND AGREEMENT
15 CHARLOTTE FAY MURPHY,)
Respondents.)

16 It is hereby stipulated by and between RAY CLARK
17 MERIDITH (hereinafter "Respondent MERIDITH), by and through his
18 attorney, Robert T. Haden; and the Complainant, acting by and
19 through David A. Peters, Counsel for the Department of Real
20 Estate, as follows for purpose of settling and disposing of the
21 First Amended Accusation filed June 28, 2000 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) (Government Code Section 11500 et seq.),

27 ///

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

3 2. Respondent MERIDITH has received, read and
4 understands the Statement to Respondent, the Discovery
5 Provisions of the APA, and the Accusation filed by the
6 Department of Real Estate in this proceeding.

7 3. On September 10, 1999, Respondent MERIDITH filed
8 his Notice of Defense pursuant to Section 11505 of the
9 Government Code for the purpose of requesting a hearing on the
10 allegations in the Accusation. Respondent MERIDITH hereby
11 freely and voluntarily withdraws his Notice of Defense.
12 Respondent MERIDITH acknowledges that by withdrawing said Notice
13 of Defense he will thereby waive his right to require the
14 Commissioner to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the
16 APA and that he will waive other rights afforded to him in
17 connection with the hearing such as the right to present
18 evidence in defense of the allegations in the Accusation and the
19 right to cross-examine witnesses.

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

27 ///

1 the suspension or revocation of the real estate license and
2 license rights of Respondent MERIDITH under the provisions of
3 Section 10177(h) of the Business and Professions Code and
4 10177(d) of the Business and Professions Code in conjunction
5 with Sections 11018.2 and 11018.1(a) of the Business and
6 Professions Code and Section 2725 of Title 10, California Code of
7 Regulations.

8 ORDER

9 I

10 The real estate broker license and all license rights
11 of Respondent RAY CLARK MERIDITH under the Real Estate Law are
12 revoked; however, a restricted real estate broker license shall
13 be issued to Respondent pursuant to Section 10156.5 of the
14 Business and Professions Code if Respondent makes application
15 therefor and pays to the Department of Real Estate the
16 appropriate fee for the restricted license within ninety (90)
17 days from the effective date of this Decision. The restricted
18 license issued to Respondent shall be subject to all of the
19 provisions of Section 10156.7 of the Business and Professions
20 Code and to the following limitations, conditions and
21 restrictions imposed under authority of Section 10156.6 of that
22 Code:

23 A. The restricted license issued to Respondent
24 MERIDITH may be suspended prior to hearing by Order of the Real
25 Estate Commissioner in the event of Respondent's conviction or
26 plea of nolo contendere to a crime which is substantially

27 ///

1 related to Respondent's fitness or capacity as a real estate
2 licensee.

3 B. The restricted license issued to Respondent
4 MERIDITH may be suspended prior to hearing by Order of the
5 Commissioner on evidence satisfactory to the Commissioner that
6 Respondent has violated provisions of the California Real Estate
7 Law, the Subdivided Lands Law, Regulations of the Real Estate
8 Commissioner or conditions attaching to the restricted license.

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

14 D. Respondent MERIDITH shall, within six (6) months
15 from the effective date of this Decision, take and pass the
16 Professional Responsibility Examination administered by the
17 Department including the payment of the appropriate examination
18 fee. If Respondent fails to satisfy this condition, the
19 Commissioner may order suspension of Respondent's license until
20 Respondent passes the examination.

21 E. Any restricted real estate broker license issued
22 to Respondent MERIDITH pursuant to this Decision shall be
23 suspended for thirty (30) days from the date of issuance of said
24 restricted license.

25 F. Respondent MERIDITH shall not act as designated
26 broker officer for a real estate broker corporation.

27 ///

1 G. Any restricted real estate broker license issued
2 to Respondent MERIDITH may be suspended or revoked for a
3 violation by Respondent of any of the conditions attaching to
4 the restricted license.

5
6 10/12/00
7 DATED

David A. Peters
 DAVID A. PETERS, Counsel
 DEPARTMENT OF REAL ESTATE

8 * * *

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

20
21 7/17/00
22 DATED

Ray Clark Meridith
 RAY CLARK MERIDITH
 Respondent

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

25
26 10-2-00
27 DATED

Robert T. Haden
 ROBERT T. HADEN
 Attorney for Respondent

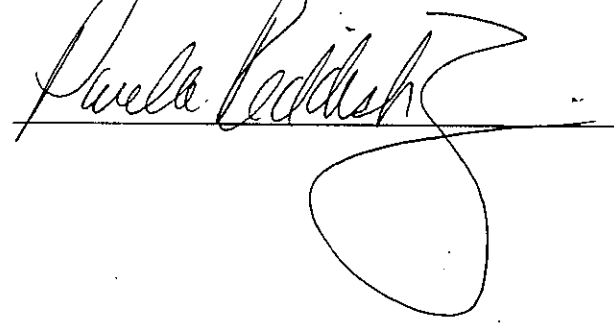
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* * *

The foregoing Stipulation and Agreement for
Settlement is hereby adopted by the Real Estate Commissioner as
her Decision and Order and shall become effective at 12 o'clock
noon on December 15, 2000

IT IS SO ORDERED October 23, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

AUG 17 2000

DEPARTMENT OF REAL ESTATE

Laurie L. Z...

In the Matter of the Accusation of

ICC REALTY, INC.,
DONALD LA RUE FLOYD,
RAY CLARK MERIDITH,
CHARLOTTE FAY MURPHY,

}

Case No. H-1427 FRESNO

OAH No. N-1999090131

Respondent

THIRD AMENDED
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 the

State Building, 2550 Mariposa Mall, Room 1027, Fresno, CA 93721

on October 11 - 13, 2000, at the hour of 9:00 AM,

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: August 17, 2000

By *David A. Peters*
DAVID A. PETERS *Counsel*

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED
JUN 28 2000

DEPARTMENT OF REAL ESTATE
By *Luis A. Zuniga*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-1427 FRESNO
12	ICC REALTY, INC.,)	FIRST AMENDED
13	DONALD LA RUE FLOYD,)	<u>ACCUSATION</u>
14	RAY CLARK MERIDITH,)	
15	CHARLOTTE FAY MURPHY,)	
	Respondents.)	

16 The Complainant, M. Dolores Ramos, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against ICC REALTY, INC. dba VIP Realty (hereinafter
19 "Respondent ICC"), DONALD LA RUE FLOYD (hereinafter "Respondent
20 FLOYD"), RAY CLARK MERIDITH dba Meridith Realty (hereinafter
21 "Respondent MERIDITH"), and CHARLOTTE FAY MURPHY (hereinafter
22 "Respondent MURPHY"), is informed and alleges as follows:

23 ///
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27 ///

1 FIRST CAUSE OF ACCUSATION

2 1.

3 The Complainant, M. Dolores Ramos, a Deputy Real
4 Estate Commissioner of the State of California, makes this
5 Accusation against the above-named Respondents in her official
6 capacity.

7 2.

8 Respondents ICC, MERIDITH, FLOYD, and MURPHY are
9 presently licensed and/or have license rights under the Real
10 Estate Law (Part 1 of Division 4 of the California Business and
11 Professions Code) (hereinafter "Code").

12 3.

13 At all times herein mentioned, Respondent ICC was
14 licensed as a restricted real estate broker corporation. Within
15 the three-year period immediately preceding the filing of this
16 Accusation and continuing through on or about March 15, 1998,
17 Respondent MERIDITH acted as the designated broker-officer for
18 Respondent ICC. Beginning on or about March 16, 1998 through on
19 or about May 25, 1998, Respondent ICC had no designated broker-
20 officer. Beginning on or about May 26, 1998 and continuing
21 thereafter, Respondent FLOYD acted as the designated broker-
22 officer for Respondent ICC.

23 4.

24 At all times herein mentioned, Respondent FLOYD was
25 licensed as a restricted real estate broker individually and
26 beginning on or about May 26, 1998 and continuing thereafter as
27 the designated broker-officer for Respondent ICC.

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5.

At all times herein mentioned, Respondent MERIDITH was licensed as a real estate broker individually and within the three-year period immediately preceding the filing of this Accusation through on or about March 15, 1998, as designated broker-officer for Respondent ICC.

6.

At all times herein mentioned, Respondent MURPHY was licensed as a real estate salesperson. Within the three year period immediately preceding the filing of this Accusation through on or about March 14, 1998, Respondent MURPHY was in the employ of Respondent ICC.

7.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of the Respondents named in the caption hereof, acting individually, jointly, and severally.

8.

At various times material herein, Respondents were performing acts requiring a real estate license for or in expectation of a compensation.

9.

At various times herein mentioned preceding the filing of this Accusation, Respondents acted as agents of Berry & Berry, Inc., a California corporation, (hereinafter "Berry & Berry") the owner of certain subdivided real property as defined

1 in Section 11000 of the Code commonly known as Country Club Lake
2 Estates, Tract No. 1008, Merced County, State of California, and
3 identified in the records of the Department of Real Estate
4 (hereinafter "the Department") as File No. 033651 SA-FOO
5 (hereinafter "the Subdivision").

6 10.

7 On or about October 18, 1995, Berry & Berry, their
8 agents or employees filed or caused to be filed with the
9 Department a Combined Notice of Intention Questionnaire and
10 Application for Public Report (hereinafter "Application") for
11 the Subdivision, together with supporting documents. Based upon
12 the representations and assurances given by Berry & Berry in the
13 Application and supporting documents, the Commissioner issued
14 his Final Subdivision Public Report on November 1, 1995.

15 11.

16 In said Application and supporting documents, Berry &
17 Berry, their agents or employees represented to the Department
18 that:

19 (a) All sales agreements would conform to the sample
20 "Real Estate Purchase Contract and Receipt for Deposit"
21 submitted as a supporting document to the Application.

22 (b) All escrow instructions would conform to the
23 sample "Sale Escrow Instructions" submitted as a supporting
24 document to the Application.

25 12.

26 On or about November 1, 1995, based upon the
27 representations and assurances given by Berry & Berry in their

1 Application for a public report, the Commissioner issued his
2 Final Subdivision Public Report on the Subdivision.

3 13.

4 Within the three-year period immediately preceding the
5 filing of this Accusation through on or about March 18, 1998,
6 Respondents ICC, MERIDITH and MURPHY, acting as agents for Berry
7 & Berry, sold or offered to sell lots in the Subdivision using
8 sales agreements and escrow instructions not in conformance with
9 the sample sales agreement and escrow instructions described in
10 Paragraphs 10. and 11. above. Said lots included, but are not
11 limited to, the following:

<u>PURCHASE DATE</u>	<u>LOT</u>	<u>BUYER</u>	<u>CLOSED</u>
13 08/30/96	7	Mobley	09/11/97
14 10/30/96	6	Eber	11/08/96
15 10/30/97	1	Helfgott	N/A
16 11/04/97	4	Kano	03/11/98
17 11/24/97	5	Cuchna	12/05/97
18 02/07/98	10	Hubbell	03/18/98

19 14.

20 In connection with the sale of the lots in the
21 Subdivision described in Paragraph 13. above, Respondents ICC,
22 MERIDITH and MURPHY used Purchase Agreements and Escrow
23 Instructions not in conformance with the representations made by
24 Berry & Berry in said Application and supporting documents as
25 described in Paragraph 10. and 11. above, and was a material
26 change in the set up of the Subdivision in that the purchase
27 agreements and escrow instructions used were not approved by the

1 Department and contained provisions not included in the approved
2 purchase agreement and escrow instructions described in
3 Paragraphs 10. and 11. above.

4 15.

5 Respondents ICC, MERIDITH and MURPHY, failed to notify
6 the Commissioner in writing of the material changes in the set
7 up or program for marketing the offering of lots in the
8 Subdivision as described above, and in so doing failed to carry
9 out representations and assurances given by Berry & Berry upon
10 which the Commissioner relied in issuing the public report for
11 the Subdivision, and are conditions which would have caused the
12 Commissioner to deny issuance of a public report had said
13 conditions existed at the time the public report was issued for
14 the Subdivision, in violation of Section 11012 of the Code.

15 16.

16 Within the three-year period immediately preceding the
17 filing of this Accusation through on or about March 18, 1998,
18 Respondent MERIDITH, as designated broker-officer for Respondent
19 ICC, failed to exercise reasonable supervision and control over
20 the licensed activities of Respondent ICC required by Section
21 10159.2 of the Code in that Respondent MERIDITH permitted
22 Respondent ICC to sell or offer to sell lots in the Subdivision
23 without complying with the requirements of Section 11012 of the
24 Code as described above. Respondent MERIDITH failed to exercise
25 reasonable supervision over the activities of Respondent ICC's
26 salespersons by allowing said salespersons to sell or offer to
27 sell lots in the Subdivision without complying with the

1 requirements of Section 11012 of the Code as described above,
2 and by failing to establish adequate policies, rules, procedures
3 and systems to review, oversee, inspect and manage said
4 activities

5 17.

6 The acts and/or omissions of Respondents ICC, MERIDITH
7 and MURPHY described above, are grounds for the suspension or
8 revocation of the licenses and/or license rights of Respondents
9 ICC, MERIDITH and MURPHY under Section 11012 of the Code in
10 conjunction with Section 10177(d) of the Code.

11 The acts and/or omissions of Respondent MERIDITH as
12 described in Paragraph 16. above, are grounds for the suspension
13 or revocation of the license and/or license rights of Respondent
14 MERIDITH under Section 10177(h) of the Code and Section 2725 of
15 the Regulations in conjunction with Section 10177(d) of the
16 Code. In the alternative, the acts and/or omissions of
17 Respondent MERIDITH described in Paragraph 16. are grounds for
18 the suspension or revocation of Respondent MERIDITH's license
19 and/or license rights under Section 10177(g) of the Code.

20 SECOND CAUSE OF ACCUSATION

21 18.

22 There is hereby incorporated in this second, separate
23 and distinct, Cause of Accusation all of the allegations
24 contained in Paragraphs 1., 2., 3., 6., and 8. of the First
25 Cause of Accusation with the same force and effect as if herein
26 fully set forth.

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19.

Beginning on or about March 15, 1998, through on or about May 25, 1998, Respondent ICC did not have a designated broker-officer.

20.

Beginning on or about April 1, 1998 through on or about May 25, 1998, Respondent ICC, as agent for Berry & Berry, engaged in acts for which a real estate broker license is required for or in expectation of compensation, at a time when Respondent ICC did not have a designated broker-officer. Said licensed activity included negotiating the sale of Lot 2 in the Subdivision to Pam L. Tourigny.

21.

The acts and/or omissions of Respondent ICC described in Paragraph 20. above, constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondent ICC for violation of Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACCUSATION

22.

There is hereby incorporated in this third, separate and distinct cause of Accusation, all of the allegations contained in Paragraphs 1. through 12 of the First Cause of Accusation with the same force and effect as if herein fully set forth.

///
///

1 23.

2 Beginning on or before June 14, 1998 and continuing
3 through on or about July 22, 1998, Respondents ICC, FLOYD and
4 MURPHY, acting as agents for Berry & Berry, sold or offered to
5 sell Lot 1 in the Subdivision to Eric A. and Alice M. Stein
6 using a sales agreement and escrow instructions not in
7 conformance with the sample sales agreement and escrow
8 instructions described in Paragraphs 10. and 11. above.

9 24.

10 In connection with the sale of the lot in the
11 Subdivision described in Paragraph 23. above, Respondents ICC,
12 FLOYD and MURPHY used a purchase agreement and escrow
13 instructions not in conformance with the representations made by
14 Berry & Berry in said Application and supporting documents as
15 described in Paragraphs 10. and 11. above, and was a material
16 change in the set up of the Subdivision in that the purchase
17 agreement and escrow instructions used were not approved by the
18 Department and contained provisions not included in the approved
19 purchase agreement and escrow instructions described in
20 Paragraphs 10. and 11. above.

21 25.

22 Respondents ICC, FLOYD and MURPHY, failed to notify
23 the Commissioner in writing of the material changes in the set
24 up or program for marketing the offering of lots in the
25 Subdivision as described in this Third Cause of Accusation, and
26 in so doing failed to carry out representations and assurances
27 given by Berry & Berry upon which the Commissioner relied in

1 issuing the public report for the Subdivision, and are
2 conditions which would have caused the Commissioner to deny
3 issuance of a public report had said conditions existed at the
4 time the public report was issued for the Subdivision, in
5 violation of Section 11012 of the Code.

6 26.

7 Beginning on or before June 14, 1998 and continuing
8 through on or about July 22, 1998, Respondent FLOYD, as
9 designated broker-officer for Respondent ICC, failed to exercise
10 reasonable supervision and control over the licensed activities
11 of Respondent ICC required by Section 10159.2 of the Code in
12 that Respondent FLOYD permitted Respondent ICC to sell or offer
13 to sell lots in the Subdivision without complying with the
14 requirements of Section 11012 of the Code as described in this
15 Third Cause of Accusation. Respondent FLOYD failed to exercise
16 reasonable supervision over the activities of Respondent ICC's
17 salespersons by allowing a salesperson to sell or offer to sell
18 Lot 2 in the Subdivision without complying with the requirements
19 of Section 11012 of the Code as described in this Third Cause of
20 Accusation, and by failing to establish adequate policies,
21 rules, procedures and systems to review, oversee, inspect and
22 manage said activities.

23 27.

24 The acts and/or omissions of Respondents ICC, FLOYD
25 and MURPHY described in this Third Cause of Accusation, are
26 grounds for the suspension or revocation of the licenses and/or
27 license rights of Respondents ICC, FLOYD and MURPHY under

1 Section 11012 of the Code in conjunction with Section 10177(d)
2 of the Code.

3 The acts and/or omissions of Respondent FLOYD as
4 described in this Third Cause of Accusation, are grounds for the
5 suspension or revocation of the license and/or license rights of
6 Respondent FLOYD under Section 10177(h) of the Code and Section
7 2725 of the Regulations in conjunction with Section 10177(d) of
8 the Code. In the alternative, the act and/or omissions of
9 Respondent FLOYD described in Paragraph 26. above, are grounds
10 for the suspension or revocation of Respondent FLOYD's license
11 and/or license rights under Section 10177(g) of the Code.

12 FOURTH CAUSE OF ACCUSATION

13 28.

14 There is hereby incorporated in this fourth, separate
15 and distinct cause of Accusation, all of the allegations
16 contained in Paragraphs 1. through 8. of the First Cause of
17 Accusation with the same force and effect as if herein fully set
18 forth.

19 29.

20 At various times herein mentioned, Respondents ICC,
21 MERIDITH, and MURPHY acted as agents of Berry & Berry the owner
22 of certain subdivided real property as defined in Section 11000
23 of the Code commonly known as Montecito Park, Country Meadows
24 Phase 3, Tract 91-S-05, Madera County, State of California, and
25 identified in the records of the Department as File NO.
26 035315SA-FOO (hereinafter "the Madera Subdivision").

27 ///

1 30.

2 On or about April 18, 1997, Berry & Berry, their
3 agents or employees filed or caused to be filed with the
4 Department a Notice of Intention Questionnaire and Application
5 for Public Report (hereinafter "Montecito Park Application") for
6 the Madera Subdivision, together with supporting documents.
7 Based upon the representations and assurances given by Berry &
8 Berry in the Montecito Park Application and supporting
9 documents, the Commissioner issued his Final Subdivision Public
10 Report on July 3, 1997.

11 31.

12 In said Montecito Park Application and supporting
13 documents, Berry & Berry, their agents or employees represented
14 to the Department that:

15 (a) All sales agreements would conform to the sample
16 "Real Estate Purchase Contract and Receipt for Deposit"
17 submitted as a supporting document to the Montecito Park
18 Application.

19 (b) All escrow instructions would conform to the
20 sample "Sale Escrow Instructions" submitted as a supporting
21 document to the Application.

22 32.

23 On or about July 3, 1997, based upon the
24 representations and assurances given by Berry & Berry in their
25 Montecito Park Application for a public report, the Commissioner
26 issued his Final Subdivision Public Report on the Madera
27 Subdivision.

1 33.

2 At various times herein mentioned through on or about
3 September 8, 1998, Respondents ICC, MERIDITH, and MURPHY, acting
4 as agents for Berry & Berry, sold or offered to sell lots in the
5 Madera Subdivision using sales agreements and/or escrow
6 instructions not in conformance with the sample sales agreement
7 and escrow instructions described in Paragraph 31. above. Said
8 lots included, but are not limited to, the following:

<u>PURCHASE DATE</u>	<u>LOT</u>	<u>BUYER</u>	<u>CLOSED</u>
07/24/97	116	Edmonston/ Lammers	05/20/98
03/14/98	119	Houlding	09/08/98

13 34.

14 In connection with the sale of the lots in the
15 Subdivision described in Paragraph 33. above, Respondents ICC,
16 MERIDITH, and MURPHY used Purchase Agreements and/or Escrow
17 Instructions not in conformance with the representations made by
18 Berry & Berry in said Application and supporting documents as
19 described in Paragraphs 30. and 31. above, and was a material
20 change in the set up of the Subdivision in that the purchase
21 agreements and/or escrow instructions used were not approved by
22 the Department and contained provisions not included in the
23 approved purchase agreement and/or escrow instructions described
24 in Paragraphs 30. and 31. above.

25 35.

26 Respondents ICC, MERIDITH and MURPHY, failed to notify
27 the Commissioner in writing of the material changes in the set

1 up or program for marketing the offering of lots in the
2 Subdivision as described above, and in so doing failed to carry
3 out representations and assurances given by Berry and Berry upon
4 which the Commissioner relied in issuing the public report for
5 the Madera Subdivision, and are conditions which would have
6 caused the Commissioner to deny issuance of a public report had
7 said conditions existed at the time the public report was issued
8 for the Madera Subdivision, in violation of Section 11012 of the
9 Code.

10 36.

11 Beginning on or before July 24, 1997 and continuing
12 through on or about March 14, 1998, Respondent MERIDITH, as
13 designated broker-officer for Respondent ICC, failed to exercise
14 reasonable supervision and control over the licensed activities
15 of Respondent ICC required by Section 10159.2 of the Code in
16 that Respondent MERIDITH permitted Respondent ICC to sell or
17 offer to sell lots in the Madera Subdivision without complying
18 with the requirements of Section 11012 of the Code as described
19 above. Respondent MERIDITH failed to exercise reasonable
20 supervision over the activities of Respondent ICC's salespersons
21 by allowing said salespersons to sell or offer to sell lots in
22 the Madera Subdivision without complying with the requirements
23 of Section 11012 of the Code as described above, and by failing
24 to establish adequate policies, rules, procedures and systems to
25 review, oversee, inspect and manage said activities.

26 ///

27 ///

1 37.

2 The acts and/or omissions of Respondents ICC, MERIDITH
3 and MURPHY described above, are grounds for the suspension or
4 revocation of the licenses and/or license rights of Respondents
5 ICC, MERIDITH and MURPHY under Section 11012 of the Code in
6 conjunction with Section 10177(d) of the Code.

7 The acts and/or omissions of Respondent MERIDITH as
8 described in Paragraph 36. above, are grounds for the suspension
9 or revocation of the license and/or license rights of Respondent
10 MERIDITH under Section 10177(h) of the Code and Section 2725 of
11 the Regulations in conjunction with Section 10177(d) of the
12 Code. In the alternative, the acts and/or omissions of
13 Respondent FLOYD described in Paragraph 36. are grounds for the
14 suspension or revocation of Respondent MERIDITH's license and/or
15 license rights under Section 10177(g) of the Code.

16 FIFTH CAUSE OF ACCUSATION

17 38.

18 There is hereby incorporated in this fifth, separate
19 and distinct cause of Accusation, all of the allegations
20 contained in Paragraphs 1. through 8. of the First Cause of
21 Accusation and Paragraph 29. of the Fourth Cause of Accusation
22 with the same force and effect as if herein fully set forth.

23 39.

24 At various times herein mentioned, Respondents ICC,
25 FLOYD and MURPHY acted as agents of Berry & Berry the owner of
26 the Madera Subdivision.

27 ///

1 40.

2 On or about April 18, 1997, Berry & Berry, their
3 agents or employees filed and caused to be filed with the
4 Department a Notice of Intention Questionnaire and Application
5 for Public Report (hereinafter "Montecito Park Application") for
6 the Madera Subdivision, together with supporting documents.
7 Based upon the representations and assurances given by Berry &
8 Berry in the Montecito Park Application and supporting
9 documents, the Commissioner issued his Final Subdivision Public
10 Report on July 3, 1997.

11 41.

12 In said Montecito Park Application and supporting
13 documents, Berry & Berry, their agents or employees represented
14 to the Department that:

15 (a) All sales agreements would conform to the sample
16 "Real Estate Purchase Contract and Receipt for Deposit"
17 submitted as a supporting document tot he Montecito Park
18 Application.

19 (b) All escrow instructions would conform to the
20 sample "Sale Escrow Instructions" submitted as a supporting
21 document to the Application.

22 42.

23 On or about July 3, 1997, based upon the
24 representations and assurances given by Berry & Berry in their
25 Montecito Park Application for a public report, the Commissioner
26 issued his Final Subdivision Public Report on the Madera
27 Subdivision.

1 43.

2 At various times herein mentioned through on or about
3 June 15, 1999, Respondents ICC, FLOYD, and MURPHY, acting as
4 agents for Berry & Berry, sold or offered to sell lots in the
5 Madera Subdivision using sales agreements and/or escrow
6 instructions not in conformance with the sample sales agreement
7 and escrow instructions described in Paragraph 41. above. Said
8 lots included, but are not limited to, the following:

<u>PURCHASE DATE</u>	<u>LOT</u>	<u>BUYER</u>	<u>CLOSED</u>
05/30/98	120	Moore	12/15/98
06/05/98	115	MacCrone	01/20/99
05/12/99	118	Fifield	06/15/99

13 44.

14 In connection with the sale of the lots in the
15 Subdivision described in Paragraph 43. above, Respondents ICC,
16 FLOYD, and MURPHY used Purchase Agreements and/or Escrow
17 Instructions not in conformance with the representations made by
18 Berry & Berry in said Application and supporting documents as
19 described in Paragraphs 40. and 41. above, and was a material
20 change in the set up of the Subdivision in that the purchase
21 agreements and/or escrow instructions used were not approved by
22 the Department and contained provisions not included in the
23 approved purchase agreement and/or escrow instructions described
24 in Paragraphs 40. and 41. above.

25 45.

26 Respondents ICC, FLOYD and MURPHY, failed to notify
27 the Commissioner in writing of the material changes in the set

1 up or program for marketing the offering of lots in the Madera
2 Subdivision as described above, and in so doing failed to carry
3 out representations and assurances given by Berry and Berry upon
4 which the Commissioner relied in issuing the public report for
5 the Madera Subdivision, and are conditions which would have
6 caused the Commissioner to deny issuance of a public report had
7 said conditions existed at the time the public report was issued
8 for the Madera Subdivision, in violation of Section 11012 of the
9 Code.

10 46.

11 Beginning on or before May 30, 1998 and continuing
12 through on or about June 15, 1999, Respondent FLOYD, as
13 designated broker-officer for Respondent ICC, failed to exercise
14 reasonable supervision and control over the licensed activities
15 of Respondent ICC required by Section 10159.2 of the Code in
16 that Respondent FLOYD permitted Respondent ICC to sell or offer
17 to sell lots in the Madera Subdivision without complying with
18 the requirements of Section 11012 of the Code as described
19 above. Respondent FLOYD failed to exercise reasonable
20 supervision over the activities of Respondent ICC's salespersons
21 by allowing said salespersons to sell or offer to sell lots in
22 the Madera Subdivision without complying with the requirements
23 of Section 11012 of the Code as described above, and by failing
24 to establish adequate policies, rules, procedures and systems to
25 review, oversee, inspect and manage said activities.

26 ///

27 ///

1 47.

2 The acts and/or omissions of Respondents ICC, FLOYD
3 and MURPHY described above, are grounds for the suspension or
4 revocation of the licenses and/or license rights of Respondents
5 ICC, FLOYD and MURPHY under Section 11012 of the Code in
6 conjunction with Section 10177(d) of the Code.

7 The acts and/or omissions of Respondent FLOYD as
8 described in Paragraph 46. above, are grounds for the suspension
9 or revocation of the license and/or license rights of Respondent
10 FLOYD under Section 10177(h) of the Code and Section 2725 of the
11 Regulations in conjunction with Section 10177(d) of the Code.
12 In the alternative, the acts and or omissions of Respondent
13 FLOYD described in Paragraph 46. are grounds for the suspension
14 or revocation of Respondent FLOYD's license and/or license
15 rights under Section 10177(g) of the Code.

16 SIXTH CAUSE OF ACCUSATION

17 48.

18 There is hereby incorporated in this fourth, separate
19 and distinct cause of Accusation, all of the allegations
20 contained in Paragraphs 1. through 8. of the First Cause of
21 Accusation and Paragraph 29. of the Fourth Cause of Accusation
22 with the same force and effect as if herein fully set forth.

23 49.

24 At various times herein mentioned, Respondents ICC,
25 MERIDITH and MURPHY, acting as agents of Berry and Berry the
26 owner of the Madera Subdivision, engaged in the business of
27 acted in the capacity of, advertised, or assumed to act as real

1 estate brokers within the State of California within the meaning
2 of Section 10131(a) of the Code, including the operation and
3 conduct of real estate sales brokerage business with the public
4 wherein, on behalf of others, for compensation or in expectation
5 of compensation, Respondents ICC, MERIDITH and MURPHY sold and
6 offered to sell, solicited prospective sellers and purchasers
7 of, solicited and obtained listings of, and negotiated the
8 purchase and sale of real property.

9 50.

10 On or about March 25, 1997, in the course of the
11 activities described in Paragraph 49. above, Respondents ICC,
12 MERIDITH and MURPHY solicited and obtained an offer from Richard
13 and Connie Rogers to purchase Lot 156 in the Madera Subdivision,
14 and thereafter, to and until on or before or after August 20,
15 1997, when escrow closed consummating the purchase of said lot,
16 negotiated and arranged execution and performance of a contract
17 to purchase said lot by said purchasers.

18 51.

19 In the course of the transaction described in
20 Paragraph 50. above, Respondents ICC, MERIDITH and MURPHY failed
21 to provide the purchasers, Richard and Connie Rogers, with a
22 copy of a subdivision public report issued by the Department
23 expressly authorizing the sale of lots, units or parcels in the
24 Madera Subdivision, and caused, suffered and permitted the owner
25 and subdivider of the Madera Subdivision to fail to provide such
26 purchasers with such a subdivision public report, in violation
27 of Section 11018.1(a) of the Code.

1 52.

2 In connection with the transaction described in
3 Paragraph 51. above, Respondent MERIDITH, as designated broker-
4 officer for Respondent ICC, failed to exercise reasonable
5 supervision and control over the licensed activities of
6 Respondent ICC required by Section 10159.2 of the Code in that
7 Respondent MERIDITH permitted Respondent ICC to sell or offer to
8 sell Lot 156 in the Madera Subdivision without complying with
9 the requirements of Section 11018.1(a) of the Code as described
10 above. Respondent MERIDITH failed to exercise reasonable
11 supervision over the activities of Respondent ICC's salesperson,
12 Respondent MURPHY, by allowing Respondent MURPHY to sell or
13 offer to sell Lot 156 in the Madera Subdivision without
14 complying with the requirements of Section 11018.2 of the Code
15 as described above, and by failing to establish adequate
16 policies, rules, procedures and systems to review, oversee,
17 inspect and manage said activities.

18 53.

19 The acts and/or omissions of Respondent MURPHY
20 described in Paragraph 51. above, constitute cause for the
21 suspension or revocation of the license and license rights of
22 Respondent MURPHY under Section 10177(d) of the Code in
23 conjunction with Section 11018.2 of the Code.

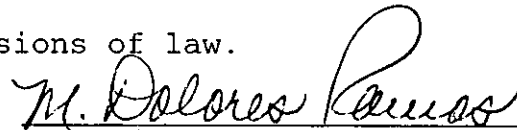
24 The acts and/or omissions of Respondents ICC, MERIDITH
25 and MURPHY described in Paragraph 51. above, constitute cause
26 for the suspension or revocation of the licenses and license
27 rights of Respondents ICC, MERIDITH and MURPHY under Section

1 Sections 10145, 11013.2, 11013.4, 11010.4 and 11018.2 of the
2 Code and Sections 2832 and 2794 of the Regulations.

3 On or about March 3, 1995, effective April 10, 1995 in
4 Case No. H-1227 FRESNO, the Real Estate Commissioner suspended
5 the real estate broker license of RAY CLARK MERIDITH for a
6 period of 365 days, stayed on terms and conditions for
7 violations of Section 10177(d) of the Code in conjunction with
8 Sections 11010.4, 11013.2, 11013.4, and 11018.2 of the Code and
9 Section 2794 of the Regulations.

10 On or about March 3, 1995, effective April 10, 1995 in
11 Case no. H-1227 FRESNO, the Real Estate Commissioner suspended
12 the real estate salesperson license of CHARLOTTE FAY MURPHY for
13 a period of 30 days, stayed on terms and conditions for
14 violations of Sections 10176(a), 10176(i), and 10177(d) of the
15 Code in conjunction with Sections 11010.4(a), 11013.2 and
16 11013.4 of the Code.

17 WHEREFORE, Complainant prays that a hearing be
18 conducted on the allegations of this Accusation and that upon
19 proof thereof a decision be rendered imposing disciplinary
20 action against all licenses and license rights of Respondents
21 under the Real Estate Law (Part 1 of Division 4 of the Business
22 and Professions Code) and for such other and further relief as
23 may be proper under other provisions of law.

24 

25 M. DOLORES RAMOS
26 Deputy Real Estate Commissioner

26 Dated at Fresno, California,
27 this 21st day of June, 2000.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 28 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ICC REALTY, INC.,
DONALD LA RUE FLOYD,
RAY CLARK MERIDITH,
CHARLOTTE FAY MURPHY,

}

Case No. H-1427 FRESNO

OAH No. N-1999090131

Lucia A. Zain

Respondent

SECOND AMENDED
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 the

State Building, 2550 Mariposa Mall, Room 1027, Fresno, CA 93721

on July 25 - 27, 2000, at the hour of 9:00 AM,
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: March 28, 2000

By

David A. Peters

DAVID A. PETERS

Counsel

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE OCT 14 1999
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laurie A. Zorn

In the Matter of the Accusation of

ICC REALTY, INC.,
DONALD LA RUE FLOYD,
RAY CLARK MERIDITH,
CHARLOTTE FAY MURPHY,

}

Case No. H-1427 FRESNO

OAH No. N-1999090131

Respondent

FIRST AMENDED
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 the
Department of Water Resources, 3374 East Shields, Fresno, CA 93726

on January 25 - 27, 2000, at the hour of 9:00 AM,
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: October 14, 1999

By David A. Peters
DAVID A. PETERS Counsel

FILED
OCT - 1 1999

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Laurie A. Zin

In the Matter of the Accusation of

ICC REALTY, INC.,
DONALD LA RUE FLOYD,
RAY CLARK MERIDITH,
CHARLOTTE FAY MURPHY,

}

Case No. H-1427 FRESNO

OAH No. N-1999090131

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 the
State Building, 2550 Mariposa Mall, Room 1027, Fresno, CA 93721

on December 7 - 9, 1999, at the hour of 9:00 AM,
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: September 30, 1999

By David A. Peters
DAVID A. PETERS Counsel (12)

1 FIRST CAUSE OF ACCUSATION

2 1.

3 The Complainant, M. Dolores Ramos, a Deputy Real
4 Estate Commissioner of the State of California, makes this
5 Accusation against the above-named Respondents in her official
6 capacity.

7 2.

8 Respondents ICC, MERIDITH, FLOYD, and MURPHY are
9 presently licensed and/or have license rights under the Real
10 Estate Law (Part 1 of Division 4 of the California Business and
11 Professions Code) (hereinafter "Code").

12 3.

13 At all times herein mentioned, Respondent ICC was
14 licensed as a restricted real estate broker corporation. Within
15 the three-year period immediately preceding the filing of this
16 Accusation and continuing through on or about March 15, 1998,
17 Respondent MERIDITH acted as the designated broker-officer for
18 Respondent ICC. Beginning on or about March 16, 1998 through on
19 or about May 25, 1998, Respondent ICC had no designated broker-
20 officer. Beginning on or about May 26, 1998 and continuing
21 thereafter, Respondent FLOYD acted as the designated broker-
22 officer for Respondent ICC.

23 4.

24 At all times herein mentioned, Respondent FLOYD was
25 licensed as a restricted real estate broker individually and
26 beginning on or about May 26, 1998 and continuing thereafter as
27 the designated broker-officer for Respondent ICC.

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5.

At all times herein mentioned, Respondent MERIDITH was licensed as a real estate broker individually and within the three-year period immediately preceding the filing of this Accusation through on or about March 15, 1998, as designated broker-officer for Respondent ICC.

6.

At all times herein mentioned, Respondent MURPHY was licensed as a real estate salesperson. Within the three year period immediately preceding the filing of this Accusation through on or about March 14, 1998, Respondent MURPHY was in the employ of Respondent ICC.

7.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of the Respondents named in the caption hereof, acting individually, jointly, and severally.

8.

At various times material herein, Respondents were performing acts requiring a real estate license for or in expectation of a compensation.

9.

At various times herein mentioned preceding the filing of this Accusation, Respondents acted as agents of Berry & Berry, Inc., a California corporation, (hereinafter "Berry & Berry") the owner of certain subdivided real property as defined

1 in Section 11000 of the Code commonly known as Country Club Lake
2 Estates, Tract No. 1008, Merced County, State of California, and
3 identified in the records of the Department of Real Estate
4 (hereinafter "the Department") as File No. 033651 SA-FOO
5 (hereinafter "the Subdivision").

6 10.

7 On or about October 18, 1995, Berry & Berry, their
8 agents or employees filed or caused to be filed with the
9 Department a Combined Notice of Intention Questionnaire and
10 Application for Public Report (hereinafter "Application") for
11 the Subdivision, together with supporting documents. Based upon
12 the representations and assurances given by Berry & Berry in the
13 Application and supporting documents, the Commissioner issued
14 his Final Subdivision Public Report on November 1, 1995.

15 11.

16 In said Application and supporting documents, Berry &
17 Berry, their agents or employees represented to the Department
18 that:

19 (a) All sales agreements would conform to the sample
20 "Real Estate Purchase Contract and Receipt for Deposit"
21 submitted as a supporting document to the Application.

22 (b) All escrow instructions would conform to the
23 sample "Sale Escrow Instructions" submitted as a supporting
24 document to the Application.

25 12.

26 On or about November 1, 1995, based upon the
27 representations and assurances given by Berry & Berry in their

1 Application for a public report, the Commissioner issued his
2 Final Subdivision Public Report on the Subdivision.

3 13.

4 Within the three-year period immediately preceding the
5 filing of this Accusation through on or about March 18, 1998,
6 Respondents ICC, MERIDITH and MURPHY, acting as agents for Berry
7 & Berry, sold or offered to sell lots in the Subdivision using
8 sales agreements and escrow instructions not in conformance with
9 the sample sales agreement and escrow instructions described in
10 Paragraphs 10. and 11. above. Said lots included, but are not
11 limited to, the following:

<u>PURCHASE DATE</u>	<u>LOT</u>	<u>BUYER</u>	<u>CLOSED</u>
08/30/96	7	Mobley	09/11/97
10/30/96	6	Eber	11/08/96
10/30/97	1	Helfgott	N/A
11/04/97	4	Kano	03/11/98
11/24/97	5	Cuchna	12/05/97
02/07/98	10	Hubbell	03/18/98

19 14.

20 In connection with the sale of the lots in the
21 Subdivision described in Paragraph 13. above, Respondents ICC,
22 MERIDITH and MURPHY used Purchase Agreements and Escrow
23 Instructions not in conformance with the representations made by
24 Berry & Berry in said Application and supporting documents as
25 described in Paragraph 10. and 11. above, and was a material
26 change in the set up of the Subdivision in that the purchase
27 agreements and escrow instructions used were not approved by the

1 Department and contained provisions not included in the approved
2 purchase agreement and escrow instructions described in
3 Paragraphs 10. and 11. above.

4 15.

5 Respondents ICC, MERIDITH and MURPHY, failed to notify
6 the Commissioner in writing of the material changes in the set
7 up or program for marketing the offering of lots in the
8 Subdivision as described above, and in so doing failed to carry
9 out representations and assurances given by Berry & Berry upon
10 which the Commissioner relied in issuing the public report for
11 the Subdivision, and are conditions which would have caused the
12 Commissioner to deny issuance of a public report had said
13 conditions existed at the time the public report was issued for
14 the Subdivision, in violation of Section 11012 of the Code.

15 16.

16 Within the three-year period immediately preceding the
17 filing of this Accusation through on or about March 18, 1998,
18 Respondent MERIDITH, as designated broker-officer for Respondent
19 ICC, failed to exercise reasonable supervision and control over
20 the licensed activities of Respondent ICC required by Section
21 10159.2 of the Code in that Respondent MERIDITH permitted
22 Respondent ICC to sell or offer to sell lots in the Subdivision
23 without complying with the requirements of Section 11012 of the
24 Code as described above. Respondent MERIDITH failed to exercise
25 reasonable supervision over the activities of Respondent ICC's
26 salespersons by allowing said salespersons to sell or offer to
27 sell lots in the Subdivision without complying with the

1 requirements of Section 11012 of the Code as described above,
2 and by failing to establish adequate policies, rules, procedures
3 and systems to review, oversee, inspect and manage said
4 activities

5 17.

6 The acts and/or omissions of Respondents ICC, MERIDITH
7 and MURPHY described above, are grounds for the suspension or
8 revocation of the licenses and/or license rights of Respondents
9 ICC, MERIDITH and MURPHY under Section 11012 of the Code in
10 conjunction with Section 10177(d) of the Code.

11 The acts and/or omissions of Respondent MERIDITH as
12 described in Paragraph 16. above, are grounds for the suspension
13 or revocation of the license and/or license rights of Respondent
14 MERIDITH under Section 10177(h) of the Code and Section 2725 of
15 the Regulations in conjunction with Section 10177(d) of the
16 Code. In the alternative, the acts and/or omissions of
17 Respondent MERIDITH described in Paragraph 16. are grounds for
18 the suspension or revocation of Respondent MERIDITH's license
19 and/or license rights under Section 10177(g) of the Code.

20 SECOND CAUSE OF ACCUSATION

21 18.

22 There is hereby incorporated in this second, separate
23 and distinct, Cause of Accusation all of the allegations
24 contained in Paragraphs 1., 2., 3., 6., and 8. of the First
25 Cause of Accusation with the same force and effect as if herein
26 fully set forth.

27 ///

19.

Beginning on or about March 15, 1998, through on or about May 25, 1998, Respondent ICC did not have a designated broker-officer.

20.

Beginning on or about April 1, 1998 through on or about May 25, 1998, Respondent ICC, as agent for Berry & Berry, engaged in acts for which a real estate broker license is required for or in expectation of compensation, at a time when Respondent ICC did not have a designated broker-officer. Said licensed activity included negotiating the sale of Lot 2 in the Subdivision to Pam L. Tourigny.

21.

The acts and/or omissions of Respondent ICC described in Paragraph 20. above, constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondent ICC for violation of Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACCUSATION

22.

There is hereby incorporated in this third, separate and distinct cause of Accusation, all of the allegations contained in Paragraphs 1. through 12 of the First Cause of Accusation with the same force and effect as if herein fully set forth.

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1 23.

2 Beginning on or before June 14, 1998 and continuing
3 through on or about July 22, 1998, Respondents ICC, FLOYD and
4 MURPHY, acting as agents for Berry & Berry, sold or offered to
5 sell Lot 1 in the Subdivision to Eric A. and Alice M. Stein
6 using a sales agreement and escrow instructions not in
7 conformance with the sample sales agreement and escrow
8 instructions described in Paragraphs 10. and 11. above.

9 24.

10 In connection with the sale of the lot in the
11 Subdivision described in Paragraph 23. above, Respondents ICC,
12 FLOYD and MURPHY used a purchase agreement and escrow
13 instructions not in conformance with the representations made by
14 Berry & Berry in said Application and supporting documents as
15 described in Paragraphs 10. and 11. above, and was a material
16 change in the set up of the Subdivision in that the purchase
17 agreement and escrow instructions used were not approved by the
18 Department and contained provisions not included in the approved
19 purchase agreement and escrow instructions described in
20 Paragraphs 10. and 11. above.

21 25.

22 Respondents ICC, FLOYD and MURPHY, failed to notify
23 the Commissioner in writing of the material changes in the set
24 up or program for marketing the offering of lots in the
25 Subdivision as described in this Third Cause of Accusation, and
26 in so doing failed to carry out representations and assurances
27 given by Berry & Berry upon which the Commissioner relied in

1 issuing the public report for the Subdivision, and are
2 conditions which would have caused the Commissioner to deny
3 issuance of a public report had said conditions existed at the
4 time the public report was issued for the Subdivision, in
5 violation of Section 11012 of the Code.

6 26.

7 Beginning on or before June 14, 1998 and continuing
8 through on or about July 22, 1998, Respondent FLOYD, as
9 designated broker-officer for Respondent ICC, failed to exercise
10 reasonable supervision and control over the licensed activities
11 of Respondent ICC required by Section 10159.2 of the Code in
12 that Respondent FLOYD permitted Respondent ICC to sell or offer
13 to sell lots in the Subdivision without complying with the
14 requirements of Section 11012 of the Code as described in this
15 Third Cause of Accusation. Respondent FLOYD failed to exercise
16 reasonable supervision over the activities of Respondent ICC's
17 salespersons by allowing a salesperson to sell or offer to sell
18 Lot 2 in the Subdivision without complying with the requirements
19 of Section 11012 of the Code as described in this Third Cause of
20 Accusation, and by failing to establish adequate policies,
21 rules, procedures and systems to review, oversee, inspect and
22 manage said activities.

23 27.

24 The acts and/or omissions of Respondents ICC, FLOYD
25 and MURPHY described in this Third Cause of Accusation, are
26 grounds for the suspension or revocation of the licenses and/or
27 license rights of Respondents ICC, FLOYD and MURPHY under

1 Section 11012 of the Code in conjunction with Section 10177(d)
2 of the Code.

3 The acts and/or omissions of Respondent FLOYD as
4 described in this Third Cause of Accusation, are grounds for the
5 suspension or revocation of the license and/or license rights of
6 Respondent FLOYD under Section 10177(h) of the Code and Section
7 2725 of the Regulations in conjunction with Section 10177(d) of
8 the Code. In the alternative, the act and/or omissions of
9 Respondent FLOYD described in Paragraph 26. above, are grounds
10 for the suspension or revocation of Respondent FLOYD's license
11 and/or license rights under Section 10177(g) of the Code.

12 PRIOR DISCIPLINARY ACTION

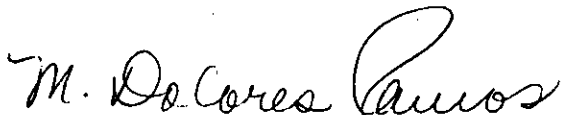
13 On or about February 19, 1987, effective March 16,
14 1987, in Case No. H-755 FRESNO, the Real Estate Commissioner
15 revoked the real estate broker license of DONALD LA RUE FLOYD
16 and granted the right to a restricted real estate broker license
17 on terms and conditions for violations of Section 10176(i) of
18 the Code and Section 10177(d) of the Code in conjunction with
19 Section 10145 of the Code and Section 2725 of the Regulations.

20 On or about April 7, 1995, effective May 10, 1995 in
21 Case No. H-1227 FRESNO, the Real Estate Commissioner revoked the
22 real estate broker corporation license of ICC REALTY INC. and
23 granted the right to a restricted real estate broker corporation
24 license on terms and conditions for violations of Sections
25 10176(a), 10176(i), and 10177(d) of the Code in conjunction with
26 Sections 10145, 11013.2, 11013.4, 11010.4 and 11018.2 of the
27 Code and Sections 2832 and 2794 of the Regulations.

1 On or about March 3, 1995, effective April 10, 1995 in
2 Case No. H-1227 FRESNO, the Real Estate Commissioner suspended
3 the real estate broker license of RAY CLARK MERIDITH for a
4 period of 365 days, stayed on terms and conditions for
5 violations of Section 10177(d) of the Code in conjunction with
6 Sections 11010.4, 11013.2, 11013.4, and 11018.2 of the Code and
7 Section 2794 of the Regulations.

8 On or about March 3, 1995, effective April 10, 1995 in
9 Case no. H-1227 FRESNO, the Real Estate Commissioner suspended
10 the real estate salesperson license of CHARLOTTE FAY MURPHY for
11 a period of 30 days, stayed on terms and conditions for
12 violations of Sections 10176(a), 10176(i), and 10177(d) of the
13 Code in conjunction with Sections 11010.4(a), 11013.2 and
14 11013.4 of the Code.

15 WHEREFORE, Complainant prays that a hearing be
16 conducted on the allegations of this Accusation and that upon
17 proof thereof a decision be rendered imposing disciplinary
18 action against all licenses and license rights of Respondents
19 under the Real Estate Law (Part 1 of Division 4 of the Business
20 and Professions Code) and for such other and further relief as
21 may be proper under other provisions of law.

22
23 
24 M. DOLORES RAMOS
Deputy Real Estate Commissioner

25 Dated at Fresno, California,
26 this 19th day of August, 1999.