

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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7

FILED

APR 08 2004

DEPARTMENT OF REAL ESTATE

By Jean [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-2899 SD
12)
13 SPECTRUM PROPERTY MANAGEMENT, INC.) STIPULATION AND AGREEMENT
14 and)
15 CHERYL ANN EVANS)
16 Respondents.)

17 It is hereby stipulated by and between Respondent
18 SPECTRUM PROPERTY MANAGEMENT, INC. (hereinafter referred to as
19 "Respondent") by and through Dietmar E. Schott, counsel for
20 Respondent, and the Complainant, acting by and through Michael
21 B. Rich, Counsel for the Department of Real Estate, as follows
22 for the purpose of settling and disposing of the Accusation
23 filed on September 24, 2003, in this matter ("the Accusation"):

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and
26 Respondent at a formal hearing on the Accusation, which hearing
27 was to be held in accordance with the provisions of the

DRE No. H-2899 SD

SPECTRUM PROPERTY MANAGEMENT, INC.

1 Administrative Procedure Act (APA), shall instead and in place
2 thereof be submitted solely on the basis of the provisions of
3 this Stipulation and Agreement.

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

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

22 4. Respondent, pursuant to the limitations set
23 forth below, hereby admits that the factual allegations in the
24 Accusation pertaining to Respondent are true and correct and
25 stipulates and agrees that the Real Estate Commissioner shall
26 not be required to provide further evidence of such
27 allegations.

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 license and license
5 rights as set forth in the "Order" below. In the event that
6 the Commissioner in her discretion does not adopt the
7 Stipulation and Agreement, it shall be void and of no effect,
8 and Respondent shall retain the right to a hearing and
9 proceeding on the Accusation under all the provisions of the
10 APA and shall not be bound by any admission or waiver made
11 herein.

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

17 DETERMINATION OF ISSUES

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

22 I

23 The acts and omissions of Respondent SPECTRUM
24 PROPERTY MANAGEMENT, INC. described in the Accusation are
25 grounds for the suspension or revocation of the licenses and
26 license rights of Respondent under the provisions of Section
27 10177.5 of the California Business and Professions Code.

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has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

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

4. Respondent shall, prior to the issuance of the restricted license and as a condition of the issuance of said restricted license, submit proof satisfactory to the Commissioner that the judgment in favor of Judy R. Bailey and Safari Salon and Spa and against CHERYL ANN EVANS and SPECTRUM PROPERTY MANAGEMENT, INC. has been satisfied.

3/10/04
DATED


Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

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* * *

I have read the Stipulation and Agreement and its 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 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

3/10/04
DATED

SPECTRUM PROPERTY MANAGEMENT, INC.
Respondent
By: DAVID ALLEN TWOROGER

Approved as to form and content by counsel for Respondent.

3/10/04
DATED

DIETMAR E. SCHOTT
Attorney for Respondent

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* * *

The foregoing Stipulation and Agreement is hereby
adopted by as my Decision in this matter as to Respondent
SPECTRUM PROPERTY MANAGEMENT, INC. and shall become effective
at 12 o'clock noon on April 29, 2004.

IT IS SO ORDERED March 25, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



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

FILED
APR 08 2004

DEPARTMENT OF REAL ESTATE

By *Jean [Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-2899 SD
12)
13 SPECTRUM PROPERTY MANAGEMENT, INC.) STIPULATION AND AGREEMENT
14 and)
15 CHERYL ANN EVANS)
16 Respondents.)

17 It is hereby stipulated by and between Respondent
18 CHERYL ANN EVANS, acting in pro per, and the Complainant,
19 acting by and through Michael B. Rich, Counsel for the
20 Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on September 24,
22 2003, in this matter ("the Accusation"):

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

DRE No. H-2899 SD

CHERYL ANN EVANS

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

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

7 3. On October 17, 2003, Respondent filed a Notice
8 of Defense pursuant to Section 11505 of the Government Code for
9 the 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
12 Respondent understands that by withdrawing said Notice of
13 Defense Respondent will thereby waive Respondent's right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that Respondent will waive other
17 rights afforded to Respondent 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. Respondent, pursuant to the limitations set
22 forth below, hereby admits that the factual allegations in the
23 Accusation pertaining to Respondent are true and correct and
24 stipulates and agrees that the Real Estate Commissioner shall
25 not be required to provide further evidence of such
26 allegations.

27 5. It is understood by the parties that the Real

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

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

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations, admissions
18 and waivers and solely for the purpose of settlement of the
19 pending Accusation without hearing, it is stipulated and agreed
20 that the following Determination of Issues shall be made:

21 I

22 The acts and omissions of Respondent CHERYL ANN EVANS
23 described in the Accusation are grounds for the suspension or
24 revocation of the licenses and license rights of Respondent
25 under the provisions of Section 10177.5 of the California
26 Business and Professions Code.

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ORDER

I

All licenses and licensing rights of Respondent CHERYL ANN EVANS under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to said Respondent pursuant to Section 10156.5 of the Business and Professions Code if, within 90 days from the effective date of the Decision entered pursuant to this Order, Respondent makes application for the restricted license and pays to the Department of Real Estate the appropriate fee therefor.

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

1. 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 is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent

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has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

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

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and,

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of the Decision, present evidence

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satisfactory to the Real Estate Commissioner
that Respondent has, since the most recent
issuance of an original or renewal real estate
license, taken and successfully completed the
continuing education requirements of Article 2.5
of Chapter 3 of the Real Estate Law for renewal
of a real estate license. If Respondent fails
to satisfy this condition, the Commissioner may
order the suspension of the restricted license
until the Respondent presents such evidence.
The Commissioner shall afford Respondent the
opportunity for a hearing pursuant to the
Administrative Procedure Act to present such
evidence.

6. Respondent shall, prior to the issuance of the
restricted license and as a condition of the
issuance of said restricted license, submit
proof satisfactory to the Commissioner that the
judgment in favor of Judy R. Bailey and Safari
Salon and Spa and against CHERYL ANN EVANS and
SPECTRUM PROPERTY MANAGEMENT, INC. has been
satisfied.

3/16/04
DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

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* * *

I have read the Stipulation and Agreement and its 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 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

3/11/04
DATED

Cheryl Ann Evans
CHERYL ANN EVANS
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by as my Decision in this matter as to Respondent CHERYL ANN EVANS and shall become effective at 12 o'clock noon on April 29, 2004.

IT IS SO ORDERED March 25, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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

FILED
JAN - 8 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SPECTRUM PROPERTY MANAGEMENT, INC.
and CHERYL ANN EVANS

}

Case No. H-2899 SD

OAH No. L2003100513

Shelly [Signature]

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

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, CALIFORNIA 92101** on **WEDNESDAY--MARCH 10, 2004**, 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: JANUARY 8, 2004

By *Michael B. Rich*
MICHAEL B. RICH, Counsel

file

FILED

SEP 24 2003

DEPARTMENT OF REAL ESTATE

By Jean Arnold

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation of)
11 SPECTRUM PROPERTY MANAGEMENT, INC.,)
12 and)
13 CHERYL ANN EVANS,)
14 Respondents.)

No. H-2899 SD

ACCUSATION

15 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against SPECTRUM PROPERTY MANAGEMENT, INC. (hereinafter
18 "Respondent SPECTRUM") and CHERYL ANN EVANS (hereinafter
19 "Respondent EVANS"), is informed and alleges as follows:

I

21 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 against Respondent in his official capacity and not otherwise.

II

25 Respondents are presently licensed and/or have license
26 rights under the Real Estate Law, Part 1 of Division 4 of the
27 California Business and Professions Code (hereinafter "Code").

1 III

2 At all times herein mentioned, Respondent SPECTRUM was and
3 is licensed by the Department of Real Estate (hereafter
4 "Department") as a corporate real estate broker.

5 IV

6 At all times herein mentioned, Respondent EVANS was and is
7 licensed by the Department as a real estate salesperson.

8 V

9 On or about January 22, 2002, in the Superior Court,
10 County of San Diego, State of California, in Case No. GIC 752898,
11 a final judgment was entered against Respondents based on grounds
12 of fraud, misrepresentation, or deceit with reference to a
13 transaction for which a real estate license is required.

14 VI

15 The facts set forth in Paragraph III, above, constitute
16 cause under Section 10177.5 of the Code for the suspension or
17 revocation of all licenses and license rights of Respondents
18 under the Real Estate Law.

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

8
9 
10 J. CHRIS GRAVES
 Deputy Real Estate Commissioner

11 Dated at San Diego, California,
12 this 28th day of May, 2003