

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012

4 (213) 897-3937

AUG 25 1993

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	No. H-1537 SA
12	OCEAN WEST ENTERPRISES, INC.,)	
13	a corporation; DOUGLAS)	<u>STIPULATION AND AGREEMENT</u>
14	MONTGOMERY SHARP, individually)	
15	and as designated officer of)	<u>IN SETTLEMENT AND ORDER</u>
16	Ocean West Enterprises, Inc.;)	
	and JAMES SIGMOND STEIN,)	
	Respondents.)	

17 It is hereby stipulated by and between OCEAN WEST
18 ENTERPRISES, INC., a corporation, and DOUGLAS MONTGOMERY SHARP,
19 individually and as designated officer of Ocean West Enterprises,
20 Inc., acting by and through Rose Pothier, Attorney for the above-
21 mentioned Respondents, and the Complainant, acting by and through
22 Marjorie P. Mersel, Counsel for the Department of Real Estate, as
23 follows for the purpose of settling and disposing of the
24 Accusation filed on March 5, 1993, in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act (APA), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation.

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

9 3. On March 19, 1993, Respondents OCEAN WEST
10 ENTERPRISES, INC., a corporation, and DOUGLAS MONTGOMERY SHARP,
11 individually and as designated officer of Ocean West Enterprises,
12 Inc., filed a Notice of Defense pursuant to Section 11505 of the
13 Government Code for the purpose of requesting a hearing on the
14 allegations in the Accusation. Respondents hereby freely and
15 voluntarily withdraw said Notice of Defense. Respondents
16 acknowledge that they understand that by withdrawing said Notice
17 of Defense, they will thereby waive their right to require the
18 Commissioner to prove the allegations in the Accusation at a
19 contested hearing held in accordance with the provisions of the
20 APA and that they will waive other rights afforded to them in
21 connection with the hearing such as the right to present evidence
22 in defense of the allegations in the Accusation and the right to
23 cross-examine witnesses.

24 4. Respondents, pursuant to the limitations set forth
25 below, hereby admit that the factual allegations in Paragraphs I
26 through X of the Accusation filed in this proceeding are true and
27 correct and the Real Estate Commissioner shall not be required to

1 provide further evidence of such allegations.

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

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

20 DETERMINATION OF ISSUES

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

25 The conduct or omissions of Respondents OCEAN WEST
26 ENTERPRISES, INC., a corporation, and DOUGLAS MONTGOMERY SHARP,
27 individually and as designated officer of Ocean West Enterprises,

1 Inc., as set forth in Paragraphs I through X of the Accusation,
2 constitute cause to suspend or revoke their real estate licenses
3 and license rights under the provisions of Business and
4 Professions Code Section 10137.

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 A. The corporate real estate broker license and license
8 rights issued to Respondent OCEAN WEST ENTERPRISES, INC., a
9 California corporate broker, shall be suspended for thirty (30)
10 days from the effective date of this Order. However, the thirty
11 (30) day suspension of Respondent's license and license rights
12 shall be permanently stayed upon condition that Respondent pay to
13 the Department's Recovery Account \$1,000 prior to the effective
14 date of this Order in accordance with the provisions of Business
15 and Professions Code Section 10175.2.

16 B. The real estate broker license and license rights
17 issued to Respondent DOUGLAS MONTGOMERY SHARP shall be suspended
18 for thirty (30) days from the effective date of this Order.
19 However, the thirty (30) day suspension of Respondent's license
20 and license rights shall be permanently stayed upon condition that
21 Respondent pay to the Department's Recovery Account \$1,000 prior
22 to the effective date of this Order in accordance with the
23 provisions of Business and Professions Code Section 10175.2.

24 C. Payment of the aforementioned monetary penalties
25 shall be in the form of cashier's checks or certified checks, made
26 payable to the Recovery Account of the Real Estate Fund. Payments
27 must be made in accordance with the date specified in this Order.

1 D. The Commissioner, in exercising his discretion under
2 Code Section 10175.2, finds, by adopting this Order, that it would
3 not be against the public interest to permit Respondents to pay
4 the aforesaid monetary penalties.

5 * * * * *

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

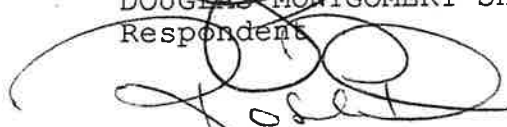
18 DATED: 7-7-93


OCEAN WEST ENTERPRISES, INC.
Respondent

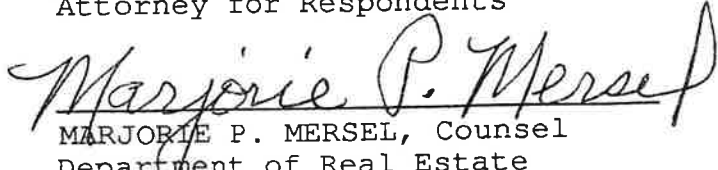
20 DATED: 7-7-93


DOUGLAS MONTGOMERY SHARP
Respondent

22 DATED: 7/14/93


ROSE POTHIER
Attorney for Respondents

24 DATED: 6-28-93


MARJORIE P. MERSEL, Counsel
Department of Real Estate


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The foregoing Stipulation and Agreement in Settlement is hereby adopted as my Decision and Order and shall become effective at 12 o'clock noon on September 14, 1993.

IT IS SO ORDERED 8/10, 1993.

CLARK WALLACE
Real Estate Commissioner



A handwritten signature in cursive script, appearing to read 'Clark Wallace', is written over a horizontal line. A large, stylized loop extends from the bottom of the signature.

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California 90012
3 (213) 897-3937

1993
AUG 25 1993
DEPARTMENT OF REAL ESTATE
BY 

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1537 SA
12)
12 OCEAN WEST ENTERPRISES, INC.,)
a corporation; DOUGLAS) STIPULATION AND AGREEMENT
13 MONTGOMERY SHARP, individually)
and as designated officer of) IN SETTLEMENT AND ORDER
14 Ocean West Enterprises, Inc.;)
and JAMES SIGMOND STEIN,)
15 Respondents.)
16 _____)

17 It is hereby stipulated by and between JAMES SIGMOND
18 STEIN, acting by and through Rebecca A. Newman, Attorney for
19 Respondent JAMES SIGMOND STEIN, and the Complainant, acting by and
20 through Marjorie P. Mersel, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of the
22 Accusation filed on March 5, 1993, in this matter:

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

1 the basis of the provisions of this Stipulation.

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

6 3. On March 19, 1993, Respondent JAMES SIGMOND STEIN
7 filed a Notice of Defense pursuant to Section 11505 of the
8 Government Code for the purpose of requesting a hearing on the
9 allegations in the Accusation. Respondent hereby freely and
10 voluntarily withdraws said Notice of Defense. Respondent
11 acknowledges that he understands that by withdrawing said Notice of
12 Defense, he will thereby waive his right to require the
13 Commissioner to prove the allegations in the Accusation at a
14 contested hearing held in accordance with the provisions of the APA
15 and that he will waive other rights afforded to him in connection
16 with the hearing such as the right to present evidence in defense
17 of the allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. Respondent, pursuant to the limitations set forth
20 below, hereby admits that the factual allegations in Paragraphs I
21 through X of the Accusation filed in this proceeding are true and
22 correct and the Real Estate Commissioner shall not be required to
23 provide further evidence of such allegations.

24 5. It is understood by the parties that the Real Estate
25 Commissioner may adopt the Stipulation and Agreement in Settlement
26 and Order as his decision in this matter thereby imposing the
27 penalty and sanctions on Respondent's real estate license and

1 license rights as set forth in the below "Order". In the event
2 that the Commissioner in his discretion does not adopt the
3 Stipulation and Agreement in Settlement and Order, the Stipulation
4 and Agreement in Settlement and Order shall be void and of no
5 effect, and Respondent shall retain the right to a hearing and
6 proceeding on the Accusation under all the provisions of the APA
7 and shall not be bound by any admission or waiver made herein.

8 6. The Order or any subsequent Order of the Real Estate
9 Commissioner made pursuant to this Stipulation shall not constitute
10 an estoppel, merger or bar to any further administrative or civil
11 proceedings by the Department of Real Estate with respect to any
12 matters which were not specifically alleged to be causes for
13 accusation in this proceeding.

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations, admissions and
16 waivers and solely for the purpose of settlement of the pending
17 Accusation without a hearing, it is stipulated and agreed that the
18 following determination of issues shall be made:

19 The conduct of Respondent JAMES SIGMOND STEIN, as set
20 forth in Paragraphs I through X of the Accusation, constitutes
21 cause to suspend or revoke his real estate license pursuant to
22 Business and Professions Code Section 10177(d).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. The real estate salesperson license and license rights issued to Respondent JAMES SIGMOND STEIN shall be suspended for thirty (30) days. However, the thirty (30) day suspension of Respondent's license shall be permanently stayed upon condition that Respondent pays to the Department's Recovery Account \$1,000 prior to the effective date of this Order in accordance with the provisions of Business and Professions Code Section 10175.2.

B. Payment of the aforementioned monetary penalty shall be in the form of a cashier's check or certified check, and made payable to the Recovery Account of the Real Estate Fund. Payment must be made in accordance with the date specified in this Order.

C. The Commissioner, in exercising his discretion under Code Section 10175.2, finds, by adopting this Order, that it would not be against the public interest to permit Respondent to pay the aforesaid monetary penalty.

* * * * *

I have read the Stipulation and Agreement in Settlement and Order, have discussed it with my counsel, 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

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1 allegations in the Accusation at a hearing at which I would have
2 the right to cross-examine witnesses against me and to present
3 evidence in defense and mitigation of the charges.

4
5 DATED: 6-29-93

James Sigmond Stein
JAMES SIGMOND STEIN
Respondent

7 DATED: 6-29-93

Rebecca A. Newman
REBECCA A. NEWMAN
Attorney for Respondent

10 DATED: 6-28-93

Marjorie P. Mersel
MARJORIE P. MERSEL, Counsel for
the Department of Real Estate

* * * * *

13 The foregoing Stipulation and Agreement in Settlement is
14 hereby adopted as my Decision and Order and shall become effective
15 at 12 o'clock noon on September 14, 1993.

16 IT IS SO ORDERED 8/10, 1993.

17 CLARK WALLACE
18 Real Estate Commissioner

19 Clark Wallace
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1 MARJORIE P. MERSEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
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10 (213) 897-3937

FILED

MAR-5 1993

DEPARTMENT OF REAL ESTATE
BY C. Berry

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

11	In the Matter of the Accusation of)	No. H-1537 SA
12	OCEAN WEST ENTERPRISES, INC.,)	<u>A C C U S A T I O N</u>
13	a corporation; DOUGLAS MONTGOMERY)	
14	SHARP, individually and as)	
15	designated officer of Ocean West)	
16	Enterprises, Inc.; and)	
	JAMES SIGMOND STEIN,)	
	Respondents.)	

17 The Complainant, Thomas McCrady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against OCEAN WEST ENTERPRISES, INC., a corporation; DOUGLAS
20 MONTGOMERY SHARP, individually and as designated officer of Ocean
21 West Enterprises, Inc.; and JAMES SIGMOND STEIN, alleges as follows:

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23 The Complainant, Thomas McCrady, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation in
25 his official capacity.

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II

OCEAN WEST ENTERPRISES, INC., and DOUGLAS MONTGOMERY SHARP (hereinafter collectively referred to as Respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter referred to as the "Code").

III

At all times material herein, Respondent OCEAN WEST ENTERPRISES, INC. (hereinafter "OCEAN WEST"), was and is now licensed by the California Department of Real Estate (hereinafter "Department") as a corporate real estate broker.

IV

At all times material herein, Respondent DOUGLAS MONTGOMERY SHARP (hereinafter "SHARP") was and now is licensed by the Department in his individual capacity as a real estate broker. At all times material herein, Respondent SHARP was the designated officer of OCEAN WEST. SHARP was responsible under Section 10159.2 of the Code for the supervision of the activities of said corporate real estate broker for which a license is required.

V

At all times material herein, Respondent JAMES SIGMOND STEIN (hereinafter "STEIN") was not licensed by the Department as a real estate broker or salesperson. On or about January 10, 1989, Respondent SHARP's real estate salesperson license expired and was not renewed until January 29, 1992.

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VI

At all times material herein, Respondents SHARP and OCEAN WEST engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code wherein they solicited for and negotiated loans secured by real property, as the agent of others, all for or in expectation of compensation.

VII

At all times material herein, Respondent STEIN was employed by Respondent OCEAN WEST in the capacity of a real estate salesperson licensed by the Department to perform activities for which a real estate license is required. On or about October 26, 1990, Respondent STEIN negotiated a \$472,500.00 loan for Jo A. Kelly and John A. Kelly to refinance their real property located at 3542 Running Tide Circle, Huntington Harbor. When the Kelly loan was successfully completed and escrow closed in January, 1991, Respondent STEIN was compensated for his activities as a loan officer by Respondents OCEAN WEST and SHARP for the activities he performed while unlicensed, but for which a real estate license is required.

VIII

The acts of STEIN, as set forth in Paragraph VII above, constitute a violation of Section 10130 of the Code and are the bases for the suspension or revocation of STEIN's license and/or license rights under Section 10177(d) of the Code.

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IX

The acts and omissions of OCEAN WEST, as set forth in Paragraph VII above, constitute a violation of Section 10137 of the Code, by compensating STEIN for performing activities for which a real estate license is required while unlicensed and are bases for the suspension or revocation of OCEAN WEST's license and/or license rights under said section.

X

The acts and omissions of SHARP, in allowing STEIN to perform the above-described activities while unlicensed, constitute a failure on the part of SHARP to properly supervise the acts of OCEAN WEST requiring a license and are bases for the suspension or revocation of the license and/or license rights of SHARP under Section 10177(h) of the Code.

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1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of Respondents OCEAN WEST ENTERPRISES,
5 INC., a corporation; DOUGLAS MONTGOMERY SHARP, individually and as
6 designated officer of Ocean West Enterprises, Inc.; and JAMES
7 SIGMOND STEIN under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code) and for such other and further relief
9 as may be proper under other applicable provisions of law.

10 Dated at Santa Ana, California

11 this 5th day of March, 1993.

12
13 THOMAS MCCRADY
14 Deputy Real Estate Commissioner
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24 cc: Ocean West Enterprises, Inc.
25 Douglas Montgomery Sharp
26 James Sigmond Stein
27 Sacto.
MCL
Crown Point Real Estate & Financial Inc.