

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
JUN 8 1998
DEPARTMENT OF REAL ESTATE

Laurel A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-2371 SD
12 LOREN VERNON GALLAGHER,) OAH NO. L-1998010337
13 Respondent.) STIPULATION AND AGREEMENT

14
15 It is hereby stipulated by and between Respondent
16 LOREN VERNON GALLAGHER (hereinafter "Respondent"), individually
17 and by and through Raymond J. Gaskill, Esq., Respondent's attorney
18 of record herein, and the Complainant, acting by and through
19 James L. Beaver, Counsel for the Department of Real Estate, as
20 follows for the purpose of settling and disposing of the
21 Accusation filed on January 2, 1998 in this matter (hereinafter
22 "the Accusation"):

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

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STIPULATION OF
LOREN VERNON GALLAGHER.

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

7 3. On January 14, 1998, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense Respondents
13 will thereby waive Respondent's right to require the Commissioner
14 to prove the allegations in the Accusation at a contested hearing
15 held in accordance with the provisions of the APA and that
16 Respondent will waive other rights afforded to Respondent in
17 connection with the hearing such as the right to present evidence
18 in defense of the allegations in the Accusation and the right to
19 cross-examine witnesses.

20 4. Subject to the limitations set forth below,
21 Respondent hereby admits that the following statements of fact
22 are true and correct, that the Real Estate Commissioner shall not
23 be required to provide further evidence to prove such statements,
24 and that the Accusation may be amended to allege such statements
25 of fact:

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STIPULATION OF
LOREN VERNON GALLAGHER

1 (a) The Complainant, J. Chris Graves, a Deputy Real
2 Estate Commissioner of the State of California, made the
3 Accusation in his official capacity.

4 (b) At all times herein mentioned, Respondent
5 GALLAGHER was and now is licensed under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code)
7 (hereinafter "the Code") as a real estate broker.

8 (c) From on or about September 12, 1997 until on or
9 about October 27, 1997, Respondent GALLAGHER employed Judy Mae
10 Johnson, to sell and offer to sell, solicit prospective purchases
11 of, and negotiated the purchase of real property on behalf of
12 others, for compensation or in expectation of compensation,

13 (d) On or about October 24, 1997, in the course of the
14 activities and employment described in Paragraphs (c), above, Judy
15 Mae Johnson solicited and obtained an offer from Victoria
16 Delahanty to purchase real property consisting of a timeshare in
17 Gaslamp Plaza Suites, a timeshare project located within the city
18 limits of San Diego, California.

19 (e) At all times mentioned herein, Judy Mae Johnson
20 was and now is licensed by the Department as a real estate
21 salesperson.

22 (f) At no time before November 12, 1997 did
23 Respondent notify the Department in writing that Judy Mae Johnson
24 had entered such Respondent's employ as a real estate
25 salesperson.

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STIPULATION OF
LOREN VERNON GALLAGHER

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

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

18 DETERMINATION OF ISSUES

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 The acts and omissions of Respondent LOREN VERNON
25 GALLAGHER described in subsections (a) through (f), inclusive of
26 Paragraph 4, above, are grounds for the suspension or revocation
27 of the licenses and license rights of Respondent under the

1 provisions of Section 10161.8(a) of the Code in conjunction with
2 Section 10165 of the Code.

3 ORDER

4 I

5 All licenses and licensing rights of Respondent LOREN
6 VERNON GALLAGHER under the Real Estate Law are revoked; provided,
7 however, a restricted real estate broker license shall be issued
8 to said Respondent pursuant to Section 10156.5 of the Business and
9 Professions Code if, within ninety (90) days from the effective
10 date of the Decision entered pursuant to this Order, Respondent
11 makes application for the restricted license and pays to the
12 Department of Real Estate the appropriate fee therefor.

13 The restricted license issued to Respondent shall be
14 subject to all of the provisions of Section 10156.7 of the
15 Business and Professions Code and to the following limitations,
16 conditions and restrictions imposed under authority of Section
17 10156.6 of that Code:

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

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

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STIPULATION OF
LOREN VERNON GALLAGHER

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

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of a
6 restricted license until one (1) year has elapsed from the
7 effective date of this Decision.

8 4. Respondent shall not be eligible during the term of
9 the restricted license to be licensed as the officer designated by
10 any corporate broker pursuant to Section 10211 of the Code to act
11 under its corporate license as a real estate broker.

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

24 6. Respondent shall, within six (6) months from the
25 issuance of the restricted license, take and pass the Professional
26 Responsibility Examination administered by the Department
27 including the payment of the appropriate examination fee. If

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STIPULATION OF
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1 Respondent fails to satisfy this condition, the Commissioner may
2 order the suspension of the restricted license until Respondent
3 passes the examination.

4 7. Any restricted real estate broker license issued to
5 Respondent may be suspended or revoked for a violation by
6 Respondent of any of the conditions attaching to the restricted
7 license.

8
9 April 22, 1998
DATED

James L. Beaver
JAMES L. BEAVER, Counsel
DEPARTMENT OF REAL ESTATE
* * *

12 I have read the Stipulation and Agreement, have
13 discussed its terms with my attorney and its terms are understood
14 by me and are agreeable and acceptable to me. I understand that
15 I am 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
24 14 APR 98
DATED

Loren V. Gallagher
LOREN VERNON GALLAGHER
Respondent

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27 ///

H-2371 SD.

STIPULATION OF
LOREN VERNON GALLAGHER

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

3
4 4/15/90
5 DATED

[Signature]
6 RAYMOND J. GASKILL, ESQ.
7 Attorney for Respondent

8 * * *

9 The foregoing Stipulation and Agreement for Settlement
10 is hereby adopted by the Real Estate Commissioner as his Decision
11 and Order and shall become effective at 12 o'clock noon on
12 June 29, 1998.

13 IT IS SO ORDERED 5/28, 1998.

14 JIM ANTT, JR.
15 Real Estate Commissioner

[Signature]

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FILED
JUN 8 1998
DEPARTMENT OF REAL ESTATE

Laurie A. Zin

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
WINNERS CIRCLE RESORTS) NO. H-2371 SD
INTERNATIONAL, INC.,)
a California corporation, and)
LOREN VERNON GALLAGHER,)
Respondents.)

DISMISSAL

The Accusation herein filed on January 2, 1998 against
Respondent WINNERS CIRCLE RESORTS INTERNATIONAL, INC. is
DISMISSED.

IT IS SO ORDERED this 28TH day of May
1998.

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt, Jr.

FILED
JAN 27 1998

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
By Laurie A. Zain

In the Matter of the Accusation of

WINNERS CIRCLE RESORTS
INTERNATIONAL, INC.,
a California corporation, and
LOREN VERNON GALLAGHER,

Respondents

Case No. H-2371 SD

OAH No. L-1998010337

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
Office of Administrative Hearings, 1350 Front Street, Room 6022,
San Diego, CA 92101

on Monday and Tuesday, March 30th and 31st, 1998, at the hour of 9:00 AM,
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.

Dated: January 27, 1998

DEPARTMENT OF REAL ESTATE

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 2 1998
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 WINNERS CIRCLE RESORTS) NO. H-2371 SD
13 INTERNATIONAL, INC.,) ACCUSATION
14 a California corporation, and)
15 LOREN VERNON GALLAGHER,)
Respondents.)

16 The Complainant, J. Chris Graves, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against WINNERS CIRCLE RESORTS INTERNATIONAL, INC. (hereinafter
19 "WINNERS CIRCLE"), and LOREN VERNON GALLAGHER (hereinafter
20 "GALLAGHER"), individually and as designated officer-broker of
21 Respondent WINNERS CIRCLE, is informed and alleges as follows:

22 I

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

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1 II

2 At all times herein mentioned, Respondents WINNERS
3 CIRCLE and GALLAGHER were and now are presently licensed and/or
4 have license rights under the Real Estate Law (Part 1 of Division
5 4 of the Business and Professions Code) (hereinafter "the Code").

6 III

7 At all times herein mentioned, Respondent WINNERS CIRCLE
8 was and now is licensed by the Department of Real Estate of the
9 State of California (hereinafter "the Department") as a corporate
10 real estate broker by and through Respondent GALLAGHER as
11 designated officer-broker of Respondent WINNERS CIRCLE to qualify
12 said corporation and to act for said corporation as a real estate
13 broker.

14 IV

15 At all times herein mentioned, Respondent GALLAGHER was
16 licensed by the Department as a real estate broker, individually
17 and as designated officer-broker of Respondent WINNERS CIRCLE. As
18 said designated officer-broker, Respondent GALLAGHER was at all
19 times mentioned herein responsible pursuant to Section 10159.2 of
20 the Code for the supervision of the activities of the officers,
21 agents, real estate licensees and employees of Respondent WINNERS
22 CIRCLE for which a license is required.

23 V

24 Whenever reference is made in an allegation in this
25 Accusation to an act or omission of Respondent WINNERS CIRCLE,
26 such allegation shall be deemed to mean that the officers,
27 directors, employees, agents and real estate licensees employed by



1 or associated with Respondent WINNERS CIRCLE committed such act or
2 omission while engaged in the furtherance of the business or
3 operations of Respondent WINNERS CIRCLE and while acting within
4 the course and scope of their corporate authority and employment.

5 VI

6 At all times herein mentioned, Respondent WINNERS CIRCLE
7 engaged in the business of, acted in the capacity of, advertised,
8 or assumed to act as a real estate broker within the State of
9 California within the meaning of Section 10131(a) of the Code,
10 including the operation and conduct of a timeshare sales brokerage
11 with the public wherein, on behalf of others, for compensation or
12 in expectation of compensation, Respondent WINNERS CIRCLE sold and
13 offered to sell, bought and offered to buy, solicited prospective
14 sellers and purchases of, solicited and obtained listings of, and
15 negotiated the purchase and sale of real property.

16 VII

17 From on or about June 1, 1996 until on or about
18 November 21, 1997, Respondent WINNERS CIRCLE employed Keith Scheue
19 to perform the acts and conduct the activities described in
20 Paragraph VI, above, and compensated Keith Scheue for performing
21 such acts and conducting such activities.

22 VIII

23 From on or about April 24, 1997 until on or about
24 October 27, 1997, Respondent WINNERS CIRCLE employed Barbara Ann
25 Jacobs to perform the acts and conduct the activities described in
26 Paragraph VI, above.

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IX

From on or about September 12, 1997 until on or about October 27, 1997, Respondent WINNERS CIRCLE employed Judy Mae Johnson to perform the acts and conduct the activities described in Paragraph VI, above.

X

On or about October 24, 1997, in the course of the activities and employment described in Paragraphs VI through IX, inclusive, above, Barbara Ann Jacobs, Judy Mae Johnson, and Keith Scheue solicited and obtained an offer from Vickie Zaiser, also known as Victoria Delahanty, to purchase real property consisting of a timeshare in Gaslamp Plaza Suites, a timeshare project located within the city limits of San Diego, California.

XI

At all times mentioned herein, Judy Mae Johnson and Barbara Ann Jacobs were and now are licensed by the Department as real estate salespersons.

XII

At no time mentioned herein did Respondent WINNERS CIRCLE notify the Department in writing that Barbara Ann Jacobs had entered such Respondent's employ as a real estate salesperson or that Judy Mae Johnson had entered such Respondent's employ as a real estate salesperson.

XIII

At no time mentioned herein from or after July 11, 1995, was KEITH SCHEUE licensed by the Department as either a real estate salesperson or as a real estate broker.



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XIV

Respondent GALLAGHER failed to exercise reasonable supervision over the acts of Respondent WINNERS CIRCLE in such a manner as to allow the acts and events described in Paragraphs VII through XIII, inclusive, above, to occur.

XV

The acts and omissions of Respondent WINNERS CIRCLE as described in Paragraphs VII, X and XIII, above, are grounds for the suspension or revocation of the licenses and license rights of Respondent WINNERS CIRCLE under the provisions of Section 10137 of the Code.

XVI

The acts and omissions of Respondent WINNERS CIRCLE as described in Paragraphs VIII through XII, inclusive, above, are grounds for the suspension or revocation of the licenses and license rights of Respondent WINNERS CIRCLE under the provisions of Section 10161.8(a) of the Code in conjunction with Sections 10165 and 10177(d) of the Code.

XI

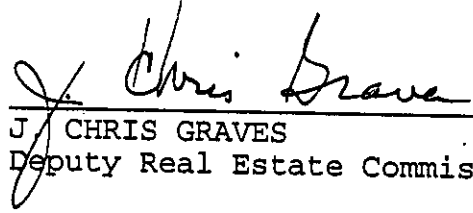
The acts and omissions of Respondent GALLAGHER as described in Paragraph XIV, above, are grounds for the suspension or revocation of the licenses and license rights of Respondent GALLAGHER under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

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



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California
this 22nd day of December, 1997.