

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
JUL 14 2000

DEPARTMENT OF REAL ESTATE

Lucie A. Zin

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-2548 SD
12 JOSEPH RAY SCHOLFIELD)	OAH NO. L-2000030406
13 HOME BUYERS FINANCIAL INC.,)	
14 Respondents.)	<u>STIPULATION AND AGREEMENT</u>

15 It is hereby stipulated by and between JOSEPH RAY
16 SCHOLFIELD (hereinafter "Respondent"), and the Complainant,
17 acting by and through David A. Peters, Counsel for the
18 Department of Real Estate, as follows for purpose of settling
19 and disposing of the Accusation filed February 17, 2000 in this
20 matter:

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) (Government Code Section 11500 et seq.),
26 shall instead and in place thereof be submitted solely on the
27 basis of the provisions of this Stipulation and Agreement.

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

5 3. On March 3, 2000, 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 Respondent
10 understands that by withdrawing said Notice of Defense,
11 Respondent will thereby waive Respondent's right to require the
12 Commissioner to prove the allegations in the Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that Respondent will waive other rights afforded to
15 Respondent in connection with the hearing such as the right to
16 present evidence in defense of the allegations in the Accusation
17 and the right to cross-examine witnesses.

18 4. This Stipulation is based on the factual
19 allegations contained in the Accusation. In the interests of
20 expedience and economy, Respondent chooses not to contest these
21 allegations, but to remain silent and understands that, as a
22 result thereof, these factual allegations, without being
23 admitted or denied, will serve as a prima facia basis for the
24 disciplinary action stipulated to herein. The Real Estate
25 Commissioner shall not be required to provide further evidence
26 to prove said factual allegations.

27 ///

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 her Decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate licenses and license
5 rights as set forth in the below "Order". In the event that the
6 Commissioner in her discretion does not adopt the Stipulation
7 and Agreement, it shall be void and of no effect, and
8 Respondents shall retain the right to a hearing and proceeding
9 on the Accusation under all the provisions of the APA and shall
10 not be bound by any 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 shall not constitute an estoppel, merger or bar to any
14 further administrative or civil proceedings by the Department of
15 Real Estate with respect to any matters which were not
16 specifically alleged to be causes for accusation in this
17 proceeding.

18 DETERMINATION OF ISSUES

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

23 I

24 The conduct of Respondent, as described in the
25 Accusation, constitutes cause for the suspension or revocation of
26 the real estate license and license rights of Respondent under
27 the provisions of Section 10177(d) of the Business and

1 Professions Code in conjunction with Sections 10148 and
2 10161.8(b) of the Business and Professions Code.

3 ORDER

4 I

5 All licenses and licensing rights of Respondent JOSEPH
6 RAY SCHOLFIELD under the Real Estate Law are suspended for a
7 period of twenty (20) days from the effective date of this
8 Decision; provided, however, that said suspension shall be stayed
9 for one (1) year upon the following terms and conditions:

10 1. Respondent shall obey all laws, rules and
11 regulations governing the rights, duties and responsibilities of
12 a real estate licensee in the State of California; and

13 2. The Commissioner may, if a final subsequent
14 determination is made, after hearing or upon stipulation, that
15 cause for disciplinary action occurred during the one (1) year
16 period following the effective date of this Decision, vacate the
17 stay. Should no order vacating the stay be made pursuant to this
18 condition, the stay imposed herein shall become permanent.

19
20 5/26/00

21 DATED

22 David A. Peters

23 DAVID A. PETERS, Counsel
24 DEPARTMENT OF REAL ESTATE

25 * * *

26 I have read the Stipulation and Agreement, and its
27 terms are understood by me and are agreeable and acceptable to
me. I understand that I am waiving rights given to me by the
California Administrative Procedure Act (including but not
limited to Sections 11505, 11598, 11509, and 11513 of the

1 Government Code), and I willingly, intelligently, and
2 voluntarily waive those rights, including the right of requiring
3 the Commissioner to prove the allegations in the Second Amended
4 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 5-26-2000

DATED


JOSEPH RAY SCHOLFIELD
Respondent

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10 * * *

11 The foregoing Stipulation and Agreement for
12 Settlement is hereby adopted by the Real Estate Commissioner as
13 her Decision and Order and shall become effective at 12 o'clock
14 noon on August 4, 2000

15 IT IS SO ORDERED

June 26, 2000
16 PAULA REDDISH ZINNEMANN
17 Real Estate Commissioner
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FILED

JUL 14 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-2548 SD

JOSEPH RAY SCHOLFIELD,
HOME BUYERS FINANCIAL INC.,

OAH NO. L-2000030406

Respondents.

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 17, 2000, an Accusation was filed in this matter against the above-named Respondents.

On May 26, 2000, Respondent HOME BUYERS FINANCIAL INC. 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 HOME BUYERS FINANCIAL 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's Declaration dated May 26, 2000 (attached as Exhibit "A" hereto).

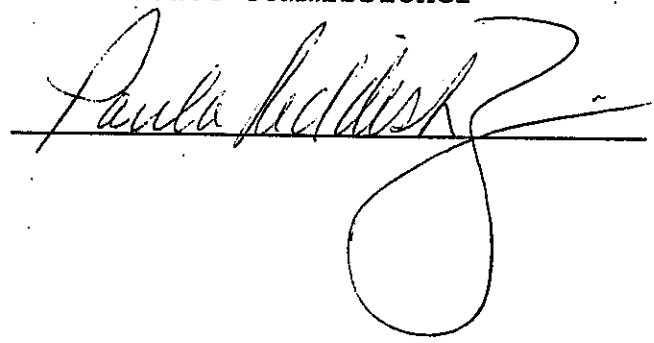
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This Order shall become effective at 12 o'clock
noon on August 4, 2000.

DATED: June 26, 2000.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner



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7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) No. H-2548 SD
11 JOSEPH RAY SCHOLFIELD) OAH NO. L-2000030406
12 HOME BUYERS FINANCIAL INC.,)
13 Respondents.)

14 DECLARATION

15 My name is JOSEPH RAY SCHOLFIELD and I am currently an
16 officer of HOME BUYERS FINANCIAL INC., which is licensed as a
17 real estate broker and/or has license rights with respect to said
18 license. I am authorized and empowered to sign this declaration
19 on behalf of HOME BUYERS FINANCIAL INC.

20 In lieu of proceeding in this matter in accordance with
21 the provisions of the Administrative Procedure Act (Sections
22 11400 et seq., of the Business and Professions Code), HOME BUYERS
23 FINANCIAL INC. wishes to voluntarily surrender its real estate
24 license issued by the Department of Real Estate ("Department"),
25 pursuant to Business and Professions Code Section 10100.2.

26 I understand that HOME BUYERS FINANCIAL INC., by so
27 voluntarily surrendering its license, can only have it reinstated




1 in accordance with the provisions of Section 11522 of the
2 Government Code. I also understand that by so voluntarily
3 surrendering its license HOME BUYERS FINANCIAL INC. agrees to the
4 following:

5 The filing of this Declaration shall be deemed as its
6 petition for voluntary surrender. It shall also be deemed to be
7 an understanding and agreement by HOME BUYERS FINANCIAL INC.
8 that, it waives all rights it has to require the Commissioner to
9 prove the allegations contained in the Accusation filed in this
10 matter at a hearing held in accordance with the provisions of the
11 Administrative Procedure Act (Government Code Sections 11400 et
12 seq.), and that it also waives other rights afforded to it in
13 connection with the hearing such as the right to discovery, the
14 right to present evidence in defense of the allegations in the
15 Accusation and the right to cross-examine witnesses. I further
16 agree on behalf of HOME BUYERS FINANCIAL INC. that upon
17 acceptance by the Commissioner, as evidenced by an appropriate
18 order, all affidavits and all relevant evidence obtained by the
19 Department in this matter prior to the Commissioner's acceptance,
20 and all allegations contained in the Accusation filed in the
21 Department Case No. H-2548 SD, may be considered by the
22 Department to be true and correct for the purpose of deciding
23 whether or not to grant reinstatement of HOME BUYERS FINANCIAL
24 INC.'s license pursuant to Government Code Section 11522.

25 I declare under penalty of perjury under the laws of
26 the State of California that the above is true and correct and
27 that I am acting freely and voluntarily on behalf of HOME BUYERS

1 FINANCIAL INC. to surrender its license and all license rights
2 attached thereto.

3 DATED: 5-26-2000

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6 HOME BUYERS FINANCIAL INC.
7 By: Joseph Ray Scholfield
8 Respondent
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

MAR 31 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

In the Matter of the Accusation of

JOSEPH RAY SCHOLFIELD,
HOME BUYERS FINANCIAL INC.,

Case No. H-2548 SD

OAH No. L-2000030406

Respondent

FIRST AMENDED
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 Wednesday, June 14, 2000, 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.

DEPARTMENT OF REAL ESTATE

Dated: March 31, 2000

By

David A. Peters

DAVID A. PETERS

Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 28 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

JOSEPH RAY SCHOLFIELD,
HOME BUYERS FINANCIAL INC.,

}

Case No. H-2548 SD

OAH No. L-2000030406

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the

Office of Administrative Hearings, 1350 Front Street, Room 6022,

San Diego, CA 92101

on Friday, June 2, 2000, 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.

DEPARTMENT OF REAL ESTATE

Dated: March 28, 2000

By

David A. Peters

DAVID A. PETERS

Counsel

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED
FEB 17 2000

DEPARTMENT OF REAL ESTATE

B. *Laurie A. Zin*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-2548 SD

12 JOSEPH RAY SCHOLFIELD,)

ACCUSATION

13 HOME BUYERS FINANCIAL INC.,)

14 Respondents.)

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JOSEPH RAY SCHOLFIELD (hereinafter "Respondent
18 SCHOLFIELD") and HOME BUYERS FINANCIAL INC. (hereinafter
19 "Respondent FINANCIAL"), is informed and alleges as follows:

20 I

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

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1 II

2 Respondents SCHOLFIELD and FINANCIAL, are licensed
3 and/or have license rights under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code) (hereinafter
5 "the Code") as follows:

6 JOSEPH RAY SCHOLFIELD - as a real estate broker and as
7 designated broker-officer for Respondent FINANCIAL.

8 HOME BUYERS FINANCIAL INC. - as a real estate broker
9 corporation acting by and through Respondent SCHOLFIELD as
10 designated broker-officer.

11 III

12 Whenever reference is made in an allegation in this
13 Accusation to an act or omission of "Respondents", such
14 allegation shall be deemed to mean the act or omission of each
15 of the Respondents named in the caption hereof, acting
16 individually, jointly, and severally.

17 IV

18 Within the three-year period immediately preceding the
19 filing of this Accusation, Respondents engaged in the business
20 of, acted in the capacity of, advertised, or assumed to act as a
21 real estate broker within the meaning of Section 10131(a) of the
22 Code, including the operation and conduct of a real estate sales
23 business with the public by selling or offering to sell, buying
24 or offering to buy, "soliciting prospective sellers or purchasers
25 of, soliciting or obtaining listings of, or negotiating the
26 purchase, sale or exchange of real property.

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2 V

3 Within the three-year period immediately preceding the
4 filing of this Accusation, Respondents engaged in the business
5 of, acted in the capacity of, advertised, or assumed to act as a
6 real estate broker within the State of California within the
7 meaning of Section 10131(d) of the Code, including the operation
8 and conduct of a mortgage loan brokerage business with the
9 public wherein lenders and borrowers were solicited for loans
10 secured directly or collaterally by liens on real property,
11 wherein such loans were arranged, negotiated, processed, and
12 consummated on behalf of others for compensation or in
13 expectation of compensation, and wherein such loans were
14 serviced and payments thereon were collected on behalf of
15 others.

16 VI

17 On or about September 2, 1999, a representative of the
18 Real Estate Commissioner, after service of a subpoena duces
19 tecum on Respondents, required that the records, papers, books,
20 accounts and documents executed or obtained in connection with
21 transactions for which a real estate license is required, for
22 the period January 1, 1998 to August 31, 1999, be made available
23 for examination and inspection. Respondents failed and refused
24 to make said records available for inspection and failed to
25 retain said records in violation of Section 10148 of the Code.

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1 VII

2 Within the three-year period immediately preceding the
3 filing of this Accusation, Respondents failed to immediately
4 notify the Commissioner in writing of the termination of real
5 estate salespersons Gardner McKay Ballard and Jerald Wayne
6 Beasley in violation of Section 10161.8(b) of the Code.

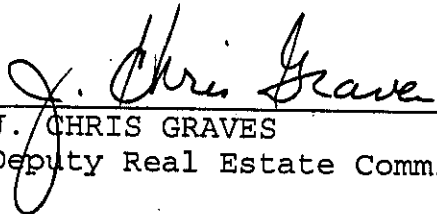
7 VIII

8 The facts alleged above, are grounds for the
9 suspension or revocation of Respondents' licenses and/or license
10 rights under the following sections of the Code and Regulations:

11 (1) As to Paragraph VI, under Section 10177(d) of the
12 Code in conjunction with Section 10148 of the Code; and

13 (2) As to Paragraph VII, under Section 10177(d) of
14 the Code in conjunction with Section 10161.8 of the Code.

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

22
23 
24 J. CHRIS GRAVES
Deputy Real Estate Commissioner

25 Dated at San Diego, California,
26 this 28th day of December, 1999.