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FILED

AUG 26 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1530 FR
)	
)	
MEL JOEL WAPNER,)	
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 24, 2002, in Case No. H-1530 FR, a Decision was rendered revoking the real estate broker license of Respondent effective July 29, 2002, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on July 29, 2002, and Respondent has operated as a restricted licensee since that time.

On October 11, 2006, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 this Order:

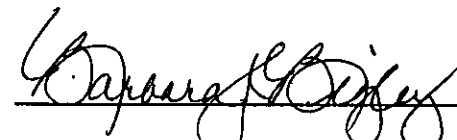
12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: 8/20/08

21
22 JEFF DAVI
23 Real Estate Commissioner

24 

25 BY: Barbara J. Bigby
26 Chief Deputy Commissioner

FLAG

FILED

AUG 26 2008

DEPARTMENT OF REAL ESTATE

By H. Mat

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1530 FR
))
))
TYLAR PROPERTY MANAGEMENT))
COMPANY, INC.,))
))
Respondent.))
))

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 24, 2002, in Case No. H-1530 FR, a Decision was rendered revoking the corporate real estate broker license of Respondent effective July 29, 2002, but granting Respondent the right to the issuance of a restricted corporate real estate broker license. A restricted corporate real estate broker license was issued to Respondent on July 29, 2002, and Respondent has operated as a restricted licensee since that time.

On October 11, 2006, Respondent petitioned for reinstatement of said corporate real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted corporate real estate broker license and that it
6 would not be against the public interest to issue said license to
7 Respondent.

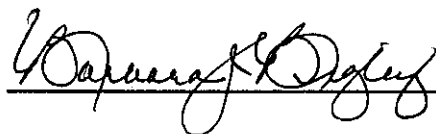
8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a corporate real
10 estate broker license be issued to Respondent if Respondent
11 satisfies the following conditions within nine (9) months from
12 the date of this Order:

13 1. Submittal of a completed application and payment of
14 the fee for a corporate real estate broker license..

15 This Order shall be effective immediately.

16 DATED: 8/20/08

17
18 JEFF DAVI
19 Real Estate Commissioner

20 
21 _____

22 BY: Barbara J. Bigby
23 Chief Deputy Commissioner
24
25
26
27

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

FILED
MAR 14 2003

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 TYLAR PROPERTY MANAGEMENT CO.,) NO. H-1530 FR
13 and)
14 MEL JOEL WAPNER,)
15 Respondent.)

16 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

17 TO: MEL JOEL WAPNER

18 On July 29, 2002, a restricted real estate broker
19 license was issued by the Department of Real Estate to you on
20 the terms, conditions and restrictions set forth in the Real
21 Estate Commissioner's Decision effective July 29, 2002 in case
22 No. H-1530 FR. This Decision granted the right to the
23 issuance of a restricted real estate broker license subject to
24 the provisions of Section 10156.7 of the Business and
25 Professions Code and to enumerated additional terms,
26 conditions and restrictions imposed under authority of Section
27

1 10156.6 of said Code. Among those terms, conditions and
2 restrictions, you were required to take and pass the
3 Professional Responsibility Examination within six months from
4 the effective date of the Decision. The Commissioner has
5 determined that as of January 29, 2003, you have failed to
6 satisfy this condition, and as such, you are in violation of
7 Section 10177(k) of the Business and Professions Code.

8 NOW, THEREFORE, IT IS ORDERED under authority of
9 Section 10156.7 of the Business and Professions Code of the State
10 of California that the restricted real estate broker license
11 heretofore issued to you and the exercise of any privileges
12 thereunder is hereby suspended until such time as you provide
13 proof satisfactory to the Department of compliance with the
14 "condition" referred to above, or pending final determination
15 made after hearing (see "Hearing Rights" set forth below).
16 Furthermore, you have no right to renew your restricted license
17 if this "condition" isn't satisfied by the date your restricted
18 license expires.

19 IT IS FURTHER ORDERED that all license certificates and
20 identification cards issued by the Department which are in your
21 possession be immediately surrendered by personal delivery or by
22 mailing in the enclosed, self-addressed envelope to:

23 Department of Real Estate
24 Attn: Flag Section
25 P. O. Box 187000
 Sacramento, CA 95818-7000

26 ///
27 ///

ORIGINAL

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

FILED

JUL 08 2002

DEPARTMENT OF REAL ESTATE

By Jean Arnold

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-1530 FR

12 TYLAR PROPERTY MANAGEMENT CO.,)

13 and)

STIPULATION AND AGREEMENT

14 MEL JOEL WAPNER,)

15 Respondents.)

16
17
18 It is hereby stipulated by and between Respondent
19 TYLAR PROPERTY MANAGEMENT CO. (hereinafter "Respondent
20 COMPANY") and MEL JOEL WAPNER (hereinafter "Respondent WAPNER")
21 and the Complainant, acting by and through Michael B. Rich,
22 Counsel for the Department of Real Estate, as follows for the
23 purpose of settling and disposing of the Accusation filed on
24 April 20, 2001, in this matter (hereinafter "the Accusation"):

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27

H-1530 FR

- 1 -

STIPULATION OF
TYLAR PROPERTY MANAGEMENT CO.
and MEL JOEL WAPNER

1 Respondents at a formal hearing on the Accusation, which
2 hearing was to be held in accordance with the provisions of the
3 Administrative Procedure Act (APA), shall instead and in place
4 thereof be submitted solely on the basis of the provisions of
5 this Stipulation and Agreement.

6 2. All Respondents have received, read, and
7 understand the Statement to Respondent, the Discovery
8 Provisions of the APA, and the Accusation filed by the
9 Department of Real Estate in this proceeding.

10 3. On May 1, 2002, Respondents filed a Notice of
11 Defense pursuant to Section 11505 of the Government Code for
12 the purpose of requesting a hearing on the allegations in the
13 Accusation. Respondents hereby freely and voluntarily withdraw
14 said Notice of Defense. Respondents acknowledge that they
15 understand that by withdrawing said Notice of Defense
16 Respondents will thereby waive their respective right to
17 require the Commissioner to prove the allegations in the
18 Accusation at a contested hearing held in accordance with the
19 provisions of the APA and that Respondents will waive other
20 rights afforded to Respondents in connection with the hearing
21 such as the right to present evidence in defense of the
22 allegations in the Accusation and the right to cross-examine
23 witnesses.

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation. In the interests of
26 expedience and economy, Respondents choose not to contest these
27

1 allegations, but to remain silent and understand that, as a
2 result thereof, these factual allegations, without being
3 admitted or denied, will serve as a prima facie basis for the
4 disciplinary action stipulated to herein. The Real Estate
5 Commissioner shall not be required to provide further evidence
6 to prove said factual allegations.

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

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

25 7. Respondents understand that by agreeing to this
26 Stipulation and Agreement in Settlement, Respondents, and each of
27

1 them, jointly and severally, agree to pay, pursuant to Section
2 10148 of the Business and Professions Code, the cost of the audit
3 which led to this disciplinary action. The amount of said costs
4 is \$2,901.10.

5 8. Respondents have received, read, and understand
6 the "Notice Concerning Costs of Subsequent Audit". Respondents
7 further understand that by agreeing to this Stipulation and
8 Agreement in Settlement, the findings set forth below in the
9 DETERMINATION OF ISSUES become final, and that the Commissioner
10 may charge Respondents, and each of them, jointly and severally,
11 for the costs of any subsequent audit conducted pursuant to
12 Section 10148 of the Business and Professions Code to determine
13 if the violations have been corrected. The maximum costs of
14 said audit will not exceed \$3,479.34.

15
16 DETERMINATION OF ISSUES

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

21 I

22 The conduct of Respondent COMPANY, as described in the
23 Accusation, constitutes cause for the suspension or revocation of
24 the real estate license and license rights of Respondent under
25 the provisions of: Section 10177(d) of the Business and
26 Professions Code in conjunction with Sections 10145 of the Code,

1 and Sections 2831.2 and 2832.1 of Title 10, California Code of
2 Regulations.

3 II

4 The conduct of Respondent WAPNER as described in the
5 Accusation, constitutes cause for the suspension or revocation of
6 the real estate license and license rights of Respondent WAPNER
7 under the provisions of: Section 10177(d) of the Business and
8 Professions Code in conjunction with Section 10145 of the Code,
9 and Sections 2831.2 and 2832.1 of Title 10, California Code of
10 Regulations; and, Section 10177(h) of the Business and
11 Professions Code.

12
13 ORDER

14 I

15 The respective real estate broker licenses and all
16 license rights of Respondent TYLAR PROPERTY MANAGEMENT CO., and
17 Respondent MEL JOEL WAPNER under the Real Estate Law are
18 revoked; provided, however, a restricted corporate real estate
19 broker license shall be issued to Respondent COMPANY and a
20 restricted real estate broker license shall be issued to
21 Respondent WAPNER pursuant to Section 10156.5 of the Business
22 and Professions Code if Respondents respectively make
23 application therefor and pay to the Department of Real Estate
24 the respective appropriate fee for the restricted license within
25 ninety (90) days from the effective date of this Decision. The
26 restricted licenses respectively issued to Respondents shall be
27 subject to all of the provisions of Section 10156.7 of the

1 Business and Professions Code and to the following limitations,
2 conditions and restrictions imposed under authority of Section
3 10156.6 of that Code:

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

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

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

22 4. Respondent WAPNER shall, within nine (9) months
23 from the effective date of this Decision, present evidence
24 satisfactory to the Real Estate Commissioner that Respondent
25 WAPNER has, since the most recent issuance of an original or
26 renewal real estate license, taken and successfully completed

1 the continuing education requirements of Article 2.5 of Chapter
2 3 of the Real Estate Law for renewal of a real estate License.

3 If Respondent WAPNER fails to satisfy this condition, the
4 Commissioner may order the suspension of the restricted license
5 until Respondent WAPNER presents such evidence. The
6 Commissioner shall afford Respondent WAPNER the opportunity for
7 a hearing pursuant to the Administrative Procedure Act to
8 present such evidence.

9 5. Respondent WAPNER shall, within six (6) months
10 from the effective date of this Decision, take and pass the
11 Professional Responsibility Examination administered by the
12 Department including the payment of the appropriate examination
13 fee. If Respondent WAPNER fails to satisfy this condition, the
14 Commissioner may order suspension of Respondent MILLER's license
15 until Respondent WAPNER passes the examination.

16 6. Pursuant to Section 10148 of the Business and
17 Professions Code, Respondents and each of them, jointly and
18 severally, shall pay the Commissioner's reasonable cost for: a)
19 the audit which led to this disciplinary action and, b) a
20 subsequent audit to determine if Respondent has corrected the
21 trust fund violations found in paragraphs I and II of the
22 Determination of Issues. In calculating the amount of the
23 Commissioner's reasonable cost, the Commissioner may use the
24 estimated average hourly salary for all persons performing
25 audits of real estate brokers, and shall include an allocation
26 for travel time to and from the auditor's place of work.

1 Respondents shall pay such cost within sixty (60) days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities. The Commissioner may suspend
5 the restricted licenses issued to Respondents pending a hearing
6 held in accordance with Section 11500, et seq., of the
7 Government Code, if payment is not timely made as provided for
8 herein, or as provided for in a subsequent agreement between the
9 Respondents and the Commissioner. The suspension shall remain
10 in effect until payment is made in full or until Respondents
11 enter into an agreement satisfactory to the Commissioner to
12 provide for payment, or until a decision providing otherwise is
13 adopted following a hearing held pursuant to this condition.

14 7. Respondents shall prior to the effective date of
15 the Decision, and as a condition to be met prior to the issuance
16 of the restricted license provide evidence satisfactory to the
17 Commissioner that Respondents have cured the trust fund
18 shortages alleged in the Accusation.

19 8. Any restricted real estate broker license issued
20 to Respondents may be suspended or revoked for a violation,
21 respectively, by either Respondent of any of the conditions
22 attaching to the restricted licenses.

23
24
25 6/19/02
26 DATED

25 Michael B. Rich
26 MICHAEL B. RICH, Counsel
27 DEPARTMENT OF REAL ESTATE

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* * *

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

6/5/02
DATED

Tylar Property Management Co.
Mel Joel Wapner

TYLAR PROPERTY MANAGEMENT CO.
Respondent
By: MEL JOEL WAPNER

6/5/02
DATED

Mel Joel Wapner

MEL JOEL WAPNER
Respondent.

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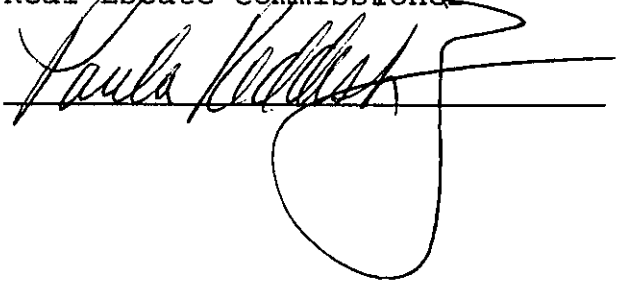
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* * *

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 July 29, 2002.

IT IS SO ORDERED June 24, 2002.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED

APR 20 2002

DEPARTMENT OF REAL ESTATE

By Shelly Ely

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7
8 Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12) NO. H-1530 FR
13 TYLAR PROPERTY MANAGEMENT COMPANY,) ACCUSATION
14 INC., and MEL JOEL WAPNER,)
15 _____ Respondents.)

16 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
17 Commissioner of the State of California, for Causes of Accusation
18 against TYLAR PROPERTY MANAGEMENT COMPANY, INC., and MEL JOEL
19 WAPNER is informed and alleges as follows:

FIRST CAUSE OF ACCUSATION

I

22 Respondents TYLAR PROPERTY MANAGEMENT COMPANY, INC.,
23 (hereinafter referred to as "Respondent Corporation") and MEL
24 JOEL WAPNER (hereinafter referred to as "Respondent WAPNER") are
25 presently licensed and/or have license rights under the Real
26 Estate Law, Part 1 of Division 4 of the California Business and
27 Professions Code (hereafter the "Code").

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II

The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

III

At all times herein mentioned, Respondent Corporation was and is licensed by the Department as a real estate broker corporation acting by and through Respondent WAPNER as its designated broker officer.

IV

At all times herein mentioned, Respondent WAPNER was and is licensed by the Department as a real estate broker, and as the designated broker officer of Respondent Corporation.

V

Within the last three years, Respondents engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, and leased or rented, offered to lease or rent, solicited prospective tenants for, collected rents on, and/or managed certain real properties in California.

VI

Beginning in July of 2001, the Department conducted an audit of the above business activities of Respondents for the time period of July 1, 1998 through July 1, 2001. During the course of the activities described above, Respondents received and disbursed funds in trust on behalf of others.

///

1 VII

2 Within the last three years, Respondents deposited the
3 above trust funds into a checking trust bank account at Cal Fed
4 Banking in Fresno, California, bearing account number 395-402758-
5 1, in the name of "Tylar Property Management Company
6 Incorporated, Rental Trust Account." (hereinafter referred to as
7 "Trust Account 1").

8 VIII

9 In connection with the collection and disbursement of
10 trust funds, Respondent failed to deposit and maintain the trust
11 funds in a trust account or neutral escrow depository, or to
12 deliver them into the hands of the owners of the funds, as
13 required by Section 10145 of the Code, in such a manner that as
14 of March 31, 2001, there was a trust fund shortage in the
15 approximate sum of \$25,284.31 in Trust Account 1.

16 IX

17 Respondent failed to obtain the prior written consents
18 of the principals for the reduction of the aggregate balance of
19 trust funds in Trust Account 1 to an amount less than the
20 existing aggregate trust fund liability to the owners of said
21 funds in conformance with Section 2832.1, Title 10, Chapter 6,
22 California Code of the Regulations (hereinafter "Regulations").

23 X

24 In connection with the receipt and disbursement of
25 trust funds as above alleged, and as set forth in Audit No. FR-
26 01-0007, dated October 2, 2001, and accompanying working papers
27 and exhibits, Respondents failed to reconcile the balance of all

1 separate beneficiary or transaction records with the
2 control records of trust funds received and disbursed at least
3 once a month, and/or failed to maintain a record of such
4 reconciliations as required by Section 2831.2 of the Regulations
5 for Trust Account 1.

6 XI

7 The acts and/or omissions of Respondents as alleged
8 above constitute grounds for disciplinary action under the
9 following provisions:

- 10 (a) As alleged in Paragraph VIII, under Section
11 10145 of the Code in conjunction with Section
12 10177(d) of the Code;
- 13 (b) As alleged in Paragraph IX, under Section 2832.1
14 of the Regulations in conjunction with Section
15 10177(d) of the Code; and,
- 16 (c) As alleged in Paragraph X, under Section 2831.2 of
17 the Regulations in conjunction with Section
18 10177(d) of the Code.

19 SECOND CAUSE OF ACCUSATION

20 XII

21 There is hereby incorporated in this Second, separate and
22 distinct Cause of Accusation, all of the allegations contained in
23 Paragraphs I, II, III and IV of the First Cause of Accusation
24 with the same force and effect as if herein fully set forth.

25 XIII


26 At all times above mentioned, Respondent WAPNER was
27 responsible, as the designated officer of Respondent Corporation,

1 for the supervision and control of the activities conducted on
2 behalf of the corporation by its officers and employees.
3 Respondent WAPNER failed to exercise reasonable supervision and
4 control over the property management activities of Respondent
5 Corporation. In particular, Respondent WAPNER permitted,
6 ratified and/or caused the conduct described in the First Cause
7 of Accusation above to occur, and failed to take reasonable
8 steps, including but not limited to the handling of trust funds
9 and the implementation of policies, rules, procedures, and
10 systems to ensure the compliance of the corporation with the Real
11 Estate Law.

12 XIV

13 The above acts and/or omissions of Respondent WAPNER
14 constitute grounds for disciplinary action under the provisions
15 of Section 10177(h) of the Code.

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

23
24 
25 JOHN W. SWEENEY
26 Deputy Real Estate Commissioner

27 Dated at Fresno, California
this 22nd day of March, 2002