

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED

JUL - 9 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zin

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-1657 FR
RONALD KEITH BAKER,)	OAH No. N-2004030034
Respondent.)	STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent RONALD KEITH BAKER (herein "Respondent"), individually and by and through Lawrence H. Lackman, Esq., attorney of record herein for Respondent, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on January 22, 2004 in this matter (herein "the Accusation"):

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

DRE No.H-1657 FRESNO

RONALD KEITH BAKER

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 and Agreement.

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

8 3. On February 9, 2004, Respondent filed a Notice of
9 Defense pursuant to Section 1605 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

21 4. This stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expediency and economy, Respondent chooses not to contest these
24 factual allegations, but to remain silent and understands that,
25 as a result thereof, these factual statements will serve as a
26

27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 prima facie basis for the "Determination of Issues" and "Order"
2 set forth below. The Real Estate Commissioner shall not be
3 required to provide further evidence to prove such allegations.

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

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

21 7. This Stipulation and Agreement shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department with
24 respect to any matters which were not specifically alleged to be
25 causes for accusation in this proceeding.
26

27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 8. Respondent understands that by agreeing to this
2 Stipulation and Agreement, Respondent agrees to pay, pursuant to
3 Section 10148 of the California Business and Professions Code,
4 the cost of the audit which resulted in the determination that
5 Respondents committed the trust fund violation(s) found in
6 paragraph I, below, of the Determination of Issues. The amount of
7 said costs is \$2,977.95.

8 9. Respondent further understands that by agreeing to
9 this Stipulation and Agreement in Settlement, the findings set
10 forth below in the Determination Of Issues become final, and that
11 the Commissioner may charge said Respondent for the costs of any
12 audit conducted pursuant to Section 10148 of the California
13 Business and Professions Code to determine if the trust fund
14 violation(s) found in paragraph I, below, of the Determination of
15 Issues have been corrected. The maximum costs of said audit shall
16 not exceed \$2,977.95.

17 DETERMINATION OF ISSUES

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

23 I

24
25 The acts and omissions of Respondent RONALD KEITH BAKER
26 as described in the Accusation are grounds for the suspension or

27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 revocation of the licenses and license rights of Respondent
2 RONALD KEITH BAKER under the following provisions of of the
3 California Business and Professions Code (herein "the Code")
4 and/or Chapter 6, Title 10, California Code of Regulations
5 (herein "the Regulations"):

6 (a) as to Paragraph VII(a) under Section 10145 of the
7 Code and Section 2832(a) of the Regulations in conjunction with
8 Section 10177(d) of the Code;

9 (b) as to Paragraph VII(b) under Section 10145 of the
10 Code and Section 2831.2 of the Regulations in conjunction with
11 Section 10177(d) of the Code; and

12 (c) as to Paragraph VII(c) under Section 10145 of the
13 Code and Section 2832.1 of the Regulations in conjunction with
14 Section 10177(d) of the Code.

15 ORDER

16 I

17 A. All licenses and licensing rights of Respondent
18 RONALD KEITH BAKER under the Real Estate Law are indefinitely
19 suspended until such time as Respondent submits proof
20 satisfactory to the Commissioner:

21 1. that as of a date not earlier than 120 days prior
22 to the effective date of the Decision herein, Respondent has
23 trust funds on deposit in a trust bank account in an amount equal
24 to Respondent's aggregate liability for funds entrusted to
25 Respondent; and

26
27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 2. that Respondent has taken and completed at an
2 accredited institution the continuing education course on trust
3 fund accounting and handling specified in paragraph (3) of
4 subdivision (a) of Section 10170.5 of the Business and
5 Professions Code. Said course must have been completed not
6 earlier than 120 days prior to the effective date of the Decision
7 herein.

8 3. Upon satisfaction of the two conditions described
9 in this Paragraph "A", the indefinite suspension provided in this
10 Paragraph "A" shall be stayed.

11 B. All licenses and licensing rights of Respondent
12 RONALD KEITH BAKER under the Real Estate Law are suspended for a
13 period of sixty (60) days from the effective date of the Decision
14 herein; provided, however:

15 1. If Respondent petitions, thirty (30) days of said
16 sixty (60) day suspension (or a portion thereof) shall be stayed
17 upon condition that:

18 (a) Respondent pays a monetary penalty pursuant to
19 Section 10175.2 of the Code at the rate of \$100.00 for each day
20 of the suspension for a total monetary penalty of \$3,000.00.

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

26
27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 (c) If Respondent fails to pay the monetary penalty in
2 accordance with the terms and conditions of the Decision, the
3 Commissioner may, without a hearing, vacate and set aside the
4 stay order, and order the immediate execution of all or any part
5 of the stayed suspension.

6 (d) No final subsequent determination be made, after
7 hearing or upon stipulation, that cause for disciplinary action
8 against Respondent occurred within two (2) years of the effective
9 date of the Decision herein. Should such a determination be made,
10 the Commissioner may, in his or her discretion, vacate and set
11 aside the stay order, and order the execution of all or any part
12 of the stayed suspension, in which event the Respondent shall not
13 be entitled to any repayment nor credit, prorated or otherwise,
14 for money paid to the Department under the terms of this
15 Decision.

16
17 (e) If Respondent pays the monetary penalty and if no
18 further cause for disciplinary action against the real estate
19 license of Respondent occurs within two (2) years from the
20 effective date of the Decision herein, then the stay hereby
21 granted shall become permanent.

22 2. Thirty (30) days of said sixty (60) day
23 suspension shall be stayed upon condition that:

24 (a) No final subsequent determination be made, after
25 hearing or upon stipulation, that cause for disciplinary action
26 against Respondent occurred within two (2) years of the
27

effective date of the Decision herein.

1
2 **(b) Should such a determination be made, the**
3 Commissioner may, in his or her discretion, vacate and set
4 aside the stay order, and order the execution of all or any
5 part of the stayed suspension, in which event the Respondent
6 shall not be entitled to any repayment nor credit, prorated or
7 otherwise, for money paid to the Department under the terms of
8 this Decision.

9 **(c) If no order vacating the stay is issued, and if**
10 no further cause for disciplinary action against the real
11 estate license of Respondent occurs within two (2) years from
12 the effective date of the Decision, then the stay hereby
13 granted shall become permanent.

14 **C. Respondent shall, within 45 days of receiving an**
15 invoice therefor from the Commissioner, pay the Commissioner's
16 costs in the amount of \$2,977.95 of the audit conducted pursuant
17 to Section 10148 of the Business and Professions Code that
18 resulted in the determination that Respondent committed the
19 violations described in Paragraph I of the Determination of
20 Issues, above. If Respondent fails to pay such cost within the 45
21 days, the Commissioner may in his or her discretion indefinitely
22 suspend all license and licensing rights of Respondent under the
23 Real Estate Law until payment is made in full or until Respondent
24 enters into an agreement satisfactory to the Commissioner to
25 provide for payment. Upon payment in full, any indefinite
26

27 DRE No.H-1657 FRESNO

RONALD KEITH BAKER

suspension provided in this paragraph shall be stayed.

D. Respondent shall pay the Commissioner's costs, not to exceed \$2,977.95, of any audit conducted pursuant to Section 10148 of the Business and Professions Code to determine if Respondent has corrected the violations described in Paragraph I of the Determination of Issues, above. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice therefor from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. If Respondent fails to pay such cost within the 45 days, the Commissioner may in his or her discretion indefinitely suspend all license and licensing rights of Respondent under the Real Estate Law until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment. Upon payment in full, the indefinite suspension provided in this paragraph shall be stayed.

June 17, 2004
DATED

JAMES L. BEAVER
JAMES L. BEAVER, Counsel
Department of Real Estate

///

///

DRE No.H-1657 FRESNO

RONALD KEITH BAKER

1 * * *

2 I have read the Stipulation and Agreement and discussed
3 it with my attorney and its terms are understood by me and are
4 agreeable and acceptable to me. I understand that I am waiving
5 rights given to me by the California Administrative Procedure Act
6 (including but not limited to Sections 1606, 1608, 1609, and
7 11513 of the Government Code), and I willingly, intelligently,
8 and voluntarily waive those rights, including the right of
9 requiring the Commissioner to prove the allegations in the
10 Accusation at a hearing at which I would have the right to cross-
11 examine witnesses against me and to present evidence in defense
12 and mitigation of the charges.

13 6-16-2004

14 DATED

Ronald Keith Baker

14 RONALD KEITH BAKER
Respondent

15 * * *

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

18 6.9.04

19 DATED

L.H. Lackman

19 LAWRENCE H. LACKMAN
Attorney for Respondent

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 DRE No.H-1657 FRESNO

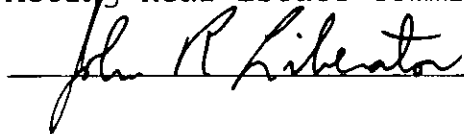
RONALD KEITH BAKER

1 * * *

2 The foregoing Stipulation and Agreement is hereby
3 adopted by me as my Decision in this matter as to Respondent
4 RONALD KEITH BAKER and shall become effective at 12 o'clock noon
5 on JULY 30, 2004.

6 IT IS SO ORDERED July 1, 2004.

7 JOHN R. LIBERATOR
8 Acting Real Estate Commissioner

9 
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

V

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

FILED
MAR - 9 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

RONALD KEITH BAKER,

} Case No. H-1657 FRESNO

} OAH No. N-2004030034

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 **WEDNESDAY, JUNE 23, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: MARCH 9, 2004

By

James L. Beaver
JAMES L. BEAVER, Counsel

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)
7

FILED
JAN 22 2004

DEPARTMENT OF REAL ESTATE

Laurie G. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-1657 FRESNO
12 RONALD KEITH BAKER,)
13 Respondent.)
14

15 The Complainant, John Sweeney, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against RONALD KEITH BAKER (herein "Respondent"), alleges as
18 follows:

19 I

20 The Complainant, John Sweeney, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 in his official capacity.

23 II

24 At all times herein mentioned, Respondent was and now
25 is licensed and/or has license rights under the Real Estate Law
26 (Part 1 of Division 4 of the Business and Professions Code)
27 (herein "the Code").

1 III

2 At all times herein mentioned, Respondent was and now
3 is licensed by the Department of Real Estate of the State of
4 California (herein "the Department") as a real estate broker.

5 IV

6 At all times herein mentioned, Respondent engaged in
7 the business of, acted in the capacity of, advertised, or
8 assumed to act as a real estate broker within the State of
9 California within the meaning of Sections 10131(a) and 10131(b)
10 of the Code, including:

11 (a) The operation and conduct of a property
12 management business with the public wherein, on behalf of
13 others, for compensation or in expectation of compensation,
14 Respondent leased or rented and offered to lease or rent, and
15 placed for rent, and solicited listings of places for rent, and
16 solicited for prospective tenants of real property or
17 improvements thereon, and collected rents from real property or
18 improvements thereon; and

19 (b) The operation and conduct of a real estate resale
20 brokerage with the public wherein, on behalf of others, for
21 compensation or in expectation of compensation, Respondents sold
22 and offered to sell, bought and offered to buy, solicited
23 prospective sellers and purchasers of, solicited and obtained
24 listings of, and negotiated the purchase and sale of real
25 property.

26 ///

27 ///

1 V

2 In so acting as a real estate broker, as described in
3 Paragraph IV above, Respondent accepted or received funds in
4 trust (herein "trust funds") from or on behalf of buyers,
5 sellers, owners, tenants and others in connection with the
6 purchase, sale, leasing, renting, and collection of rents on
7 real property or improvements thereon, as alleged herein, and
8 thereafter from time to time made disbursements of said funds.

9 VI

10 The aforesaid trust funds accepted or received by
11 Respondent were deposited or caused to be deposited by
12 Respondent into one or more bank accounts (herein "trust fund
13 accounts") maintained by Respondent for the handling of trust
14 funds, including but not necessarily limited to the "Ronald K.
15 Baker Common Client Trust Account", Account Number 623-01442
16 maintained by Respondent at the Modesto, California, branch of
17 WestAmerica Bank (herein "Trust 1").

18 VII

19 During the three year period next preceding the filing
20 of this Accusation, in connection with the collection and
21 disbursement of said trust funds, Respondent:

22 (a) Retained trust funds in the sum of \$323.00
23 entrusted to Respondent from on or about October 4, 2001 until
24 on or about September 29, 2003, and retained trust funds
25 entrusted to Respondent in the sum of \$3,922 from on or about
26 November 6, 2001 until on or about September 30, 2003, before
27 placing such funds into the hands of a principal on whose behalf

1 the funds were received, into a neutral escrow depository, or
2 into a trust fund account in the name of Respondent as trustee
3 at a bank or other financial institution, in conformance with
4 the requirements of Section 10145 of the Code and Section
5 2832(a) of Chapter 6, Title 10, California Code of Regulations
6 (herein "the Regulations");

7 (b) Failed to reconcile, at least once a month, the
8 balance of all separate beneficiary or transaction records with
9 the record of all trust funds received into and disbursed from
10 Trust 1; and

11 (c) Caused, suffered or permitted the balance of
12 funds in Trust 1 to be reduced to an amount which, as of
13 August 31, 2003, was approximately \$7,552.85 less than the
14 aggregate liability of Respondent to all owners of such funds,
15 and as of September 30, 2003, was approximately \$624.65 less
16 than the aggregate liability of Respondent to all owners of such
17 funds, without the prior written consent of the owners of such
18 funds.

19 VIII

20 The facts alleged above are grounds for the suspension
21 or revocation of the licenses and license rights of Respondent
22 under the following provisions of the Code and/or the
23 Regulations:

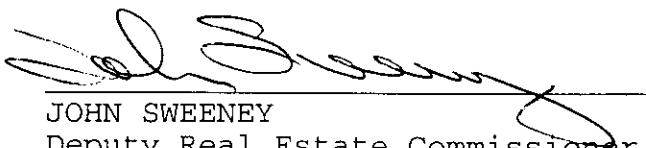
24 (a) As to Paragraph VII(a), under Section 10145 of
25 the Code and Section 2832(a) of the Regulations in conjunction
26 with Section 10177(d) of the Code;

27 ///

1 (b) As to Paragraph VII(b), under Section 10145 of
2 the Code and Section 2831.2 of the Regulations in conjunction
3 with Section 10177(d) of the Code; and

4 (c) As to Paragraph VII(c), under Section 10145 of
5 the Code and Section 2832.1 of the Regulations in conjunction
6 with Section 10177(d) of the Code.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondent
11 under the Real Estate Law (Part 1 of Division 4 of the Business
12 and Professions Code) and for such other and further relief as
13 may be proper under other applicable provisions of law.

14
15 
16 JOHN SWEENEY
Deputy Real Estate Commissioner

17 Dated at Fresno, California,
18 this 2nd day of January, 2004.