

Kathleen Conteras

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

4 3. On May 19, 2003, Respondent filed his Notice of
5 Defense pursuant to Section 11505 of the Government Code for the
6 purpose of requesting a hearing on the allegations in the
7 Accusation. Respondent hereby freely and voluntarily withdraws
8 said Notice of Defense. Respondent acknowledges that he
9 understands that by withdrawing said Notice of Defense he will
10 thereby waive his rights to require the Commissioner to prove
11 the allegations in the Accusation at a contested hearing held in
12 accordance with the provisions of the APA, and that he will waive
13 other rights afforded to him in connection with the hearing such
14 as the right to present evidence in defense of the allegations in
15 the Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth
17 below, hereby admits that the factual allegations in Paragraphs I
18 through V of the Accusation filed in this proceeding are true and
19 correct and the Real Estate Commissioner shall not be required to
20 provide further evidence of such allegations.

21 5. Without admitting the truth of the allegations
22 contained in the rest of the Accusation, Respondent stipulates
23 that he will not interpose a defense thereto. This Stipulation
24 is based on the factual allegations contained in the Accusation
25 as found below. In the interests of expedience and economy,
26 Respondent chooses not to contest the remaining allegations, but
27 to remain silent, and understands that, as a result thereof,

1 these factual allegations, without being admitted or denied,
2 will serve as a basis for the disciplinary action stipulated to
3 herein. The Real Estate Commissioner shall not be required to
4 provide further evidence to prove said factual allegations.

5 6. Respondent has received, read and understands the
6 "Notice Concerning Costs of Audits." Respondent understands,
7 by agreeing to this Stipulation and Agreement, and after the
8 findings set forth below in the "Determination of Issues" become
9 final, that the Commissioner may charge Respondent for the costs
10 of the following audits that have been and may be conducted
11 pursuant to Section 10148 of the Business and Professions Code:

12 (a) Audit #SD-000007 dated September 11, 2000:
13 Not more than \$6,776;

14 (b) Future follow-up audit: Not more than
15 \$6,700.

16 7. It is understood by the parties that the Real
17 Estate Commissioner may adopt the Stipulation and Agreement as
18 her decision in this matter thereby imposing the penalty and
19 sanctions on the real estate licenses and license rights of
20 Respondent as set forth in the below "Order". In the event that
21 the Commissioner in her discretion does not adopt the Stipulation
22 and Agreement, it shall be void and of no effect, and Respondent
23 shall retain the right to a hearing and proceeding on the
24 Accusation under all the provisions of the APA and shall not be
25 bound by any admission or waiver made herein.

26 8. The Order or any subsequent Order of the Real Estate
27 Commissioner made pursuant to this Stipulation and Agreement
shall not constitute an estoppel, merger or bar to any further

1 administrative or civil proceedings by the Department of Real
2 Estate with respect to any matters which were not specifically
3 alleged to be causes for accusation in this proceeding.

4 * * *

5 DETERMINATION OF ISSUES

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

10 The acts and/or omissions of Respondent DOUGLAS WAYNE
11 HINTON, individually and doing business as MAIN STREAM FUNDING,
12 as stipulated above, constitute grounds for disciplinary action
13 under the provisions of Section 10177(h) of the Code.

14 * * *

15 ORDER

16 A. All real estate license(s) and license rights of Respondent
17 DOUGLAS WAYNE HINTON are revoked.

18 B. A restricted real estate broker license shall be issued to
19 Respondent pursuant to Section 10156.6 of the Code if he
20 makes application therefor and pays to the Department the
21 appropriate fee for the license within ninety (90) days of
22 the effective date of the Order.

23 C. The restricted license issued to Respondent shall be subject
24 to all of the provisions of Section 10156.7 of the Business
25 and Professions Code and to the following conditions and
26 limitations imposed under authority of Section 10156.6 of
27 said Code:

1) Respondent shall, prior to and as a condition of the issuance of said restricted license, submit proof satisfactory to the Commissioner of having taken and completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code from an approved continuing education course provider. Said course may have been completed within one hundred and twenty (120) days prior to the effective date of the order herein.

2) The restricted license issued to Respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which bears a substantial relationship to Respondent's fitness or capacity as a real estate licensee.

3) The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

4) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions of the restricted license, until two (2) years have elapsed from the effective date of this Order.

1 5) Pursuant to Section 10148 of the Business and Professions

2 Code, Respondent shall pay the Commissioner's reasonable
3 cost for the following audits as a result of the above
4 found violations:

5 (a) Audit #SD-000007 dated September 11, 2000:
6 Not more than \$6,776;

7 (b) Future follow-up audit: Not more than
 \$6,700.

8 In calculating the amount of the Commissioner's reasonable
9 costs for each audit, the Commissioner may use the
10 estimated average hourly salary for all Department Audit
11 Section personnel performing audits of real estate brokers,
12 and shall include an allocation for travel time to and
13 from the auditor's place of work. Respondent shall pay
14 such costs within sixty (60) days of receiving an invoice
15 from the Commissioner detailing the activities performed
16 during each audit and the amount of time spent performing
17 those activities. The Commissioner may suspend the
18 restricted license issued to Respondent pending a hearing
19 held in accordance with Section 11500, et seq., of the
20 Government Code, if payment is not timely made as provided
21 for herein, or as provided for in a subsequent agreement
22 between Respondent and the Commissioner. The suspension
23 shall remain in effect until payment is made in full for
24 each audit or until Respondent enters into an agreement
25 satisfactory to the Commissioner to provide for payment,
26 or until a decision providing otherwise is adopted
27 following a hearing held pursuant to this condition.

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

15 7) Respondent shall, within six (6) months from the
16 effective date of this Decision, take and pass the
17 Professional Responsibility Examination administered by
18 the Department including the payment of the appropriate
19 examination fee. If Respondent fails to satisfy this
20 condition, the Commissioner may order suspension of the
21 restricted license until Respondent passes the
22 examination.

24 October 2, 2003
25 DATED

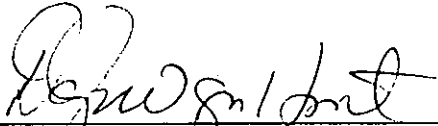
25 Deidre L. Johnson
26 DEIDRE L. JOHNSON
27 Counsel for Complainant

* * *

1 I have read the Stipulation and Agreement, have
2 discussed it with my counsel, and its terms are understood by me
3 and are agreeable and acceptable to me. I understand that I am
4 waiving rights given to me by the California Administrative
5 Procedure Act, and I willingly, intelligently and voluntarily
6 waive those rights, including the right of requiring the
7 Commissioner to prove the allegations in the Accusation at a
8 hearing at which I would have the right to cross-examine
9 witnesses against me and to present evidence in defense and
10 mitigation of the charges.

11
12 9-30-03

13 DATED

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16 DOUGLAS WAYNE HINTON
17 Respondent

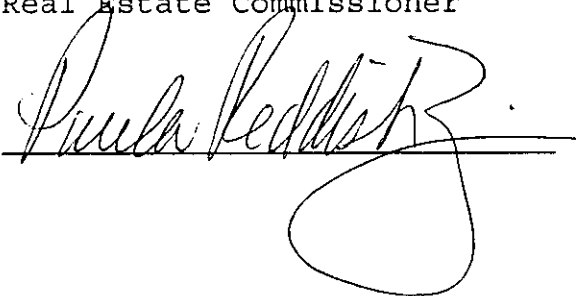
18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision and shall become effective at 12 o'clock
21 noon on February 11, 2004.

22 IT IS SO ORDERED

23 November 12, 2003.

24 PAULA REDDISH ZINNEBANN
25 Real Estate Commissioner

26 
27

FILED
JAN 22 2004

DEPARTMENT OF REAL ESTATE

Kathleen Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of Accusation of:)

MAIN STREAM FUNDING, INC.,)
and DOUGLAS WAYNE HINTON,)

Respondents.)

CASE NO. H-2839 SD

ORDER ACCEPTING VOLUNTARY SURRENDER

On May 1, 2003, an Accusation was filed in this
matter against Respondent MAIN STREAM FUNDING, INC.

By Declaration signed September 30, 2003, MAIN STREAM
FUNDING, INC., petitioned the Commissioner to voluntarily
surrender its corporate real estate broker license and license
rights pursuant to Section 10100.2 of the Business and
Professions Code.

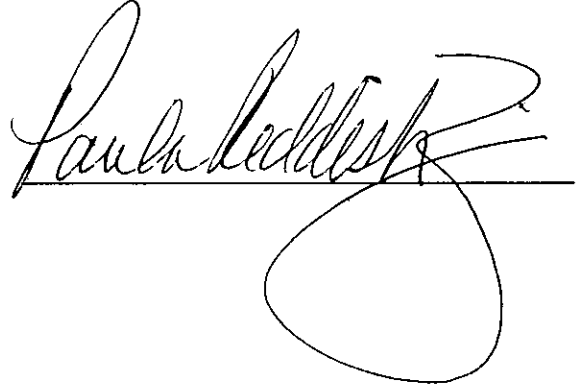
IT IS HEREBY ORDERED that the petition of MAIN STREAM
FUNDING, INC., for the voluntary surrender of its corporate
real estate license and license rights is accepted as of the
effective date of this Order as set forth below, based upon the

1 understanding and agreement expressed in the Declaration of
2 DOUGLAS WAYNE HINTON, designated broker officer and President
3 of MAIN STREAM FUNDING, INC., dated September 30, 2003,
4 attached hereto as Exhibit "A").

5 This Order shall become effective at 12 o'clock noon
6 on February 11, 2004.

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8 DATED: November 12, 2003

9 PAULA REDDISH ZINNEMANN
10 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

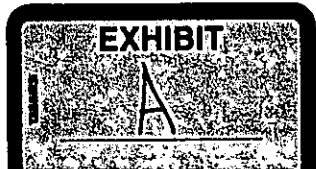
* * *

In the Matter of Accusation of:)
MAIN STREAM FUNDING, INC.,)
and DOUGLAS WAYNE HINTON,) CASE NO. H-2839 SD
Respondents.)

DECLARATION

My name is DOUGLAS WAYNE HINTON. I am licensed as the designated broker officer of MAIN STREAM FUNDING, INC., a licensed California real estate broker corporation. I am the President of MAIN STREAM FUNDING, INC., I am acting on behalf of MAIN STREAM FUNDING, INC., in this matter, and I am authorized to sign this declaration on behalf of MAIN STREAM FUNDING, INC.

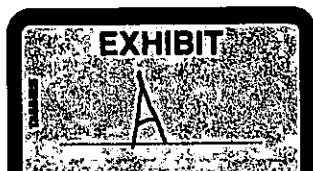
In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Section 11400 et seq. of the California Government Code), MAIN STREAM FUNDING, INC., wishes to voluntarily surrender its corporate real estate



1 broker license issued by the Department, pursuant to Business and
2 Professions Code Section 10100.2.

3 MAIN STREAM FUNDING, INC., understands, by so
4 voluntarily surrendering its license, that it can only have the
5 license reinstated in accordance with the provisions of
6 Section 11522 of the Government Code. It also understands that
7 by so voluntarily surrendering its license, MAIN STREAM FUNDING,
8 INC., agrees to the following:

9 The filing of this Declaration shall be deemed to be
10 the petition of MAIN STREAM FUNDING, INC., to voluntarily
11 surrender its real estate license and license rights. It shall
12 also be deemed to be an understanding and agreement by MAIN
13 STREAM FUNDING, INC., that it waives all rights it has to require
14 the Commissioner to prove the allegations contained in the
15 Accusation filed in this matter as to MAIN STREAM FUNDING, INC.,
16 at a hearing held in accordance with the provisions of the
17 Administrative Procedure Act (Government Code Section 11400 et
18 seq.), and that it also waives other rights afforded to it in
19 connection with the hearing such as the right to discovery, the
20 right to present evidence in defense of the allegations in the
21 Accusation and the right to cross examine witnesses. MAIN STREAM
22 FUNDING, INC., further agrees that upon acceptance by the
23 Commissioner, as evidenced by an appropriate order, all
24 affidavits and all other relevant statements, declarations and
25 evidence obtained in this matter prior to the Commissioner's
26 acceptance, and all allegations as to it contained in the
27 Accusation filed in the Department Case No. H-2839 SD may be



1 considered by the Department to be true and correct for the
2 purpose of deciding whether or not to grant reinstatement of its
3 real estate license, pursuant to the provisions of Government
4 Code Section 11522.

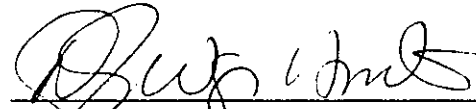
5 I declare under penalty of perjury under the laws of
6 the State of California that the above is true and correct and
7 that I am acting freely and voluntarily on behalf of MAIN STREAM
8 FUNDING, INC., to surrender its corporate real estate broker
9 license and all license rights attached thereto.

10 MAIN STREAM FUNDING, INC.

11
12 9-30-03

13 DATED

14 By:

15 
16 DOUGLAS WAYNE HINTON,
17 President

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EXHIBIT

1 DEIDRE L. JOHNSON, Counsel
SBN 66322
2 Department of Real Estate
P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
MAY - 1 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 MAIN STREAM FUNDING INC. and) NO. H-2839 SD
DOUGLAS WAYNE HINTON,)
15 Respondents.) ACCUSATION
16)

17 The Complainant, CHARLES W. KOENIG, a Deputy Real
18 Estate Commissioner of the State of California, for causes of
19 Accusation against MAIN STREAM FUNDING INC. and DOUGLAS WAYNE
20 HINTON, is informed and alleges as follows:

21 PRELIMINARY ALLEGATIONS
22

23 I

24 The Complainant, CHARLES W. KOENIG, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation against Respondents in his official capacity and not
27 otherwise.

1 II

2 Respondents MAIN STREAM FUNDING INC. and DOUGLAS WAYNE
3 HINTON are presently licensed and/or have license rights under
4 the Real Estate Law, Part 1 of Division 4 of the California
5 Business and Professions Code (hereafter the Code).

6 III

7 At all times herein mentioned, Respondent MAIN STREAM
8 FUNDING INC. (hereafter MSFI) was and is licensed by the
9 Department of Real Estate (hereafter the Department) as a real
10 estate broker corporation, individually and doing business as
11 Dynamic Capital Group.

12 IV

13 At all times herein mentioned, Respondent DOUGLAS WAYNE
14 HINTON (hereafter HINTON) was, and presently is licensed by the
15 Department as an individual real estate broker, and as the
16 designated broker officer of MSFI.

17 V

18 At all times herein mentioned, for or in expectation
19 of compensation, Respondent MSFI engaged in the business of,
20 acted in the capacity of, advertised and/or assumed to act as
21 (a) a real estate lender, originating and funding loans
22 secured directly or collaterally by liens on real property as
23 a principal lender; and (b) a real estate mortgage loan broker
24 under Sections 10131(d), 10131(e), and/or 10131.1 of the Code,
25 wherein lenders, investors, and/or borrowers were solicited
26 for loans and/or note purchases secured directly or
27 collaterally by liens on real property, and wherein such loans

1 were made, arranged, negotiated, processed, and consummated on
2 behalf of others.

3
4 FIRST CAUSE OF ACTION

5 VI

6 Beginning in or about August of 2000, the Department
7 conducted an audit of the books and records of MSFI for the
8 period of January 1 through July 31, 2000 (hereafter the audit
9 period), as more particularly set forth in Audit Report No.
10 SD 000007 dated September 11, 2000, and all supporting exhibits
11 and working papers.

12 VII

13 During the course of the mortgage lending and mortgage
14 loan activities described above for the audit period, as to at
15 least twelve loans where MSFI purported to act as the principal
16 lender, MSFI did not have sufficient funds to act as a lender.
17 MSFI used and relied on monies received during the audit period
18 from third-party investors and purchasers of purportedly funded
19 loans to actually fund some or all of said loans, as more
20 particularly described in Audit Report No. SD 000007 referred to
21 above. Since MSFI in fact brokered said loans, the third-party
22 monies used were trust funds.

23 VIII

24 During the audit period, MSFI received and disbursed
25 funds in trust on behalf of others, including but not limited to
26 third-party purchaser funds in the circumstances described in
27 Paragraph VII above, and deposited or caused the deposit of the

1 trust funds into bank accounts at Bank of America in La Mesa,
2 California, as follows:

3 (a) Account No. 02318-02133, entitled "Main
4 Stream Funding Inc. Funding Account,"
5 (hereafter Bank Account #1) and

6 (b) Account No. 02318-02135, entitled "Main
7 Stream Funding Inc. General Account,"
8 (hereafter Bank Account #2)

9 IX

10 In connection with the collection and disbursement
11 of trust funds as described above, MSFI failed to deposit and
12 maintain the funds in a trust account, or in a neutral escrow
13 depository, or to deliver them into the hands of the owners
14 of the funds as required by Section 10145 of the Code. MSFI
15 commingled said trust funds with general funds of the company
16 in Bank Account #1 and Bank Account #2..

17 X

18 As to the loans referred to above, MSFI purported to
19 fund the loans as the principal lender with approximately eighty-
20 five MSFI checks drawn on Bank Account #1 and/or Bank Account #2,
21 in such a manner that only two checks cleared the bank prior to
22 the receipt of third-party purchaser funds, and most of the
23 checks either bounced, and/or had to be replaced, and/or only
24 cleared after receipt of third-party purchaser funds, including
25 but not limited to the following:

26 ///

27 ///

Borrower	Documents signed	Loan Amount	Date Funded
Trainor	4/24/00	\$25,000	5/4/00
Mohler	4/28/00	\$21,000	5/5/00
O'Keefe	4/21/00	\$35,000	5/16/00
Brown	4/27/00	\$35,000	5/25/00
Gizzarelli	4/24/00	\$37,366	5/25/00
Elaseque	5/26/00	\$50,000	6/8/00
Jett	4/22/00	\$26,324	6/15/00
Hyman	5/18/00	\$35,000	6/15/00
Jinkens	5/17/00	\$60,000	6/15/00
Salas	5/18/00	\$35,000	6/21/00
Cunningham	5/26/00	\$20,024	6/22/00
Samples	6/14/00	\$35,000	7/11/00

XI

For the audit period, Respondent MSFI failed to maintain a columnar record of all trust funds received and disbursed, and a separate trust fund record for each beneficiary or transaction as required under Sections 2831 and 2831.1 of Title 10, California Code of Regulations (hereafter the Regulations).

XII

As to some or all of the loans referred to in Paragraph X above, Respondent MSFI failed to prepare and deliver to borrowers, or cause to be delivered, a written borrower disclosure statement containing all information required by

1 Section 10240 of the Code within three business days after
2 receipt of a completed written loan application, or prior to the
3 borrower becoming obligated on the note, whichever is earlier;
4 and/or failed to retain executed copies of such statements with
5 the records of the company.

6 XIII

7 As to some or all of the loans referred to in
8 Paragraph X above, Respondent MSFI authorized, permitted,
9 and/or ratified the execution of loan obligation and funding
10 documents by borrowers in advance of actual underwriting and
11 loan approval by MSFI. Prematurely obligating borrowers on
12 loans that had not yet been approved for loan commitment was
13 done with the intent or effect of appearing to third-party
14 purchasers that the loans had been approved and funded earlier
15 than the actual dates of funding alleged in Paragraph X above.

16 XIV

17 As to some or all of the loans referred to in
18 Paragraph X above, Respondent MSFI failed to record the deed of
19 trust securing the loan naming as the beneficiary the lender or
20 the lender's nominee prior to the time that funds were disbursed
21 as required by Section 10234 of the Code, and instead named MSFI
22 itself as the lender.

23 XV

24 The acts and/or omissions of Respondent MSFI as alleged
25 above constitute grounds for the suspension or revocation of all
26 license(s) and license rights of MSFI under the following
27 provisions:

- 1 (a) As to Paragraphs VII, VIII, IX, and X, under
2 Section 10145 of the Code in conjunction with
3 Section 10177(d) of the Code.
- 4 (b) As to Paragraph IX, under Section 10176(e) of the
5 Code.
- 6 (c) As to Paragraph XI, under Sections 2831 and 2832.1 of
7 the Regulations in conjunction with Section 10177(d)
8 of the Code.
- 9 (d) As to Paragraph XII, under Sections 10240 and 10241 of
10 the Code in conjunction with Section 10177(d) of
11 the Code.
- 12 (e) As to Paragraph XIII, under Sections 10176(a) and/or
13 10177(g) of the Code.
- 14 (f) As to Paragraph XIV, under Section 10234 of the Code in
15 conjunction with Section 10177(d) of the Code.

16
17 SECOND CAUSE OF ACTION

18 XVI

19 At all times above mentioned, Respondent HINTON was
20 responsible, as the designated officer of MSFI, for the
21 supervision and control of the activities conducted on behalf of
22 the corporation by its officers and employees. HINTON failed to
23 exercise reasonable supervision and control over the mortgage
24 loan broker activities of MSFI. In particular, HINTON caused,
25 permitted, and/or ratified the conduct described above, and/or
26 failed to take reasonable steps to implement effective
27 supervision that would have prevented it, including but not

1 limited to both the establishment of policies, rules, procedures,
2 and systems to review, oversee, inspect and manage the handling
3 of trust funds, trust fund books and records, loan commitment and
4 the funding of loans, mortgage loan disclosures, and other
5 matters alleged above; and the establishment of systems for
6 monitoring compliance with such policies, rules, procedures, and
7 systems, to ensure compliance by the company with the Real Estate
8 Law.

9 XVII

10 The above acts and/or omissions of Respondent HINTON
11 constitute grounds for the suspension or revocation of all
12 license(s) and license rights of HINTON of under the provisions
13 of Section 10177(h) of the Code.

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

22
23 
24 CHARLES W. KOENIG
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,
27 this 1st day of May, 2003.