

FILED

NOV 20 2007

DEPARTMENT OF REAL ESTATE

By *Cune Shawver*

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0781
5
6

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

<p>10 In the Matter of the Accusation of) 11 JUSTIN D. LINDER and PAUL) 12 EUGENE BECK,) 13 Respondents.)</p>	<p>No. H-2162 FR <u>STIPULATION AND</u> <u>AGREEMENT</u></p>
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14 It is hereby stipulated by and between PAUL EUGENE
15 BECK (hereinafter "Respondent") and his attorney, Emory Wishon
16 III, and the Complainant, acting by and through Truly Sughrue,
17 Counsel for the Department of Real Estate, as follows for the
18 purpose of settling and disposing the Accusation filed on
19 September 4, 2007 in this matter:

20
21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27

1 Stipulation and Agreement.

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

5 3. On September 12, 2007, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his rights to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA, and that he will waive
14 other rights afforded to them in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. This stipulation is based on the factual
18 allegations contained in the Accusation. In the interest of
19 expediency and economy, Respondent chooses not to contest these
20 factual allegations, but to remain silent and understands that,
21 as a result thereof, these factual statements will serve as a
22 prima facie basis for the "Determination of Issues" and "Order"
23 set forth below. The Real Estate Commissioner shall not be
24 required to provide further evidence to prove such allegations.

25 5. This Stipulation and Respondent's decision not to
26 contest the Accusation are made for the purpose of reaching an
27

1 agreed disposition of this proceeding and are expressly limited
2 to this proceeding and any other proceeding or case in which the
3 Department of Real Estate (herein "the Department"), the state or
4 federal government, an agency of this state, or an agency of
5 another state is involved.

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

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

24 * * *

25 DETERMINATION OF ISSUES

26 By reason of the foregoing stipulations and waivers and
27 solely for the purpose of settlement of the pending Accusation

1 without a hearing, it is stipulated and agreed that the following
2 determination of issues shall be made:

3 I

4 The acts and omissions of Respondent PAUL EUGENE BECK
5 as described in the Accusation are grounds for the suspension or
6 revocation of Respondent licenses and license rights under
7 Section 10137 of the Code in conjunction with Section 10177(d)
8 of the Code;

9 * * *

10 ORDER

11 All licenses and licensing rights of Respondent PAUL EUGENE
12 BECK under the Real Estate Law are suspended for a period of
13 sixty (60) days from the effective date of this Order; provided,
14 however, that:

15 1) Thirty (30) days of said suspension shall be stayed, upon the
16 condition that Respondent petition pursuant to Section 10175.2
17 of the Business and Professions Code and pays a monetary
18 penalty pursuant to Section 10175.2 of the Business and
19 Professions Code at a rate of \$100 for each day of the
20 suspension for a total monetary penalty of \$3,000.

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

1 b) No further cause for disciplinary action against the Real
2 Estate licenses of said Respondent occurs within two (2)
3 years from the effective date of the decision in this
4 matter.

5 c) If Respondent fails to pay the monetary penalty as provided
6 above prior to the effective date of this Order, the stay of
7 the suspension shall be vacated as to that Respondent and
8 the order of suspension shall be immediately executed, under
9 this Order, in which event the said Respondent shall not be
10 entitled to any repayment nor credit, prorated or otherwise,
11 for the money paid to the Department under the terms of this
12 Order.

13 d) If Respondent pays the monetary penalty and any other moneys
14 due under this Stipulation and Agreement and if no further
15 cause for disciplinary action against the real estate
16 license of said Respondent occurs within two (2) years from
17 the effective date of this Order, the entire stay hereby
18 granted under this Order, as to said Respondent only, shall
19 become permanent.

20 2) The remaining thirty (30) days of said suspension shall be
21 stayed for two (2) years upon the following terms and
22 conditions:

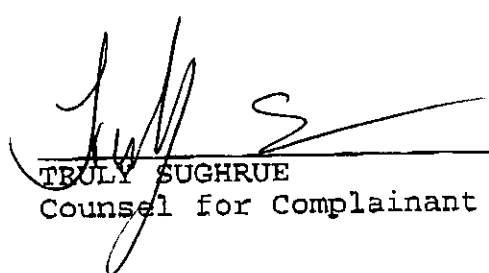
23 a) Respondent shall obey all laws, rules and regulations
24 governing the rights, duties and responsibilities of a real
25 estate licensee in the State of California; and,

26 b) That no final subsequent determination be made, after
27 hearing or upon stipulation, that cause for disciplinary

1 action occurred within two (2) years from the effective date
2 of this Order. Should such a determination be made, the
3 Commissioner may, in his discretion, vacate and set aside
4 the stay order and reimpose all or a portion of the stayed
5 suspension. Should no such determination be made, the stay
6 imposed herein shall become permanent.

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

14
15 10-Oct-07
16 DATED

17
18 
19 TRULY SUGHRUE
20 Counsel for Complainant

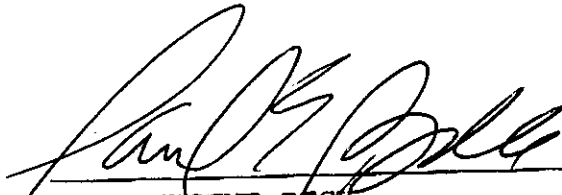
21 * * *

22 I have read the Stipulation and Agreement, discussed it
23 with my counsel, and its terms are understood by me and are
24 agreeable and acceptable to me. I understand that I am waiving
25 rights given to me by the California Administrative Procedure
26 Act, and I willingly, intelligently and voluntarily waive those
27 rights, including the right of requiring the Commissioner to
prove the allegations in the Accusation at a hearing at which I
would have the right to cross-examine witnesses against me and to
present evidence in defense and mitigation of the charges.

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Oct 1 2007


DATED


PAUL EUGENE BECK
Respondent

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

October 1, 2007

DATED

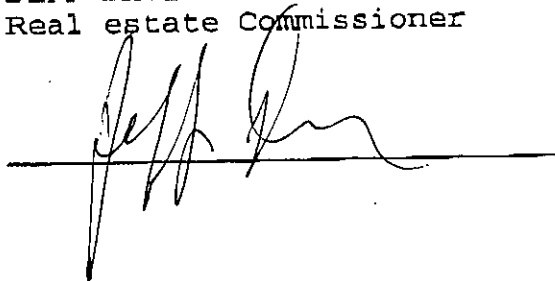

EMORY WISHON III
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on DEC 10 2007

IT IS SO ORDERED 11-19, 2007.

JEFF DAVI
Real estate Commissioner



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NOV 15 2007

DEPARTMENT OF REAL ESTATE

By *Aune Shawver*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-2162 FR
<u>JUSTIN D. LINDER</u> and PAUL)	
<u>EUGENE BECK,</u>)	
)	
Respondent.)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 29, 2007, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

I

On August 28, 2007, John W. Sweeney made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department on September 4, 2007, and by regular mail on October 1, 2007.

On October 29, 2007, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

At all time herein mentioned, Respondent JUSTIN D. LINDER (hereinafter "LINDER") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (Code) as a real estate salesperson. At all times herein mentioned from and after June 28, 2006 Linder's license as a real estate salesperson has been and now is suspended pursuant to Business and professions Code Section 10153.4.

III

At all times herein mentioned, LINDER 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, including the operation and conduct of a mortgage loan brokerage business with the public wherein LINDER solicited lenders and borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by LINDER on behalf of others for compensation or in expectation of a compensation.

IV

Beginning on or about June 28, 2006, LINDER, solicited lenders and borrowers for loans secured directly or collaterally by liens on real property in this state on behalf of the buyers of such property for or in expectation of compensation, including, but not limited to:

Property Address	Borrower	Close of Escrow
958 Ryan Avenue, Clovis	Nitta	8/13/06
1796 East Meadow Lane, Dinuba	Garcia	8/25/06
3671 North Eighth Street, Fresno	Thollie	9/21/06
5741 West Bedford Avenue, Fresno	Gavazyan	9/28/06

V

In acting as described above, LINDER violated Section 10130 of the Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists pursuant to Section 10130 of the Code in conjunction with 10177(d) of the Code.

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

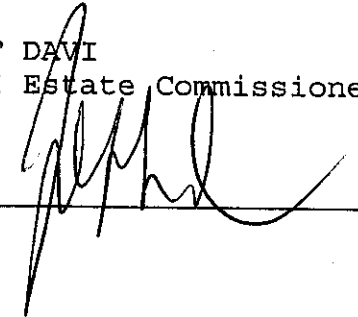
All licenses and licensing rights of respondent JUSTIN D. LINDER, under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on ~~DEC 06 2007~~.

DATED: _____

11-13-07

JEFF DAVI
Real Estate Commissioner



FILED

OCT 29 2007

DEPARTMENT OF REAL ESTATE

By Corey Shaw

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TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-2162 FR
)	
<u>JUSTIN D. LINDER</u> and)	<u>DEFAULT ORDER</u>
PAUL EUGENE BECK,)	
)	
Respondent.)	

Respondent, JUSTIN D. LINDER, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED 10-29-07

JEFF DAVI
Real Estate Commissioner

By: Steven J. Ellis
STEVEN J. ELLIS
Regional Manager

FILED
SEP 04 2007

DEPARTMENT OF REAL ESTATE

By Anne Sawyer

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JUSTIN D. LINDER and PAUL) No. H-2162 FR
13 EUGENE BECK,) ACCUSATION
14 Respondent.)

15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against JUSTIN D. LINDER and PAUL EUGENE BECK (hereinafter
18 "Respondents"), are informed and alleges as follows:
19

20 I

21 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 his official capacity.

24 \\\
25 \\\
26 \\\

II

1 Respondents are presently licensed and/or has license
2 rights under the Real Estate Law, Part 1 of Division 4 of the
3 Business and Professions Code ("Code").
4

III

5
6 At all times herein mentioned, Respondent PAUL EUGENE
7 BECK, (hereinafter "Beck") was and is licensed by the Department
8 individually as a real estate broker.

IV

9
10 At all time herein mentioned, Respondent JUSTIN D.
11 LINDER (hereinafter "Linder") is presently licensed and/or has
12 license rights under the Real Estate Law (Part 1 of Division 4 of
13 the Business and Professions Code) (Code) as a real estate
14 salesperson. At all times herein mentioned from and after June
15 28, 2006 Linder's license as a real estate salesperson has been
16 and now is suspended pursuant to Business and professions Code
17 Section 10153.4.

V

18
19 At all times herein mentioned, Respondents engaged in
20 the business of, acted in the capacity of, advertised or assumed
21 to act as a real estate broker in the State of California within
22 the meaning of Section 10131(d) of the Code, including the
23 operation and conduct of a mortgage loan brokerage business with
24 the public wherein Respondents solicited lenders and borrowers
25 for loans secured directly or collaterally by liens on real
26 property or a business opportunity, and wherein such loans were
27

1 arranged, negotiated, processed, and consummated by Respondent on
2 behalf of others for compensation or in expectation of a
3 compensation.

4 VI

5 At all times mentioned herein beginning on or about
6 June 28, 2006, BECK employed and compensated LINDER to perform
7 the acts and conduct the activities described in Paragraph V,
8 above, including but not limited to the activities described in
9 Paragraph VII, below.

10 VII

11 Beginning on or about June 28, 2006, in the course of
12 the activities and employment described in Paragraphs V and VI,
13 above, LINDER, acting for and on behalf of BECK, solicited
14 lenders and borrowers for loans secured directly or collaterally
15 by liens on real property in this state on behalf of the buyers
16 of such property for or in expectation of compensation,
17 including, but not limited to:

18

Property Address	Borrower	Close of Escrow
958 Ryan Avenue, Clovis	Nitta	8/13/06
1796 East Meadow Lane, Dinuba	Garcia	8/25/06
3671 North Eighth Street, Fresno	Thollie	9/21/06
5741 West Bedford Avenue, Fresno	Gavazyan	9/28/06

19
20
21
22

23 VIII

24 In acting as described above, LINDER violated Section
25 10130 of the Code, and BECK violated Section 10137 of the Code.

26 \\\


IX

1
2 The facts alleged above are grounds for the suspension
3 or revocation of the licenses and license rights of Respondents
4 under the following provisions of the Code:

5 (a) As to Respondent BECK under Section 10137 the Code
6 in conjunction with Section 10177(d) of the Code;

7 (b) As to Respondent LINDER under Section 10130 the
8 Code in conjunction with Section 10177(d) of the Code;

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

16
17
18 
19 JOHN W. SWEENEY
20 Deputy Real Estate Commissioner

21 Dated at Fresno, California,
22 this 28th day of August, 2007
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26
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