

Subpoena

FILED
SEP 10 1998
DEPARTMENT OF REAL ESTATE

By Laura B. Chon

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
) No. H-2052 SA
)
ZETA INVESTMENTS INC.)
and MICHAEL M. KNIGHT)
)
Respondents)
_____)

ORDER GRANTING REINSTATEMENT OF LICENSE

On February 24, 1997, a Decision After Rejection was rendered herein, revoking the corporate real estate broker license of ZETA INVESTMENTS INC. and the real estate broker license of MICHAEL M. KNIGHT, effective March 20, 1997. Respondents were given the right to apply for and receive a restricted corporate real estate broker license and a restricted real estate broker license and these licenses were issued to them on April 10, 1997.

On May 5, 1998, Respondents petitioned for reinstatement of their unrestricted real estate licenses and the Attorney General of the State of California has been given notice of both filings.



1 I have considered Respondents' petitions and the
2 evidence and arguments in support thereof. Respondents have
3 demonstrated to my satisfaction that grounds do not presently
4 exist to deny the issuance of an unrestricted real estate
5 license to each Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent ZETA
7 INVESTMENTS INC.'s petition for reinstatement is granted and
8 that an unrestricted corporate real estate broker license be
9 issued to this Respondent after it satisfies the following
10 condition within six (6) months from the date of this Order:

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

14 IT IS ALSO ORDERED that Respondent MICHAEL M.
15 KNIGHT's petition for reinstatement is granted and that an
16 unrestricted real estate broker license be issued to him
17 after he satisfies the following conditions within six (6)
18 months from the date of this Order:

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

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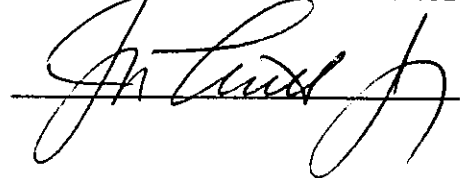


1 2. Submittal of evidence satisfactory to the Real
2 Estate Commissioner that Respondent has, since March 20,
3 1997, taken and successfully completed the continuing
4 education requirements of Article 2.5 of Chapter 3 of the
5 Real Estate Law for renewal of a real estate license.

6
7 This Order shall become effective immediately.

8 DATED: 9/2/98.

9 JIM ANTT, JR.
10 Real Estate Commissioner

11 

12 ZETA INVESTMENTS INC.
13 MICHAEL M. KNIGHT
14 12341 Newport Avenue A 100
15 Santa Ana, California 92705



FILED
FEB 28 1997
DEPARTMENT OF REAL ESTATE

By Laura B. Crow

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
)	No. H-2052 SA
ZETA INVESTMENTS INC., a)	
corporation, doing business as)	L-9601223
RE/MAX Redhill Realty, and MICHAEL)	
M. KNIGHT, individually, and as)	
designated officer of Zeta)	
Investments, Inc., and SANDRA LEE)	
LUGO)	
)	
)	
)	
)	
Respondents.)	

DECISION AFTER REJECTION

This matter came on for hearing before Joseph D. Montoya, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on September 3, 1996.

V. Ahda Sands, Counsel, represented the Complainant.

Respondents ZETA INVESTMENTS, INC. and SANDRA LEE LUGO appeared, with and through their attorney, Robert E. Patison. Respondent MICHAEL M. KNIGHT did not appear, but was represented by Mr. Patison.

1 The Administrative Law Judge submitted a Proposed
2 Decision dated September 20, 1996, which I declined to adopt as
3 my Decision herein. Pursuant to Section 11517(c) of the
4 Government Code of the State of California, respondent was served
5 with notice of my determination not to adopt the decision of the
6 Administrative Law Judge along with a copy of said Proposed
7 Decision. Respondent was notified that the case would be decided
8 by me upon the record, the transcript of proceedings held on
9 September 6, 1996, and upon any written argument offered by
10 respondent. Respondent submitted a Defense Brief, Exhibits and
11 Supporting Declarations.

12 I have given careful consideration to the record in
13 this case including the transcript of the proceedings of
14 September 6, 1996. I have also considered Respondent's Defense
15 Brief, Exhibits and Supporting Declarations, as well as the
16 arguments of Complainant's Counsel.

17 The following shall constitute the Decision of the Real
18 Estate Commissioner in this proceeding:

19 FINDINGS OF FACT

20 I have determined that the Findings of Facts as stated
21 in the Proposed Decision of the Administrative Law Judge, dated
22 September 20, 1996, are appropriate in all respects and they are
23 adopted as the Facts of the Real Estate Commissioner in this
24 proceeding.

25 DETERMINATION OF ISSUES

26 The Determination of Issues, as stated in the Proposed
27 Decision of the Administrative Law Judge, dated September 20,

1 1996, are appropriate in all respects and they are adopted as the
2 Facts of the Real Estate Commissioner in this proceeding.

3 ORDER

4 The Order set forth in the Proposed Decision is NOT
5 appropriate in that the Discipline imposed is confusing and
6 contradictory because the Decision requires respondent's to apply
7 for a restricted real estate license without having first revoked
8 the license currently held by the Respondents. The following
9 Order shall be the Order of the Commissioner.

10 All license and license rights of respondents ZETA
11 INVESTMENTS, INC. MICHAEL M. KNIGHT and SANDRA LEE LUGO, under
12 the Real Estate Law are revoked; provided, however, restricted
13 real estate broker licenses shall be issued to Respondents ZETA
14 INVESTMENTS INC. and MICHAEL M. KNIGHT and a restricted real
15 estate sales license shall be issued to SANDRA LEE LUGO pursuant
16 to Section 10156.5 of the Business and Professions Code if
17 Respondents make application therefor and pay to the Department
18 of Real Estate the appropriate fee for the restricted licenses
19 within 90 days from the effective date of this Decision. The
20 restricted licenses issued to Respondents shall be subject to all
21 of the provisions of Section 10156.7 of the Business and
22 Professions Code and to the following limitations, conditions and
23 restrictions imposed under authority of Section 10156.6 of that
24 Code:

25 1. The restricted licenses issued to Respondents
26 MICHAEL M. KNIGHT and/or SANDRA LEE LUGO may be suspended prior
27 to hearing by Order of the Real Estate Commissioner in the event

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

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

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

16 4. Respondents, MICHAEL M. KNIGHT and SANDRA LEE LUGO
17 shall, within twelve months from the effective date of this
18 Decision, present evidence satisfactory to the Real Estate
19 Commissioner that respondents have, since the most recent
20 issuance of an original or renewal real estate license, taken
21 and successfully completed the continuing education requirements
22 of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of
23 a real estate license. If Respondents fail to satisfy this
24 condition, the Commissioner may order the suspension of the
25 restricted license until the Respondents presents such evidence.
26 The Commissioner shall afford Respondents the opportunity for a
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1 hearing pursuant to the Administrative Procedure Act to present
2 such evidence.

3 5. Respondent SANDRA LEE LUGO shall submit with any
4 application for license under an employing broker, or any
5 application for transfer to a new employing broker, a statement
6 signed by the prospective employing broker, on a form approved by
7 the Department of Real Estate which shall certify:

8 (a) That the employing broker has read the Decision
9 of the Commissioner which granted the right to a restricted
10 license; and

11 (b) That the employing broker will exercise close
12 supervision over the performance by the restricted licensee
13 relating to activities for which a real estate license is
14 required.

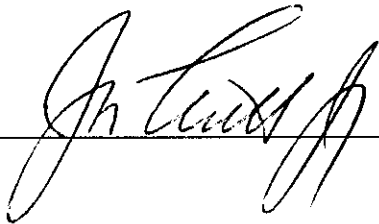
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1 The right to reinstatement of a revoked or suspended
2 real estate license or to the reduction of a penalty is
3 controlled by Section 11522 of the Government Code. A copy of
4 Section 11522 and a copy of the Commissioner's Criteria of
5 Rehabilitation are attached hereto for the information of
6 respondent.

7 This Decision shall become effective at 12 o'clock noon
8 on March 20, 1997.

9
10 IT IS SO ORDERED 2/24, 1997.

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13 JIM ANTT, JR.
14 Real Estate Commissioner

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By James B. Crow

* * *

NOTICE

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1 In accordance with Section 11517(c) of the Government
2 Code of the State of California, the disposition of this case
3 will be determined by me after consideration of the record herein
4 including the transcript of the proceedings held on September 3,
5 1996, and any written argument hereafter submitted on behalf of
6 respondents and complainant.

7 Written argument of respondents to be considered by me
8 must be submitted within 15 days after receipt of the transcript
9 of the proceedings of September 3, 1996, at the Los Angeles
10 office of the Department of Real Estate unless an extension of
11 the time is granted for good cause shown.

12 Written argument of complainant to be considered by me
13 must be submitted within 15 days after receipt of the argument of
14 respondents at the Los Angeles office of the Department of Real
15 Estate unless an extension of the time is granted for good cause
16 shown.

17 DATED: 10/30/96

18 JIM ANTT, JR.
19 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 2052 SA
ZETA INVESTMENTS, INC., A)	
Corporation doing business)	OAH Case No. L-9601223
as RE/MAX REDHILL REALTY,)	
and MICHAEL M. KNIGHT,)	
Individually and as)	
designated officer of)	
Zeta Investments, Inc.,)	
and SANDRA LEE LUGO,)	
)	
Respondents.)	
)	

PROPOSED DECISION

On September 3, 1996, in Los Angeles, California, Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Ms. V. Ahda Sands represented the complainant.

Respondents Zeta Investments, Inc. and Sandra Lee Lugo appeared, with and through their attorney, Robert E. Patison. Respondent Michael M. Knight did not appear, but was represented by Mr. Patison.

Evidence was received and the matter was submitted.

FINDINGS OF FACT

1. The Accusation was filed by Thomas McCrady, a Deputy Real Estate Commissioner, Department of Real Estate, State of California, while acting solely in his capacity as such.

2. Respondent Zeta Investments, Inc. ("Zeta") holds a corporate real estate broker's license, number 00832944. The designated officer of Zeta, Respondent Michael M. Knight, is licensed as a real estate broker, license number 00602943. Respondent Sandra Lee Lugo is licensed as a real estate salesperson, license number 00987082. Respondents held such licenses at all times relevant to this matter.

3. In April 1994 Aurel and Stella Rusu and Mark and Mary Tikosh listed their house for sale through a real estate brokerage, ERA Realty & Investments, and Mr. Steven Kerper.¹ The house was located in Riverside, California. This house will hereinafter sometimes be referred to as "the Tikosh house."

4. In late June 1994 Respondent Lugo presented a written offer to purchase the Tikosh house to Mr. Kerper. The offer was presented on a standard form Real Estate Purchase Contract and Receipt for Deposit (the "deposit receipt"), dated June 23, 1994. Four people were together offering to purchase the house for \$120,000.00. The deposit receipt stated in part:

"Received from [buyers] the sum of one thousand dollars as a deposit to be applied toward the purchase price of one hundred twenty thousand dollars"

5. The deposit receipt stated that the buyers' obtaining a loan was a contingency of the agreement, with the buyers to act diligently and in good faith to obtain the applicable financing. Further, it stated that the one thousand dollar deposit was to be deposited "payable to escrow."

6. The offer was not accepted by the sellers. A counter offer was made by them, dated July 27, 1994. That counter offer was not accepted until August 7, 1994.²

7. The parties' agreement contained a liquidated damages clause, which provided that in the event of a default by the buyers, the sellers would be entitled to retain the deposit actually paid.

8. Respondent Lugo drafted the deposit receipt to show payment of the deposit to an escrow because the buyers had presented her cash, which she did not wish to hold. She instructed the buyers to deposit same with an escrow company.

9. Ultimately, the buyers could not obtain financing, due to a change in their financial circumstances, and the sale transaction was cancelled on or about September 26, 1994.

¹ ERA Premier Realty and Mr. Kerper are not parties to this action, though they are subjects of a separate disciplinary proceeding.

² According to Mr. Tikosh's written complaint to the Department of Real Estate, his broker did not transmit the initial offer until August 7. The broker may have made the counter-offer without complete authority.

10. Meanwhile, the sellers' agent had assured them in early August, 1994 that the one thousand dollar deposit had been received. In fact, it was never received by the escrow, or any of the Respondents. This was learned by the sellers on or about September 15, 1996.

11. The sellers entered into the sale contract relying in part upon the written representation that a deposit had been made. They would not have entered into an agreement if they had known the deposit had not been made by the time they actually entered into an agreement.

12. Respondent Knight, on behalf of Zeta, reviewed the initial purchase offer in June 1994. There is no evidence of what, if anything, he did thereafter to supervise Respondent Lugo or otherwise monitor the transaction. Given the length of time which passed from the initial offer until the transaction cancelled--approximately three months--it is inferred he did nothing after his initial review to verify the status of the deposit.

13. There was no default by the buyers in the transaction which would have given the sellers any right to any of the deposit under the contract's liquidated damages clause.

14. There was no evidence of the amount, if any, of any damages suffered by the sellers by having entered into the transaction. This is not to say that some damage may not have resulted, only that it was not quantified, and is not readily subject to calculation.³

15. In mitigation it is found that none of the Respondents have ever been disciplined. There is no evidence of any substantial damage to the sellers as a result of their execution of the sale contract. Further, it is found that Respondents were negligent in allowing the matter to go forward without a proper deposit, rather than acting intentionally to harm or defraud the sellers. Finally, any fault should be shared with the seller's broker, who, according to the evidence failed to

³ Mr. Tikosh testified he was damaged because his house was "off the market" for three months, but did not quantify any damages. But, the counter offer was not accepted until well into August; thus the sale was pending for about six weeks. Further, there was no evidence that back-up offers, a common hedge against contingent contracts such as this one, could not have been obtained, though on August 18, 1994 Mr. Tikosh wrote his broker inquiring about further marketing efforts. This implied he expected the selling broker to continue in efforts to sell the house despite the pending contract. Despite Mr. Tikosh's testimony, sellers had no right to liquidated damages. There was no evidence buyers' failure to obtain a loan resulted from bad faith on their part. Thus, sellers could never have obtained the deposit for this failure of contingency. As the sellers had no recourse against the buyers, it is difficult to utilize a breach of contract measure to establish their damages, if any.

ascertain whether the deposit had been made, knowing all along that no escrow documents had been prepared until at least mid-August, 1994. Had he done his job properly, Respondents' attention could have been drawn to the matter, and the problem corrected, or the transaction cancelled sooner.⁴

DETERMINATION OF ISSUES

1. It is determined that cause exists to suspend or revoke the licenses of each Respondent, pursuant to sections 10176(a), and section 10177(q) of the Business and Professions Code, for representing that a deposit had been received, when none had. (Findings 4 through 6, 8, and 10 through 12.)

2. It is determined that cause exists to suspend or revoke the license of Respondent Michael M. Knight, for failure to exercise adequate supervision and control over the activities of Respondent Lugo, in violation of Business and Professions Code sections 10159.2 and 10177(h). (Determination 1; Finding 12.) Section 10159.2 states that Respondent must exercise such supervision and control as necessary to secure full compliance with the real estate laws and regulations. The salesperson did not comply with her obligations. Had adequate supervision been in place, it would have been discovered, within a reasonable period of time, that the buyers had not deposited any money in escrow as they had been instructed. The passage of three months before it was acknowledged the deposit was not made is sufficient to establish that there was inadequate supervision in this case.

3. It is determined that mitigating factors exist in determining the scope of discipline, based on Finding 15.

ORDER

NOT ADOPTED { All licenses and licensing rights of respondents Zeta Investments, Michael M. Knight, and Sandra Lee Lugo under the Real Estate Law are hereby suspended for nine (9) months from the effective date of this decision; provided, however, that such suspension shall be stayed as to each Respondent for a period of two years upon such Respondent's compliance with the following terms and conditions:

⁴ The written complaint filed with the Department referred only to the dilatory and unprofessional conduct of Seller's agent, and made no complaint against Respondents. While this does not absolve Respondents of liability, it should be noted that Mr. Tikosh's belief his house was "off the market" for three months is related to the failings of his own broker, detailed in the seller's complaint.

1. That any such Respondent shall apply for a restricted real estate license, to be issued to such Respondent pursuant to Section 10156.5 of the Business and Professions Code. Such restricted licenses shall be issued to any Respondent applying hereunder, if such Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

2. The restricted license issued to any Respondent herein shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

(B) The restricted license issued to any Respondent herein may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

(C) No Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

3. Respondent Lugo shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

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

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

4. Respondents Knight and Lugo shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that each Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If a Respondent fails to satisfy this condition, the Commissioner may order the suspension of that Respondent's restricted license until that Respondent presents such evidence. The Commissioner shall afford any such Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondents Knight and Lugo shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If either Respondent fails to satisfy this condition, the Commissioner may order the actual suspension of that Respondent's license until such Respondent passes the examination.

6. Respondent Michael Knight shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of Respondent and periodic summaries of salient information concerning each real estate transaction in which the Respondent engaged during the period covered by the report.

7. The failure of any one Respondent to comply with any of the terms of this order shall not be grounds to suspend or revoke any license, restricted or otherwise, issued to any other Respondent hereunder.

September 20, 1996

Joseph D. Montoya, Administrative
Law Judge

Sacto. Lee

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 9 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-2052 SA
) OAH No. L-9601223
ZETA INVESTMENTS INC., et al.,)
)
Respondent.)

By *Laura B. Sands*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on SEPTEMBER 3 & 4, 1996, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: July 9, 1996

DEPARTMENT OF REAL ESTATE

By: *V. Ahda Sands*
V. AHDA SANDS, Counsel

cc: Zeta Investments Inc.
Michael M. Knight
Sandra Lee Lugo
Robert E. Patison, Esq.
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
FEB - 8 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-2052 SA
) OAH No. L-9601223
ZETA INVESTMENTS INC., et al.,)
)
)
Respondent.)

By Sandra B. Cramer

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on MAY 23 & 24, 1996, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: February 8, 1996

DEPARTMENT OF REAL ESTATE

By: V. Ahda Sands
V. AHDA SANDS, Counsel

cc: Zeta Investments Inc.
Michael M. Knight
Sandra Lee Lugo
Robert E. Patison, Esq.
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FILED
JUL 13 1995
DEPARTMENT OF REAL ESTATE

By Jana B. Dora

STATE OF CALIFORNIA

* * * * *

Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, as and for cause of Accusation against ZETA INVESTMENTS INC., a Corporation, doing business as RE/MAX Redhill Realty; MICHAEL M. KNIGHT, individually and as designated officer of Zeta Investments Inc., and, SANDRA LEE LUGO (herein "Respondents") alleges as follows:

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The term "the Regulations" as used herein refers to provisions of Chapter 6, Title 10, California Code of Regulations.

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The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

3

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 (herein "the Code").

4

At all times mentioned herein, Respondent ZETA INVESTMENTS, INC. doing business as RE/MAX Redhill Realty (herein "ZETA"), a corporation, was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker.

5

At all times mentioned ZETA was and now is licensed as a corporate real estate broker by and through MICHAEL M. KNIGHT (herein "KNIGHT") as the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of ZETA by ZETA's officers and employees.

6

At all times mentioned herein Respondent KNIGHT was licensed by the Department as a real estate broker and as an officer, of ZETA.

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At all times mentioned herein Respondent SANDRA LEE LUGO (hereinafter LUGO) was licensed by the Department as a real estate salesperson.

All further references herein to "Respondents" include the parties identified in Paragraphs 4, 5 and 7, above, and also includes the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers for others in the State of California within the meaning of Section 10131(a) whereby Respondents sold or offered to sell, bought or offered to buy, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property of a business opportunity as the agent of others for compensation.

FIRST CAUSE OF ACCUSATION

On or about June, 1994, LUGO was a licensed agent of ZETA. In this capacity, on or about June 23, 1994, LUGO represented to sellers that she was an agent for buyers who were interested in the purchase of subject property located at 3872

1 Roosevelt, Riverside, California. In addition, LUGO completed a
2 real estate purchase contract and receipt for deposit. The
3 receipt clearly states "Received from Rodolfo Jimenez, Rorio
4 Cortez and Jaime Alotorre, and Maria Valencia the sum of
5 \$1,000.00". The receipt bears the initial of the broker KNIGHT,
6 on behalf of ZETA as having reviewed the transaction. In
7 reliance on these representations by LUGO and KNIGHT, the seller
8 Aurel Rusu entered into negotiation for the sale of the subject
9 property. In truth and in fact no \$1,000 earnest money deposit
10 was ever delivered to LUGO by anyone. The actions of LUGO and
11 KNIGHT on behalf of ZETA as stated above in paragraph 10
12 constitute fraud, misrepresentation, deceit, dishonest dealing
13 and/or gross negligence and are in violation of Code Sections
14 10176(a), 10176(i) and 10177(g) and are cause to suspend or
15 revoke the license and license rights of LUGO, ZETA and KNIGHT.

16 SECOND CAUSE OF ACCUSATION

17 LACK OF SUPERVISION

18 11

19 The conduct, acts and omissions of Respondent LUGO as
20 described in Paragraph 10, above, independently and collectively
21 constitutes failure on the part of KNIGHT, as offices designated
22 by a corporate broker licensee to exercise the reasonable
23 supervision and control over the licensed activities of ZETA
24 required by Section 10159.2 of the Code and is cause for the
25 suspension or revocation of all real estate licenses and license
26 rights KNIGHT pursuant to the provisions of Section 10177(h) of
27 the Code.

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary action
4 against all licenses and license rights of Respondents ZETA
5 INVESTMENTS INC., MICHAEL M. KNIGHT and SANDRA LEE LUGO under the
6 Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code) and for such other and further relief as may be
8 proper under other applicable provisions of law.
9 Dated at Santa Ana, California
10 this 13th day of July, 1995.

11 THOMAS McCRADY

12 Deputy Real Estate Commissioner
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24 cc: Zeta Investments Inc.
25 Michael M. Knight
26 Sandra Lee Lugo
27 Sacto.
DKB
OAH
VAS