

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

FILED
MAY 07 2007

DEPARTMENT OF REAL ESTATE

By Carey Shawson

4 Telephone: (916) 227-0789
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6
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	NO. H-1988 FRESNO
12)	
13 CARMEL BUSINESS SALES, INC.,)	
14 PENINSULA BUSINESS SALES, INC.,)	<u>STIPULATION AND AGREEMENT</u>
15 and CHARLES GERALD SCHUMACHER,)	<u>IN SETTLEMENT AND ORDER</u>
)	<u>ONLY AS TO</u>
Respondents.)	<u>CHARLES GERALD SCHUMACHER</u>

16 It is hereby stipulated by and between CHARLES GERALD
17 SCHUMACHER (hereinafter Respondent "SCHUMACHER") and the
18 Complainant, acting by and through David B. Seals, Counsel for
19 the Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation as to Respondent
21 SCHUMACHER filed on November 8, 2006, 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 SCHUMACHER at a formal hearing on the Accusation, which hearing
25 was to be held in accordance with the provisions of the
26 Administrative Procedure Act (APA), shall instead and in place

27 H-1988 FRESNO

- 1 -

CARMEL BUSINESS SALES, INC.,
PENINSULA BUSINESS SALES, INC.
AND CHARLES GERALD SCHUMACHER

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

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

7 3. A Notice of Defense was filed on November 20, 2006
8 by Respondent SCHUMACHER, pursuant to Section 11505 of the
9 Government Code for the purpose of requesting a hearing on the
10 allegations in the Accusation. Respondent SCHUMACHER hereby
11 freely and voluntarily withdraws said Notice of Defense.
12 Respondent SCHUMACHER acknowledges that he understands that by
13 withdrawing said Notice of Defense he will thereby waive his
14 right to require the Commissioner to prove the allegations in
15 the Accusation at a contested hearing held in accordance with
16 the 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
19 Accusation and the 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 SCHUMACHER 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

1 Commissioner shall not be required to provide further evidence
2 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 in
5 Settlement as his decision in this matter thereby imposing the
6 penalty and sanctions on Respondent SCHUMACHER'S real estate
7 licenses and license rights as set forth in the below "Order".
8 In the event that the Commissioner in his discretion does not
9 adopt the Stipulation and Agreement in Settlement, it shall be
10 void and of no effect, and Respondent SCHUMACHER shall retain
11 the right to a hearing and proceeding on the Accusation under
12 all the provisions of the APA and shall not be bound by any
13 admission or waiver made herein.

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

21 DETERMINATION OF ISSUES

22 I

23 By reason of the foregoing stipulations, admissions
24 and waivers and solely for the purpose of settlement of the
25 pending Accusation without a hearing, it is stipulated and
26 agreed that the facts alleged above are grounds for the

1 suspension or revocation of the licenses and license rights of
2 Respondent SCHUMACHER under Section 10177(h) of the Code.

3 ORDER

4 I

5 All licenses and licensing rights of Respondent
6 CHARLES GERALD SCHUMACHER under the Real Estate Law are revoked;
7 provided, however, a restricted real estate broker license shall
8 be issued to Respondent pursuant to Section 10156.5 of the
9 Business and Professions Code if Respondent makes application
10 therefore and pays to the Department of Real Estate the
11 appropriate fee for the restricted license within 90 days from
12 the effective date of this Decision. The restricted license
13 issued to Respondent shall be subject to all of the provisions
14 of Section 10156.7 of the Business and Professions Code and to
15 the following limitations, conditions and restrictions imposed
16 under authority of Section 10156.6 of that Code:

17 1. The restricted license issued to Respondent
18 SCHUMACHER may be suspended prior to hearing by Order of the
19 Real Estate Commissioner in the event of Respondent SCHUMACHER'S
20 conviction or plea of nolo contendere to a crime which is
21 substantially related to Respondent SCHUMACHER'S fitness or
22 capacity as a real estate licensee.

23 2. The restricted license issued to Respondent
24 SCHUMACHER may be suspended prior to hearing by Order of the
25 Real Estate Commissioner on evidence satisfactory to the
26 Commissioner that Respondent has violated provisions of the

1 California Real Estate Law, the Subdivided Lands Law,
2 Regulations of the Real Estate Commissioner or conditions
3 attaching to the restricted license.

4 3. Respondent SCHUMACHER shall not be eligible to
5 apply for the issuance of an unrestricted real estate license
6 nor for the removal of any of the conditions, limitations or
7 restrictions of a restricted license until two (2) years have
8 elapsed from the effective date of this Decision.

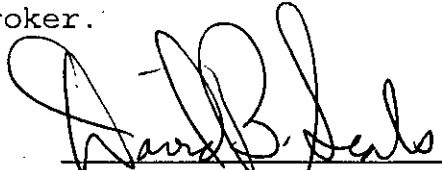
9 4. Respondent SCHUMACHER shall, within nine (9)
10 months from the effective date of this Decision, present
11 evidence satisfactory to the Real Estate Commissioner that
12 Respondent SCHUMACHER has, since the most recent issuance of an
13 original or renewal real estate license, taken and successfully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

22 5. Respondent shall, within six (6) months from the
23 effective date of this Decision, take and pass the Professional
24 Responsibility Examination administered by the Department
25 including the payment of the appropriate examination fee. If
26 Respondent fails to satisfy this condition, the Commissioner may

1 order suspension of Respondent's license until Respondent passes
2 the examination.

3 6. Respondent SCHUMACHER shall not be the designated
4 officer of a corporate real estate broker licensed by the
5 Department unless he is also an eighty percent (80%) shareholder
6 of said corporate real estate broker.

7
8 DATED: March 23, 2007


9 DAVID B. SEALS, Counsel
10 DEPARTMENT OF REAL ESTATE

11 * * *

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

23 DATED: March 19th 2007 
24 CHARLES GERALD SCHUMACHER
25 Respondent

26 * * *

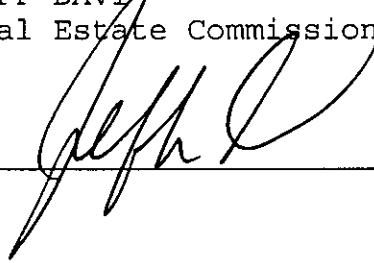
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The foregoing Stipulation and Agreement in Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
MAY 29 2007

IT IS SO ORDERED 4-29-07

JEFF DAVIS
Real Estate Commissioner



FILED
MAY 07 2007

DEPARTMENT OF REAL ESTATE

By Lenne Shawm

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	NO. H-1988 FRESNO
12)	
13	CARMEL BUSINESS SALES, INC.,)	
14	PENINSULA BUSINESS SALES, INC.,)	STIPULATION AND AGREEMENT
15	and CHARLES GERALD SCHUMACHER,)	IN SETTLEMENT AND ORDER
)	ONLY AS TO
	Respondents..)	<u>PENINSULA BUSINESS SALES INC</u>
)	

16 It is hereby stipulated by and between PENINSULA
17 BUSINESS SALES, INC. (hereinafter "PENINSULA") and their
18 attorney of record, Adam G. Slote, and the Complainant, acting
19 by and through David B. Seals, Counsel for the Department of
20 Real Estate, as follows for the purpose of settling and
21 disposing of the Accusation as to PENINSULA BUSINESS SALES, INC.
22 filed on November 8, 2006, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and PENINSULA
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement in Settlement.

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

8 3. A Notice of Defense was filed on November 27, 2006
9 by PENINSULA, pursuant to Section 11505 of the Government Code
10 for the purpose of requesting a hearing on the allegations in
11 the Accusation. PENINSULA hereby freely and voluntarily
12 withdraws said Notice of Defense. PENINSULA acknowledges that
13 they understand that by withdrawing said Notice of Defense they
14 will thereby waive their right to require the Commissioner to
15 prove the allegations in the Accusation at a contested hearing
16 held in accordance with the provisions of the APA and that they
17 will waive other rights afforded to them in connection with the
18 hearing such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

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

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

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

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

21 DETERMINATION OF ISSUES

22 I

23 By reason of the foregoing stipulations, admissions
24 and waivers and solely for the purpose of settlement of the
25 pending Accusation without a hearing, it is stipulated and
26 agreed that the facts alleged above are grounds for the

1 suspension or revocation of the licenses and license rights of
2 Respondent PENINSULA under Sections 10130 and 10131(a) of the
3 Code in conjunction with Section 10177(d) of the Code.

4 ORDER

5 I

6 All licenses and licensing rights of Respondent
7 PENINSULA BUSINESS SALES, INC. under the Real Estate Law are
8 suspended for a period of sixty (60) days from the effective
9 date of this Order; provided, however, that:

10 1. Thirty (30) days of said suspension shall be stayed
11 for two (2) years upon the following terms and conditions:

12 A. Respondent shall obey all laws, rules and
13 regulations governing the rights, duties and
14 responsibilities of a real estate licensee
15 in the State of California; and,

16 B. That no final subsequent determination be
17 made, after hearing or upon stipulation,
18 that cause for disciplinary action occurred
19 within two (2) years from the effective date
20 of this Order. Should such a determination
21 be made, the Commissioner may, in his
22 discretion, vacate and set aside the stay
23 order and reimpose all or a portion of the
24 stayed suspension. Should no such
25 determination be made, the stay imposed
26 herein shall become permanent.

1 2. The remaining thirty (30) days of said 60-day
2 suspension shall be stayed upon the condition that Respondent
3 PENINSULA BUSINESS SALES, INC. petition pursuant to Section
4 10175.2 of the Business and Professions Code and pays a monetary
5 penalty pursuant to Section 10175.2 of the Business and
6 Professions Code at a rate of \$100 for each day of the
7 suspension for a total monetary penalty of \$3000:

8 A. Said payment shall be in the form of a
9 cashier's check or certified check made
10 payable to the Recovery Account of the Real
11 Estate Fund. Said check must be delivered
12 to the Department prior to the effective
13 date of the Order in this matter.

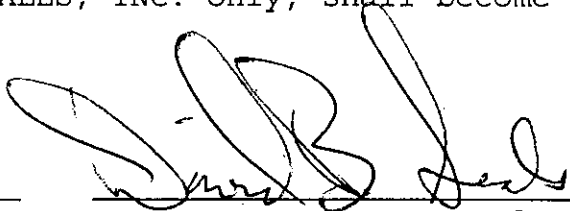
14 B. No further cause for disciplinary action
15 against the Real Estate licenses of said
16 Respondent occurs within two (2) years from
17 the effective date of the decision in this
18 matter.

19 C. If Respondent PENINSULA BUSINESS SALES, INC.
20 fails to pay the monetary penalty as
21 provided above prior to the effective date
22 of this Order, the stay of the suspension
23 shall be vacated as to Respondent PENINSULA
24 BUSINESS SALES, INC. and the order of
25 suspension shall be immediately executed,
26 under this Paragraph I of this Order, in

1 which event Respondent PENINSULA BUSINESS
2 SALES, INC. shall not be entitled to any
3 repayment nor credit, prorated or otherwise,
4 for the money paid to the Department under
5 the terms of this Order.

6 D. If Respondent PENINSULA BUSINESS SALES, INC.
7 pays the monetary penalty and any other
8 moneys due under this Stipulation and
9 Agreement and if no further cause for
10 disciplinary action against the real estate
11 licenses of Respondent PENINSULA BUSINESS
12 SALES, INC. occurs within two (2) years from
13 the effective date of this Order, the entire
14 stay hereby granted under Paragraphs I and
15 II of this Order, as to Respondent PENINSULA
16 BUSINESS SALES, INC. only, shall become
17 permanent.

18
19 DATED: Apr. 3, 2007


20 DAVID B. SEALS, Counsel
21 DEPARTMENT OF REAL ESTATE

22 * * *

23 I have read the Stipulation and Agreement, have
24 discussed it with my counsel, and its terms are understood by me
25 and are agreeable and acceptable to me. I understand that I am
26 waiving rights given to me by the California Administrative
27 Procedure Act (including but not limited to Sections 11506,

1 11508, 11509, and 11513 of the Government Code), and I willingly,
 2 intelligently, and voluntarily waive those rights, including the
 3 right of requiring the Commissioner to prove the allegations in
 4 the Accusation at a hearing at which I would have the right to
 5 cross-examine witnesses against me and to present evidence in
 6 defense and mitigation of the charges.

7
 8 DATED: MARCH 9, 2007 PENINSULA BUSINESS SALES, INC.,
 9 BY: *Michael D. Pysicek* President
 10 PENINSULA BUSINESS SALES, INC.
 11 Respondent

* * *

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

13
 14 DATED: 3-9-07 *[Signature]*
 15 ADAM G. SLOTE
 16 Attorney for PENINSULA

* * *

17 The foregoing Stipulation and Agreement in Settlement
 18 is hereby adopted by the Real Estate Commissioner as his
 19 Decision and Order and shall become effective at 12 o'clock noon
 20 on MAY 29 2007

21 IT IS SO ORDERED 4-24-07
 22 JEFF DAVI
 23 Real Estate Commissioner
 24 *[Signature]*
 25
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FILED
MAY 07 2007

DEPARTMENT OF REAL ESTATE

By *Arune Mann*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-1988 FRESNO
)
CARMEL BUSINESS SALES, INC.,)
PENINSULA BUSINESS SALES, INC.,)
and CHARLES GERALD SCHUMACHER,)
)
Respondents.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 8, 2006, an Accusation was filed in this matter against Respondents.

On March 9, 2007, Respondent CARMEL BUSINESS SALES, 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 CARMEL BUSINESS SALES, 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 CARMEL BUSINESS SALES,

///

1 INC.'s Declaration dated March 9, 2007 (attached as Exhibit "A"
2 hereto).

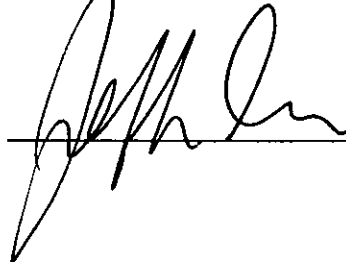
3 Respondent CARMEL BUSINESS SALES, INC.'s license
4 certificate and pocket card shall be sent to the below-listed
5 address so that they reach the Department on or before the
6 effective date of this Order:

7 DEPARTMENT OF REAL ESTATE
8 Attention: Licensing Flag Section
9 P. O. Box 187000
10 Sacramento, CA 95818-7000

11 This Order shall become effective at 12 o'clock
12 noon on MAY 29 2007

13 DATED: 4/24/07

14 JEFF DAVI
15 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-1988 FRESNO
)	
CARMEL BUSINESS SALES, INC.,)	OAH No. N-2006120266
PENINSULA BUSINESS SALES, INC.,)	
and CHARLES GERALD SCHUMACHER,)	
)	
)	
Respondents.)	

DECLARATION

Our names are CHARLES GERALD SCHUMACHER and DONALD CHARLES BOWEN.

We are the Designated Office and sole shareholder, respectively, of Respondent CARMEL BUSINESS SALES, INC., one of the Respondents in the above-entitled case. We are represented by attorney ADAM G. SLOTE for purposes of obtaining a voluntary surrender of the corporate real estate broker license of CARMEL BUSINESS SALES, INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code), we wish to voluntarily surrender the corporate real estate



1 license(s) of CARMEL BUSINESS SALES, INC. issued by the
2 Department of Real Estate ("Department"), pursuant to Business
3 and Professions Code Section 10100.2.

4 We understand that by so voluntarily surrendering said
5 license(s), CARMEL BUSINESS SALES, INC. may be relicensed as a
6 corporate real estate broker only by petitioning for
7 reinstatement pursuant to Section 11522 of the Government Code.

8 We also understand that by so voluntarily surrendering said
9 license(s), we agree to the following:

10 1. The filing of this Declaration shall be deemed as
11 my petition for voluntary surrender.

12 2. It shall also be deemed to be an understanding
13 and agreement by us that we waive all rights we have to require
14 the Commissioner to prove the allegations against CARMEL
15 BUSINESS SALES, INC. contained in the Accusation filed in this
16 matter at a hearing held in accordance with the provisions of
17 the Administrative Procedure Act (Government Code Sections 11400
18 et seq.), and that we also waive other rights afforded to us in
19 connection with the hearing such as the right to discovery on
20 behalf of CARMEL BUSINESS SALES, INC., the right to present
21 evidence in defense of the allegations against CARMEL BUSINESS
22 SALES, INC. in the Accusation and the right to cross-examine
23 witnesses on behalf of CARMEL BUSINESS SALES, INC..

24 3. We further agree that upon acceptance by the
25 Commissioner, as evidenced by an appropriate order, all
26 affidavits and all relevant evidence obtained by the Department
27 in this matter prior to the Commissioner's acceptance, and all

03/11/2007 12:17 8316252857
03/11/2007 11:16 318659825115
08/09/2007 11:31 FAX 8182278489

CARMEL BUSINESS SALE
JERRY SCHLIMMACHFR
CARMEL BUSINESS SALE
ONE LEGAL/RECOVERY

PAGE 04/04
PAGE 04
PAGE 04/04
0012/017

1 allegations contained in the Accusation filed in the Department
2 Case No. H-1988 FRESNO may be considered by the Department to be
3 true and correct for the purpose of deciding whether to grant
4 relicensure or reinstatement to CARMEL BUSINESS SALES, INC.
5 pursuant to Government Code Section 11522.

6 4. We freely and voluntarily surrender all licenses
7 and license rights of CARMEL BUSINESS SALES, INC. under the Real
8 Estate Law.

9 I declare under penalty of perjury under the laws of
10 the State of California that the above is true and correct and
11 that this declaration was executed MAR 9 2007, at
12 CARMEL, California.


CHARLES GERALD SCHLIMMACHER

13
14
15
16 I declare under penalty of perjury under the laws of
17 the State of California that the above is true and correct and
18 that this declaration was executed MAR 9 2007, at
19 Carmel, California.


DONALD CHARLES BOWEN

1 DAVID B. SEALS, Counsel (SBN 69378)
Department of Real Estate
2 P. O. Box 187007
Sacramento, CA 95818-7007
3
4 Telephone: (916) 227-0789
-or- (916) 227-0792 (Direct)
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FILED
NOV -8 2008
DEPARTMENT OF REAL ESTATE
By K. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of)
13 CARMEL BUSINESS SALES, INC.,) No. H-1988 FRESNO
14 PENINSULA BUSINESS SALES, INC.,) ACCUSATION
and CHARLES GERALD SCHUMACHER,)
15 Respondents.)
16

17 The Complainant, John Sweeney, a Deputy Real Estate
18 Commissioner of the State of California for cause of Accusation
19 against CARMEL BUSINESS SALES, INC. (hereinafter Respondent
20 "CBSI"), PENINSULA BUSINESS SALES, INC. (hereinafter Respondent
21 "PBSI"), and CHARLES GERALD SCHUMACHER (hereinafter Respondent
22 "SCHUMACHER") is informed and alleges as follows:

23 ///
24 ///
25 ///
26 ///
27 ///

1 FIRST CAUSE OF ACCUSATION

2 I

3 The Complainant, John Sweeney, a Deputy Real Estate
4 Commissioner of the State of California, makes this Accusation
5 against Respondents in his official capacity.

6 II

7 Respondent SCHUMACHER is presently licensed and/or has
8 license rights under the Real Estate Law (Part 1 of Division 4
9 of the California Business and Professions Code) (hereinafter
10 "Code") as a real estate broker. At all times mentioned herein,
11 after September 20, 2005, he was the designated officer of
12 Respondent PBSI. At all times mentioned herein, before July 26,
13 2005, he was the designated officer of Respondent CBSI.

14 III

15 Respondent PBSI (dba Carmel Business Sales, Carmel
16 Home Sales, Carmel Motel Sales, Carmel Restaurant Sales, and
17 Cottages-by-the-Sea) is presently licensed and/or has license
18 rights under the Code as a corporate real estate broker with
19 Respondent SCHUMACHER as the designated officer.

20 IV

21 Respondent CBSI (dba Carmel Homes Sales) has been
22 without a designated officer as of July 27, 2005 but has license
23 rights under the Code as a corporate real estate broker.

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V

On or about May 1, 2006 and continuing, Michael R. Russell has advertised homes, businesses and restaurants for sale through Respondent CBSI on the Internet at the website www.carmelbusinesssales.com.

VI

On or about May 1, 2006 and continuing, Michael R. Russell, listing himself as "Broker at Carmel Business Sales", has advertised businesses and restaurants for sale on the website www.bizben.com.

VII

Michael R. Russell does not hold nor has he ever held a California real estate salesperson or real estate broker license.

VIII

At all times mentioned herein, Respondent SCHUMACHER failed to exercise reasonable supervision over the activities of Respondent PBSI dba Carmel Business Sales and its employees, and permitted, ratified and/or caused the conduct described above. Respondent SCHUMACHER failed to reasonably or adequately review, oversee, inspect and manage the persons under the employ of Respondent PBSI dba Carmel Business Sales, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management.

///
///
///

IX

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses and license rights as follows:

(1) As to Respondent CBSI under Sections 10130 and 10131(a) of the Code and Section 2742(c), Title 10, California Code of Regulations (hereinafter the "Regulations") in conjunction with Section 10177(d) of the Code; and

(2) As to Respondent PBSI under Sections 10130 and 10131(a) of the Code in conjunction with Section 10177(d) of the Code; and

(3) As to Respondent SCHUMACHER under Section 10177(h) of the Code.

SECOND CAUSE OF ACCUSATION

X

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

XI

From in or about April or May of 2005 until in or about December of 2005, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the sale and purchase of Ocean Thunder, a business, located at 214 Lighthouse Avenue, Monterey on behalf of Ray Askew, as seller, and Jose Genaro Pineda, as buyer, for compensation.

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XII

From in or about August of 2005 until in or about October of 2005, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the purchase and/or sale of The Good Feet Store, a business, located at 1121 Military Avenue #201, Seaside on behalf of Kari Miglaw, as buyer, for compensation.

XIII

Beginning on or about November 12, 2005, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the listing of Waffle Shop, a business, located at 1760 Fremont Blvd., Seaside with Shafiq Mahared, the owner, for or in expectation of compensation.

XIV

Beginning on or about March 2, 2006, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the listing of The Garden Home, a business, located at 8043 San Miguel Canyon Road, Prunedale with Colleen Goff, an owner, for or in expectation of compensation.

XV

Beginning on or about April 6, 2006, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the listing of the Lind Show, a business, located in Carmel with Cynthia Lind, the owner, for or in expectation of compensation.

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XVI

Beginning on or about April 8, 2006, Michael R. Russell, while in the employ of Respondent PBSI dba Carmel Business Sales, negotiated the listing of Big Sur Bakery and Restaurant, a business, located in Big Sur with Michael Gilson, the owner, for or in expectation of compensation.

XVII

The acts described in Paragraphs XI through XVI above by Michael R. Russell are acts requiring a real estate license.

XVIII

At no time while performing the acts described above in Paragraphs XI through XVI was Michael R. Russell licensed by the Department as a real estate salesperson or real estate broker.

XIX

At all times mentioned in this Second Cause of Accusation, Respondent SCHUMACHER failed to exercise reasonable supervision over the activities of Respondent PBSI dba Carmel Business Sales and its employees, and permitted, ratified and/or caused the conduct described above. Respondent SCHUMACHER failed to reasonably or adequately review, oversee, inspect and manage the persons under the employ of Respondent PBSI dba Carmel Business Sales, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management.

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2 The acts and/or omissions of Respondents described in
3 Paragraphs XI through XIX above are grounds for the suspension
4 or revocation of Respondents' licenses and license rights as
5 follows:

6 (1) As to Respondent PBSI under Sections 10130,
7 10131(a), and 10137 of the Code in conjunction with Section
8 10177(d) of the Code; and

9 (2) As to Respondent SCHUMACHER under Section
10 10177(h) of the Code.

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

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19 
20 JOHN SWEENEY
21 Deputy Real Estate Commissioner

22 Dated at Fresno, California,
23 this 2nd day of November, 2006.
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