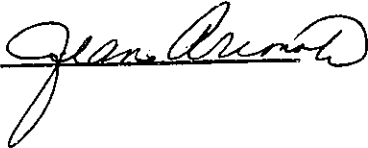


FILED

JAN 22 2008

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-2741 SD
SCOTT HARRISON MAURER,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On October 28, 2003, in Case No. H-2741 SD, a Decision was rendered which revoked the real estate broker license of Respondent effective December 26, 2003, but granted Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 9, 2004, and Respondent has operated as a restricted licensee since that time.

On September 1, 2005, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

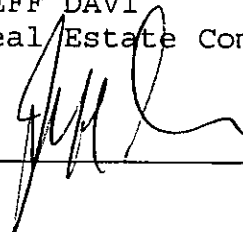
7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 this Order:

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

14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 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.

19 This Order shall be effective immediately.

20 DATED: 1-8-08

21 JEFF DAVI
22 Real Estate Commissioner
23 
24 _____
25
26
27

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

FILED

DEC - 5 2003

DEPARTMENT OF REAL ESTATE

By Laurie L. Zier

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-2741 SD
12 SCOTT HARRISON MAURER,)	OAH NO. L-2002070309
13 Respondents.)	<u>STIPULATION AND AGREEMENT</u>

14
15 It is hereby stipulated by and between SCOTT HARRISON
16 MAURER (hereinafter "Respondent"), and Respondent's attorney of
17 record Steven F. Spierer and Complainant, acting by and through
18 David A. Peters, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing of the
20 Accusation filed on June 11, 2002 in this matter.

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and
23 Respondents at a formal hearing on the Accusation, which hearing
24 was to be held in accordance with the provisions of the
25 Administrative Procedure Act (APA) (Government Code Section 1500
26 et seq.), shall instead and in place thereof be submitted solely

27 ///

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

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

7 3. On June 24, 2002, 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
13 Respondent will thereby waive Respondent's right to require the
14 Commissioner to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the
16 APA and that Respondent will waive other rights afforded to
17 Respondent in connection with the hearing such as the right to
18 present evidence in defense of the allegations in the Accusation
19 and the right to cross-examine witnesses.

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

27 ///

1 Commissioner shall not be required to provide further evidence
2 to prove said factual allegations.

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

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

20 7. Respondent understands that by agreeing to this
21 Stipulation and Agreement in Settlement, Respondent agrees to
22 pay, pursuant to Section 10148 of the Business and Professions
23 Code, the cost of the audit which led to this disciplinary
24 action. The amount of said costs is \$4,134.00.

25 8. Respondent has received, read, and understands
26 the "Notice Concerning Costs of Subsequent Audit". Respondent
27 further understands that by agreeing to this Stipulation and

1 Agreement in Settlement, the findings set forth below in the
2 DETERMINATION OF ISSUES become final, and that the Commissioner
3 may charge Respondent for the costs of any subsequent audit
4 conducted pursuant to Section 10148 of the Business and
5 Professions Code to determine if the violations have been
6 corrected. The maximum costs of said audit will not exceed
7 \$4,134.00.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations, admissions
10 and waivers, and solely for the purpose of settlement of the
11 pending Accusation without a hearing, it is stipulated and
12 agreed that the following determination of issues shall be made:

13 I

14 The conduct of Respondent, as described in the
15 Accusation, constitutes cause for the suspension or revocation
16 of real estate license and license rights of Respondent under
17 the provisions of Business and Professions Code Section 10177(d)
18 in conjunction with Business and Professions Code Sections
19 10145, 10161.8, 10162, 10165, 10085, 10130 and 10148 and Title
20 10, California Code of Regulations Sections 2832, 2831, 2731,
21 2726, 2752, 2715 and 2970.

22 ORDER

23 I.

24 A. The real estate broker license and all license
25 rights of Respondent under the Real Estate Law are revoked.

26 B. A restricted real estate broker license shall be
27 issued to Respondent pursuant to Section 10156.5 of the Business

1 and Professions Code if Respondent makes application therefor
2 and pays to the Department of Real Estate the appropriate fee
3 for the restricted license within ninety (90) days from the
4 effective date of this Decision.

5 C. The restricted license issued to Respondent shall
6 be subject to all of the provisions of Section 10156.7 of the
7 Business and Professions Code to the following limitations,
8 conditions and restrictions imposed under authority of Section
9 10156.6 of the Code.

10 (1) The license shall not confer any property right
11 in the privileges to be exercised, and the Real
12 Estate Commissioner may, by appropriate order
13 suspend the right to exercise any privileges
14 granted under the restricted license in the event
15 of:

16 (a) The conviction of Respondent (including a
17 plea of nolo contendere) to a crime which
18 bears a significant relation to Respondent's
19 fitness or capacity as a real estate
20 licensee; or,

21 (b) The receipt of evidence that Respondent has
22 violated provisions of the California Real
23 Estate Law, Subdivided Lands Law,
24 Regulations of the Real Estate Commissioner
25 or conditions attaching to the restricted
26 license.

27 ///

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

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

20 E. Respondent shall, within six (6) months from the
21 effective date of the restricted license, take and pass the
22 Professional Responsibility Examination administered by the
23 Department including the payment of the appropriate examination
24 fee. If Respondent fails to satisfy this condition, the
25 Commissioner may order the suspension of the restricted license
26 until Respondent passes the examination.

27 ///

1 F. Respondent shall, prior to and as a condition of
2 the issuance of the restricted license, submit proof
3 satisfactory to the Commissioner of having taken and
4 successfully completed the continuing education course on trust
5 fund accounting and handling specified in subdivision (a) of
6 Section 10170.5 of the Business and Professions Code. Proof of
7 satisfaction of this requirement includes evidence that
8 respondent has successfully completed the trust fund account and
9 handling continuing education course within 120 days prior to
10 the effective date of the Decision in this matter.

11 G. Pursuant to Section 10148 of the Business and
12 Professions Code, Respondent shall pay the Commissioner's
13 reasonable cost for: a) the audit which led to this
14 disciplinary action, and b) a subsequent audit to determine if
15 Respondent has corrected the trust fund violations found in
16 Paragraph I of the Determination of Issues. In calculating the
17 amount of the Commissioner's reasonable cost, the Commissioner
18 may use the estimated average hourly salary for all persons
19 performing audits of real estate brokers, and shall include an
20 allocation for travel time to and from the auditor's place of
21 work. Respondent shall pay such cost within sixty (60) days of
22 receiving an invoice from the Commissioner detailing the
23 activities performed during the audit and the amount of time
24 spent performing those activities. The Commissioner may suspend
25 the restricted license issued to Respondent pending a hearing
26 held in accordance with Section 11500, et seq., of the
27

1 Government Code, if payment is not timely made as provided for
2 herein, or as provided for in a subsequent agreement between the
3 Respondent and the Commissioner. The suspension shall remain in
4 effect until payment is made in full or until Respondent enters
5 into an agreement satisfactory to the Commissioner to provide
6 for payment, or until a decision providing otherwise is adopted
7 following a hearing held pursuant to this condition.

8 H. Respondent shall prior to the effective date of the
9 Decision provide evidence satisfactory to the Commissioner that
10 Respondent has cured the trust fund shortage alleged in the
11 Accusation.

12 I. Any restricted real estate broker license issued
13 to Respondent may be suspended or revoked for a violation by
14 Respondent of any of the conditions attaching to the restricted
15 license.

16
17 10/15/03
18 DATED

17 David A. Peters
18 DAVID A. PETERS, Counsel
19 DEPARTMENT OF REAL ESTATE

19 * * *

20 I have read the Stipulation and Agreement, have
21 discussed it with my counsel, and its terms are understood by me
22 and are agreeable and acceptable to me. I understand that I am
23 waiving rights given to me by the California Administrative
24 Procedure Act (including but not limited to Sections 11505,
25 11598, 11509, and 11513 of the Government Code), and I
26 willingly, intelligently, and voluntarily waive those rights,
27 including the right of requiring the Commissioner to prove the

SPIERER & WOODWARD

Fax:310-316-1823

Aug 19 2003 15:05

P.11

08/15/2003 14:48 FAX 9182279458

ORE LEGAL/RECOVERY

010/010

1 allegations in the Second Amended Accusation at a hearing at
2 which I would have the right to cross-examine witnesses against
3 me and to present evidence in defense and mitigation of the
4 charges.

5
6 8/19/03
DATED

SCOTT HARRISON MAURER
Respondent

8 I have reviewed the Stipulation and Agreement in
9 Settlement as to form and content and have advised my client
10 accordingly.

11 8/19/03
DATED

STEVEN F. SPIERER
Attorney for Respondent

13 * * *

14 The foregoing Stipulation and Agreement for
15 Settlement is hereby adopted by the Real Estate Commissioner as
16 her Decision and Order and shall become effective at 12 o'clock
17 noon on _____, 2003.

18 IT IS SO ORDERED _____, 2003.

19 PAULA REDDISH ZINNEBANN
20 Real Estate Commissioner
21
22
23
24
25
26
27

1 allegations in the Second Amended Accusation at a hearing at
2 which I would have the right to cross-examine witnesses against
3 me and to present evidence in defense and mitigation of the
4 charges.

5
6
7 DATED

SCOTT HARRISON MAURER
Respondent

8 I have reviewed the Stipulation and Agreement in
9 Settlement as to form and content and have advised my client
10 accordingly.

11 DATED

STEVEN F. SPIERER
Attorney for Respondent

12 * * *

13
14 The foregoing Stipulation and Agreement for
15 Settlement is hereby adopted by the Real Estate Commissioner as
16 her Decision and Order and shall become effective at 12 o'clock
17 noon on DECEMBER 26, 2003.

18 IT IS SO ORDERED October 28, 2003.

19
20 PAULA REDDISH ZINNEBANN
Real Estate Commissioner

21
22
23
24
25
26
27

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
MAY 29 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SCOTT HARRISON MAURER,

Case No. H-2741 SD

OAH No. L-2002070309

Respondent

**FOURTH 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, SUITE 6022, SAN DIEGO, CA 92101** on **AUGUST 26 & 27, 2003**, at the hour of **9:00 A.M.**, 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: MAY 29, 2003

By

David A. Peters
DAVID A. PETERS, Counsel

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
MAR 27 2003

DEPARTMENT OF REAL ESTATE

By *David A. Peters*

In the Matter of the Accusation of

SCOTT HARRISON MAURER,

} Case No. H-2741 SD

} OAH No. L-2002070309

Respondent

**THIRD 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, SUITE 6022, SAN DIEGO, CA 92101** on **JULY 15 & 16, 2003**, at the hour of **9:00 A.M.**, 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 27, 2003

By *David A. Peters*
DAVID A. PETERS, Counsel

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
JAN 14 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SCOTT HARRISON MAURER,

Case No. H-2741 SD

OAH No. L-2002070309

Respondent

**SECOND 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, SUITE 6022, SAN DIEGO, CA 92101** on **APRIL 9 & 10, 2003**, at the hour of **9:00 A.M.**, 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 14, 2003

DEPARTMENT OF REAL ESTATE

By

David A. Peters
DAVID A. PETERS, Counsel

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
OCT 17 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SCOTT HARRISON MAURER,

Case No. H-2741 SD

OAH No. L-2002070309

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, SUITE 6022, SAN DIEGO, CA 92101** on **JANUARY 22-23, 2003**, at the hour of **9:00 A.M.**, 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: OCTOBER 17, 2002

DEPARTMENT OF REAL ESTATE

By David A. Peters
DAVID A. PETERS, Counsel (L2)

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

JUL 26 2002

In the Matter of the Accusation of

SCOTT HARRISON MAURER,

Case No. H-2741 SD

OAH No. L-2002070309

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, SUITE 6022, SAN DIEGO, CA 92101** on **OCTOBER 17 & 18, 2002**, at the hour of **9:00 A.M.**, 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: JULY 26, 2002

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
JUN 11 2002

DEPARTMENT OF REAL ESTATE

Lucie C. Zin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SCOTT HARRISON MAURER,)
13 Respondent.)

No.: H-2741 SD

ACCUSATION

14
15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California for cause of Accusation
17 against SCOTT HARRISON MAURER (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

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

23 II

24 Respondent is licensed and/or has license rights under
25 the Real Estate Law (Part 1 of Division 4 of the Business and
26 Professions Code) (hereinafter "Code") as a real estate broker.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

III

Beginning on or about April 24, 2000, Respondent was licensed as a real estate broker.

IV

Within the three-year period immediately preceding the filing of this Accusation and continuing through on or after July 31, 2001, Respondent 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(b) of the Code wherein Respondent for or in expectation of a compensation solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others and otherwise managed real properties in or near San Diego, California.

V

During the course of the property management activities described in Paragraph IV. above, Respondent received and disbursed funds held in trust on behalf of another or others.

VI

Beginning on or before July 1, 1999 and continuing through on or about July 31, 2001, Respondent maintained the following trust fund account:

<u>ACCOUNT TITLE AND NUMBER</u>	<u>BANK</u>
Scott H. Maurer, Checking Account No: 3792611276 (hereinafter "the Account")	Washington Mutual San Diego, California
///	

1 The Account was not in the name of Respondent as
trustee at a bank or other financial institution as required by
Section 2832 of Title 10, California Code of Regulations
(hereinafter "the Regulations")

VII

In connection with the receipt and disbursement of trust funds described in Paragraph V above, Respondent failed to deposit and maintain said trust funds in the Account in such manner that as of January 10, 2001, there was a shortage of \$16,075.59 of trust funds.

VIII

In connection with the receipt and disbursement of trust funds described in Paragraph V above, Respondent failed to maintain adequate columnar records of all trust funds received and disbursed in the manner required by Section 2831 of the Regulations.

IX

Within the three-year period immediately preceding the filing of this Accusation, Respondent operated his real estate business in San Diego, California, under the fictitious business names of "RE/MAX" and "Re/Max Metro, Inc." without Respondent obtaining a license bearing said fictitious business name as required by Section 2731 of the Regulations.

X

Within the three-year period immediately preceding he filing of this Accusation, Respondent failed to have a written agreement with each of his salespersons, whether licensed as a

1 salesperson or as a broker under a broker salesperson
2 arrangement, dated and signed by the parties and covering
3 material aspects of the relationship between the parties as
4 required by Section 2726 of the Regulations. Said salespersons
5 included Carolyn Bowhay.

6 XI

7 Within the three-year period immediately preceding the
8 filing of this Accusation, Respondent failed to notify the
9 Commissioner in writing within five (5) days of the employment
10 by Respondent of real estate salesperson Carolyn Bowhay as
11 required by Section 10161.8 of the Code and Section 2752 of the
12 Regulations.

13 XII

14 Within the three-year period immediately preceding the
15 filing of this Accusation, Respondent failed to maintain on file
16 with the Commissioner his principal place of business at 643 G
17 Street, San Diego, California, by Section 10162 of the Code and
18 Section 2715 of the Regulations.

19 XIII

20 Within the three year period immediately preceding the
21 filing of this Accusation, in connection with the property
22 management activities described in Paragraph III above,
23 Respondent engaged in the business of claiming, demanding,
24 charging, receiving, collecting or contracting for the
25 collection of advance fees within the meaning of Sections 10026
26 and 10131.2 (advance fees) of the Code. Said advance fees were
27 collected from Mark Rabwin (hereinafter "Rabwin") the owner of a

1 real property commonly known as 650 India Street #420, San
2 Diego, California (hereinafter "the Subject Property"). Said
3 advance fees collected by Respondent from Rabwin included a 1979
4 Volkswagen valued at \$3,000.00 and \$500.00 in cash.

5 XIV

6 In connection with the collection and handling of said
7 advance fees, Respondent failed to cause the advance fee
8 contracts and all materials used in obtaining said advance fee
9 agreement to be submitted to the Department of Real Estate prior
10 to use as required by Section 10085 of the Code and Section 2970
11 of the Regulations.

12 XV

13 Beginning in January 2000 and continuing through on or
14 about April 24, 2000, Respondent, engaged in acts for which a
15 real estate broker license is required as described in Paragraph
16 IV above, at a time when Respondent was not licensed as a real
17 estate broker. Said licensed activity included the management
18 of the Subject Property owned by Rabwin in violation of Section
19 10130 of the Code.

20 XVI

21 On or about September 24, 2001, a representative of
22 the Real Estate Commissioner, after service of a subpoena duces
23 tecum on Respondent, requiring that records, papers, books,
24 accounts and documents executed or obtained in connection with
25 transactions for which a real estate license is required be made
26 available for examination and inspection. Respondent failed or
27 refused to make said records available for inspection and/or

1 failed to retain said records in violation of Section 10148 of
2 the Code.

3 XVII

4 The facts alleged above are grounds for the suspension
5 or revocation of Respondent's license and/or license rights
6 under the following sections of the Code and Regulations:

7 1) As to Paragraph VI, under Section 10177(d) of the
8 Code in conjunction Section 2832 of the Regulations;

9 2) As to Paragraph VII under Section 10177(d) of the
10 Code in conjunction with Section 10145 of the Code;

11 3) As to Paragraph VIII, under Section 10177(d) of
12 the Code in conjunction with Section 2831 of the Regulations;

13 4) As to Paragraph IX, under Section 10177(d) of the
14 Code in conjunction with Section 2731 of the Regulations;

15 5) As to Paragraph X, under Section 10177(d) of the
16 Code in conjunction with Section 2726 of the Regulations;

17 6) As to Paragraph XI, under Section 10165 of the
18 Code in conjunction with Section 10161.8 of the Code and Section
19 10177(d) of the Code in conjunction with Section 2752 of the
20 Regulations;

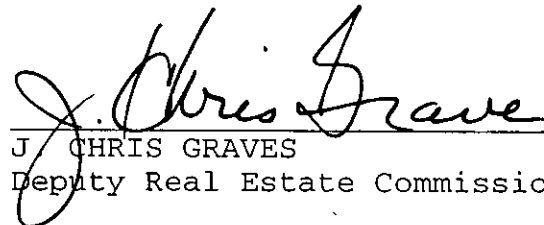
21 7) As to Paragraph XII, under Section 10165 of the
22 Code in conjunction with Section 10162 of the Code and Section
23 10177(d) of the Code in conjunction with Section 2715 of the
24 Regulations;

25 8) As to Paragraph XIV, under Section 10177(d) of
26 the Code in conjunction with Section 10085 of the Code and
27 Section 2970 of the Regulations;

1 9) As to Paragraph XV, under Section 10177(d) of the
2 Code in conjunction with Section 10130 of the Code; and

3 10) As to Paragraph XVI, under Section 10177(d) of
4 the Code in conjunction with Section 10148 of the Code.

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

12
13 
14 J. CHRIS GRAVES
15 Deputy Real Estate Commissioner

16 Dated at San Diego, California,
17 this 28th day of May, 2002.
18
19
20
21
22
23
24
25
26
27