

1 Procedure Act, shall instead and in place thereof be submitted
2 solely on the basis of the provisions of this Stipulation.

3 2. Respondents have received, read and understand the
4 Statement to Respondent, the Discovery Provisions of the
5 Administrative Procedure Act (Government Code Section 11500 and
6 following), and the Accusation filed by the Department of Real
7 Estate in this proceeding.

8 3. On June 12, 1992, Respondents filed a Notice of
9 Defense herein pursuant to Section 11505 of the Government Code
10 for the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notice of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notice of Defense they waive
14 their right to require the Commissioner to prove the allegations
15 in the Accusation at a contested hearing held in accordance with
16 the provisions of the Administrative Procedure Act and that they
17 waive other rights afforded to them in connection with the hearing
18 such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. Respondents, pursuant to the limitations set forth
22 below, hereby admit that the factual allegations of the Accusation
23 filed in this proceeding are true and correct and the Real Estate
24 Commissioner shall not be required to provide further evidence to
25 prove such allegations.

26 5. Respondents understand that the "Determination of
27 Issues" set forth below contains a determination by the Real

1 Estate Commissioner that Respondents **JUNIPER REALTY** and
2 **NELSON W. RICHARDSON** have violated Section 10145 of the
3 Business and Professions Code and/or a Regulation of the
4 Commissioner interpreting Section 10145. Section 10148 of the
5 Business and Professions Code provides that if this finding
6 becomes final, the Commissioner may charge **JUNIPER REALTY** and
7 **NELSON W. RICHARDSON** for the costs of any audit which may be
8 conducted to determine if the violations found have been
9 corrected.

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

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

DETERMINATION OF ISSUES

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

I

The conduct of Respondents, as described in Paragraphs 4 and 5 of the Accusation is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondents under the provisions of the following sections of the Business and Professions Code:

- A. As to respondents **JUNIPER REALTY, NELSON W. RICHARDSON**, under Sections 10176(i), (e), and 10177(d) read together with Section 10145(a) of the Code and Sections 2831(a), 2831.2, and 2725 of Title 10, California Code of Regulations.
- B. As to respondent **CAROL ANNE RICHARDSON** under Section 10176(a), (i) of the Code.

ORDER

I

- A. The real estate broker license of respondent **JUNIPER REALTY** is revoked.
- B. The real estate broker license of respondent **NELSON W. RICHARDSON** is revoked.
- C. The real estate salesperson license of respondent **CAROL ANNE RICHARDSON** is revoked.

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II

- 1
2 A. A restricted real estate broker license shall be issued to
3 respondent JUNIPER REALTY and to respondent NELSON W.
4 RICHARDSON on the terms and conditions stated below.
- 5 B. A restricted real estate salesperson license shall be issued
6 to respondent CAROL ANNE RICHARDSON on the terms and
7 conditions stated below.

III

- 8
- 9 A. To obtain a restricted license each Respondent shall within
10 90 days from the effective date of this Order apply for such
11 license and pay the appropriate application fee.
- 12 B. Before the restricted license is issued to any respondent,
13 Respondents shall provide evidence satisfactory to the
14 Commissioner that Respondents have made restitution of all of
15 the amounts of shortages described in DRE Audit Report No.
16 SC91-0055, dated January 15, 1992, concerning JUNIPER
17 REALTY and NELSON W. RICHARDSON.
- 18 C. When issued, the restricted real estate broker licenses of
19 respondents JUNIPER REALTY and NELSON W. RICHARDSON
20 shall be suspended for sixty (60) days.
21 Thirty (30) days of this suspension shall be stayed on the
22 condition that no further grounds for disciplinary action
23 occur with respect to this Respondent during a period of
24 twelve (12) months from the effective date of this Order. If
25 no further grounds for disciplinary action occur during that
26 period, the thirty (30) day suspension shall be stayed
27 permanently.

1 If further grounds for disciplinary action occur during that
2 period, the Commissioner may, after a hearing under the
3 Administrative Procedure Act, impose the sixty (60) day
4 suspension together with additional discipline, if any,
5 resulting from such hearing.

6 The remaining 30 days of the 60-day suspension shall be
7 imposed beginning on the day following the effective date of
8 this Order, unless Respondents JUNIPER REALTY and/or
9 NELSON W. RICHARDSON have petitioned for commuting this
10 suspension to a monetary penalty pursuant to Section 10175.2
11 of the Business and Professions Code by delivering to the
12 Department, on or before the effective date of this Order, a
13 cashier's check in the amount of \$6,000.00 payable to the
14 order of the Recovery Account of the Department of Real
15 Estate, State of California.

16 If the 30-day suspension is commuted as described above, and
17 if no further cause for disciplinary action against the
18 restricted real estate license of Respondents occurs within
19 one (1) year from the effective date of the Order, the stay
20 of the 30-day suspension hereby granted shall become
21 permanent.

22 D. The restricted license issued to each respondent shall be
23 subject to all of the provisions of Section 10156.7 of the
24 Business and Professions Code and to the following
25 limitations, conditions, and restrictions imposed under
26 authority of Section 10156.6 of that Code:

27 ///

1 (1) As provided by Business and Professions Code, Section
2 10156.7, the license shall not confer any property right
3 in the privileges to be exercised, and the Real Estate
4 Commissioner may, by appropriate order, suspend the
5 right to exercise any privileges granted under the
6 restricted license in the event of:

7 (a) The conviction of Respondent or plea of nolo
8 contendere of a crime which bears a substantial
9 relation to Respondent's fitness or capacity as a
10 real estate licensee; or,

11 (b) The receipt of evidence that Respondent has
12 violated provisions of the California Real Estate
13 Law, the Subdivided Lands Law, Regulations of the
14 Real Estate Commissioner, or conditions attaching
15 to the restricted license.

16 (2) By force of Government Code, Section 11522, Respondent
17 is not eligible to apply for the issuance of an
18 unrestricted real estate license nor for the removal of
19 any of the conditions, limitations, or restrictions
20 attaching to the restricted license until one year has
21 elapsed from the effective date of issuance of the
22 restricted license to Respondent.

23 (3) Respondents shall, within six (6) months from the
24 effective date of this Order, present evidence
25 satisfactory to the Real Estate Commissioner that each
26 respondent has, since the most recent issuance of an
27 original or renewal real estate license, taken and

1 successfully completed the continuing education
2 requirements of Article 2.5 of Chapter 3 of the Real
3 Estate Law for renewal of a real estate license. If a
4 respondent fails to satisfy this condition, the
5 Commissioner may order the suspension of the restricted
6 license until the respondent presents such evidence.
7 The Commissioner shall afford such respondent the
8 opportunity for a hearing pursuant to the Administrative
9 Procedure Act to present such evidence. Regarding
10 respondent **JUNIPER REALTY** the requirement shall be
11 performed by respondent **NELSON W. RICHARDSON**.

12 (4) Respondents shall, within six (6) months from the
13 effective date of the restricted license, take and pass
14 the Professional Responsibility Examination administered
15 by the Department including the payment of the
16 appropriate examination fee. If a respondent fails to
17 satisfy this condition, the Commissioner may order
18 suspension of such respondent's license until Respondent
19 passes the examination. Regarding respondent
20 **JUNIPER REALTY** the requirement shall be performed by
21 respondent **NELSON W. RICHARDSON**.

22 (5) With the application for license, if applicable, or with
23 the application for transfer to a new employing broker,
24 respondent **CAROL ANNE RICHARDSON** shall submit a
25 statement signed by the prospective employing broker on
26 a form approved by the Department of Real Estate wherein
27 the employing broker shall certify as follows:

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12-8-92

DATED

Carol Anne Richardson

CAROL ANNE RICHARDSON, Respondent

Wallace

DATED

Will Hawes

WILL HAWES, Counsel For Respondents

* * *

The foregoing Stipulation and Agreement in Settlement is
hereby adopted as my Decision and Order and shall become effective
at 12 o'clock noon on March 22, 1993.

IT IS SO ORDERED February 17, 1993.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

FILED
JUL - 2 1992
DEPARTMENT OF REAL ESTATE

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

In the Matter of the Accusation of
JUNIPER REALTY,
NELSON W. RICHARDSON,
CAROL ANNE RICHARDSON,

}

By Kathleen Conners

Case No. H-2774 SAC

OAH No. N-41097

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, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, California 95814

on November 2, 1992, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: July 1, 1992

By Roland Adickes
ROLAND ADICKES Counsel

1 ROLAND ADICKES, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 739-3607

FILED
JUN - 3 1992
DEPARTMENT OF REAL ESTATE

8 By Kathleen Contreras

9 .BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 JUNIPER REALTY,)
15 NELSON W. RICHARDSON,)
16 CAROL ANNE RICHARDSON,)
17 Respondents.)

NO. H- 2774 SAC
ACCUSATION

18 The Complainant, Charles W. Koenig, a Deputy Real Estate
19 Commissioner of the State of California for cause of Accusation
20 against JUNIPER REALTY, NELSON W. RICHARDSON, and CAROL ANNE
21 RICHARDSON (hereinafter "Respondents") is informed and alleges as
22 follows:

23 1.

24 The Complainant, Charles W. Koenig, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation in
26 his official capacity.

27 ///

1 2.

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

- 5 (a) JUNIPER REALTY as a real estate broker through
6 NELSON W. RICHARDSON as designated officer.
7 (b) NELSON W. RICHARDSON as a real estate broker.
8 (c) CAROL ANNE RICHARDSON as a real estate
9 salesperson.

10 Respondents were so licensed during 1989 and 1990.

11 3.

12 From time to time during 1989, 1990 and 1991,
13 respondents JUNIPER REALTY (JUNIPER) and NELSON W. RICHARDSON
14 conducted a real estate brokerage business in Weed, California,
15 taking listings for the sale of real property, soliciting buyers,
16 negotiating such sales, and offering real property for rent,
17 soliciting tenants and collecting rent on behalf of the owners of
18 such property.

19 4.

20 In the course of conducting the real property management
21 (rentals) of the business described in paragraph 3., Respondents
22 failed to comply with the Real Estate Law as follows:

- 23 (a) As of November 29, 1991, the trust bank accounts were
24 overdrawn by \$3,803.37 in the payment of trust obligations
25 and in addition trust obligations existing as of that date
26 were \$23,255.80, resulting in a total trust fund shortage of
27 \$27,059.17.

1 (b) Respondents deposited rent and security deposits allocable to
2 rental properties owned by one or more of Respondents in the
3 trust bank accounts of JUNIPER and thereby commingled their
4 own funds with the funds held in trust for other persons.

5 (c) During the period April 2, 1991 through August 27, 1991,
6 Respondents withdrew \$9,550.44 in five disbursements from the
7 trust bank accounts for the purpose of making payments on
8 behalf of Respondents' own rental properties or other
9 purposes not authorized by the owners of such funds. At the
10 time of the five disbursements, the accounts for the rental
11 properties of respondents NELSON and CAROL RICHARDSON all had
12 negative balances. Respondents thus used funds belonging to ,
13 others to make payments for Respondents' own benefit.

14 In addition, as of November 29, 1991, the account for one
15 rental property of respondent JUNIPER had a negative balance
16 of \$884.38, indicating that Respondents had used funds
17 belonging to others to make payments for the benefit of
18 Respondents.

19 (d) During the period of May 6, 1991 through November 29, 1991,
20 Respondents failed to deposit into the trust bank accounts
21 all funds belonging to others (trust funds) received by
22 Respondents during that period. The total amount of trust
23 funds Respondents failed to deposit was \$1,271.30.

24 (e) From time to time during the period January 1, 1989 through
25 November 29, 1991, Respondents did not maintain a record of
26 all trust funds received and paid out.

27 ///

1 (f) From time to time during the period January 1, 1989 through
2 November 29, 1991, Respondents did not reconcile the combined
3 balance of the accounts for individual rental properties or
4 owners with the balance of a record of all trust funds
5 received and paid out.

6 (g) From time to time during the period January 1, 1989 through
7 November 29, 1991, respondents JUNIPER and NELSON RICHARDSON
8 did not review, initial, and date all lease agreements,
9 rental agreements and similar documents prepared or signed by
10 salespersons in the employ of respondents JUNIPER and NELSON
11 RICHARDSON.

12 5.

13 On or about July 10, 1989, respondents JUNIPER and
14 NELSON RICHARDSON entered into a listing contract with Michael and
15 Kathleen Sommerfield for property owned by the Sommerfields known
16 as 5548 Lake Shastina Drive in Weed, California (the Property).
17 The listing contract was negotiated by respondent CAROL RICHARDSON
18 on behalf of the brokerage firm. On or about March 6, 1990,
19 respondent CAROL RICHARDSON told the Sommerfields that the
20 Property had been sold and that she would mail "papers" for
21 completing the transaction. On or about April 3, 1990, respondent
22 CAROL RICHARDSON told the Sommerfields that she had found a
23 married couple who wanted to rent the Property "with the intent to
24 buy". The Sommerfields told respondent CAROL RICHARDSON that they
25 wanted "something in writing" about the intent to buy before they
26 would commit themselves to this proposal. On or about April 4,
27 1990, respondent CAROL RICHARDSON informed the Sommerfields by

- 1 (a) As to paragraph 4.(a) and respondents JUNIPER and NELSON
2 RICHARDSON under Section 10177(d) in conjunction with Section
3 10145(a) of the Code.
- 4 (b) As to paragraph 4.(b) and respondents JUNIPER and NELSON
5 RICHARDSON under Section 10176(e) of the Code.
- 6 (c) As to paragraph 4.(c) and all Respondents under Section
7 10176(i) of the Code and Section 10177(d) in conjunction with
8 Section 10145(a) of the Code.
- 9 (d) As to paragraph 4.(d) and respondents JUNIPER and NELSON
10 RICHARDSON under Section 10177(d) in conjunction with Section
11 10145(a) of the Code.
- 12 (e) As to paragraph 4.(e) and respondents JUNIPER and NELSON
13 RICHARDSON under Section 10177(d) of the Code in conjunction
14 with Section 2831(a) of Title 10, California Code of
15 Regulations (Regulations).
- 16 (f) As to paragraph 4.(f) and respondents JUNIPER and NELSON
17 RICHARDSON under Section 10177(d) of the Code in conjunction
18 with Regulation 2831.2.
- 19 (g) As to paragraph 4.(g) and respondents JUNIPER and NELSON
20 RICHARDSON under Section 10177(d) of the Code in conjunction
21 with Regulation 2725.
- 22 (h) As to paragraph 5., and respondents JUNIPER and NELSON
23 RICHARDSON under Sections 10177(g), (h) of the Code and
24 Section 10177(d) in conjunction with Regulation 2725.
- 25 (i) As to paragraph 5., and respondent CAROL RICHARDSON under
26 Sections 10176(a), (i) of the Code.
- 27 ///

