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FILED
APR 12 2007

DEPARTMENT OF REAL ESTATE

By Jean Arnold

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-2946 SD
JOSEPH RAY SCHOLFIELD,)
Respondent.)

ORDER GRANTING RECONSIDERATION

On February 14, 2007, an Order Denying Reinstatement of License was rendered in the above - entitled matter to become effective March 16, 2007.

On March 19, 2007, Respondent petitioned for reconsideration of the Order of February 14, 2007. Said Order was stayed by separate Order to April 16, 2007.

I have given due consideration to the petition of Respondent. I find good cause to reconsider the Order of February 14, 2007 and reconsideration is hereby granted.

NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for reinstatement is granted and that a real estate

1 broker license be issued to Respondent if Respondent satisfies
2 the following conditions within nine (9) months from the date of
3 this Order:

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

6 2. Submittal of evidence of having, since the most
7 recent issuance of an original or renewal real estate license,
8 taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
10 for renewal of a real estate license.

11 This Order shall be effective immediately.

12
13 DATED: 4-11-07

14 JEFF DAVI
15 Real Estate Commissioner
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FILED
MAR 21 2007

DEPARTMENT OF REAL ESTATE

By *Juan A. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

JOSEPH RAY SCHOLFIELD,)

NO. H-2946 SD

Respondent.)

ORDER STAYING EFFECTIVE DATE

On February 14, 2007, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective on March 16, 2007. On March 19, 2007, Respondent requested a stay for the purpose of filing a petition for reconsideration of the Order Denying Reinstatement of License of February 14, 2007.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License be stayed for a period of thirty (30) days. The Order Denying Reinstatement of License of February 14, 2007, shall become effective at 12 o'clock noon on
April 16, 2007.

DATED: March 21, 2007.

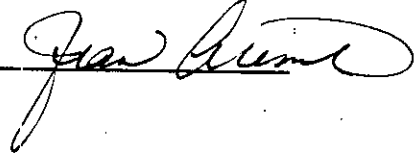
JEFF DAVI
Real Estate Commissioner

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

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FILED
FEB 23 2007

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-2946 SD
JOSEPH RAY SCHOLFIELD,)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On June 30, 2004, a Decision was rendered herein
revoking the real estate broker license of Respondent effective
July 22, 2004.

On September 7, 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.

I have considered Respondent's petition and the
evidence and arguments in support thereof. Respondent has failed
to demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's unrestricted real estate broker license.

1 The burden of proving rehabilitation rests with the
2 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
3 petitioner is required to show greater proof of honesty and
4 integrity than an applicant for first time licensure. The proof
5 must be sufficient to overcome the prior adverse judgment on the
6 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
7 395).

8 The Department has developed criteria in Section 2911
9 of Title 10, California Code of Regulations to assist in
10 evaluating the rehabilitation of an applicant for reinstatement
11 of a license. Among the criteria relevant in this proceeding
12 are:

13 (k) Correction of business practices resulting in
14 injury to others or with the potential to cause such injury.

15 Effective August 4, 2000, in Case No. H-2548 SF, a
16 stayed 20-day suspension was imposed on Respondent's real estate
17 broker license pursuant to the provisions of Sections 10177(d) of
18 the Code on the ground that Respondent, individually and as
19 designated officer of a corporate real estate brokerage, violated
20 and willfully disregarded Sections 10148 and 10161.8(b) of the
21 Code. The corporate brokerage surrendered its license.

22 Effective July 22, 2004, in Case No. H-2946 SD, Respondent's real
23 estate broker license was revoked pursuant to the provisions of
24 Section 10177(h) of the Code on the ground that Respondent, as
25 designated officer of a corporate real estate broker so failed to
26 supervise the activities of such corporation as to suffer it to
27 incur cause for discipline under Section 10177(d) of the Code in

1 conjunction with Section 10240 of the Code and Section 2832 of
2 the Regulations. The license of the corporate brokerage was also
3 revoked. Since revocation, Respondent has not engaged as a
4 broker in the operation of a real estate brokerage business or
5 otherwise acted in a licensed fiduciary capacity. Consequently,
6 Respondent has not demonstrated that he has changed the business
7 practices that resulted in disciplinary action.

8 When a licensee has suffered discipline bearing on his
9 fitness to interact safely with the public in his capacity as a
10 licensee, the Commissioner must assess the risk that the licensee
11 will either persist in the type of conduct that resulted in the
12 discipline or has learned his lesson and may be counted upon to
13 avoid further misconduct. The conduct resulting in Respondent's
14 discipline reflects directly and adversely on Respondent's
15 business practices with the potential to cause injury to others
16 and Respondent's fitness to conduct licensed activity without
17 broker supervision.

18 Given the fact that Respondent has not established that
19 Respondent has complied with Section(k) of the Regulations, I am
20 not satisfied that Respondent is sufficiently rehabilitated to
21 receive a real estate broker license. Additional time and
22 evidence of correction as a restricted real estate salesperson is
23 necessary to establish that Respondent is rehabilitated.

24 I am satisfied, therefore, that it will not be against
25 the public interest to issue a restricted real estate salesperson
26 license to Respondent.

27 ///

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of Respondent's real estate broker
3 license is denied.

4 A restricted real estate salesperson license shall be
5 issued to Respondent pursuant to Section 10156.5 of the Business
6 and Professions Code, if Respondent satisfies the following
7 conditions prior to and as a condition of obtaining a restricted
8 real estate salesperson license within nine (9) months from the
9 date of this Order:

10 1. Respondent shall take and pass the real estate
11 salesperson license examination.

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

14 The restricted license issued to Respondent shall be
15 subject to all of the provisions of Section 10156.7 of the
16 Business and Professions Code and to the following limitations,
17 conditions and restrictions imposed under authority of Section
18 10156.6 of that Code:

19 A. The restricted license issued to Respondent may be
20 suspended prior to hearing by Order of the Real Estate
21 Commissioner in the event of Respondent's conviction or plea of
22 nolo contendere to a crime which is substantially related to
23 Respondent's fitness or capacity as a real estate licensee.

24 B. The restricted license issued to Respondent may be
25 suspended prior to hearing by Order of the Real Estate
26 Commissioner on evidence satisfactory to the Commissioner that
27 Respondent has violated provisions of the California Real Estate

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

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

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

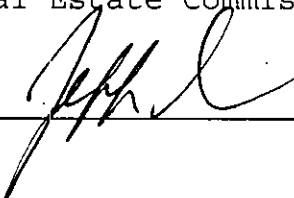
13 1. That the employing broker has read the Decision of
14 the Commissioner which granted the right to a restricted license;
15 and

16 2. That the employing broker will exercise close
17 supervision over the performance by the restricted licensee
18 relating to activities for which a real estate license is
19 required.

20 This Order shall become effective at 12 o'clock
21 noon on MAR 16 2007.

22 DATED: 2-14, 2007.

23 JEFF DAVI
24 Real Estate Commissioner

25 
26
27

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED
JUL - 2 2004

DEPARTMENT OF REAL ESTATE

Laurie G. Jones

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-2946 SD
12)
13 JOSEPH RAY SCHOLFIELD and)
14 AMD ENTERPRISES, INC.,) STIPULATION AND AGREEMENT
15 Respondents.) IN SETTLEMENT AND ORDER

16 It is hereby stipulated by and between JOSEPH RAY
17 SCHOLFIELD and AMD ENTERPRISES, INC. (herein after
18 "Respondents"), and the Complainant, acting by and through
19 David B. Seals, Counsel for the Department of Real Estate, as
20 follows for the purpose of settling and disposing of the
21 Accusation filed on January 21, 2004, in this matter:

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

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H-2946 SD

- 1 -

JOSEPH RAY SCHOLFIELD and
AMD ENTERPRISES, INC.

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

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

7 3. A Notice of Defense was filed on February 2, 2004
8 by Respondents, pursuant to Section 11505 of the Government Code
9 for the purpose of requesting a hearing on the allegations in
10 the Accusation. Respondents hereby freely and voluntarily
11 withdraw said Notice of Defense. Respondents acknowledge that
12 they understand that by withdrawing said Notice of Defense they
13 will thereby waive their right to require the Commissioner to
14 prove the allegations in the Accusation at a contested hearing
15 held in accordance with the provisions of the APA and that they
16 will waive other rights afforded to them in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interests of
22 expedience and economy, Respondents choose not to contest these
23 allegations, but to remain silent and understand that, as a
24 result thereof, these factual allegations, without being
25 admitted or denied, will serve as a prima facie 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 in
5 Settlement as his decision in this matter thereby imposing the
6 penalty and sanctions on Respondents' real estate licenses and
7 license rights as set forth in the below "Order". In the event
8 that the Commissioner in his discretion does not adopt the
9 Stipulation and Agreement in Settlement, it shall be void and of
10 no effect, and Respondents shall retain the right to a hearing
11 and proceeding on the Accusation under all the provisions of the
12 APA and shall not be bound by any admission or waiver made
13 herein.

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

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations, admissions
23 and waivers and solely for the purpose of settlement of the
24 pending Accusation without a hearing, it is stipulated and
25 agreed that the facts alleged above are grounds for the
26 suspension or revocation of the licenses and license rights of
27 (a) Respondent AMD ENTERPRISES, INC. under Section 10240 of the

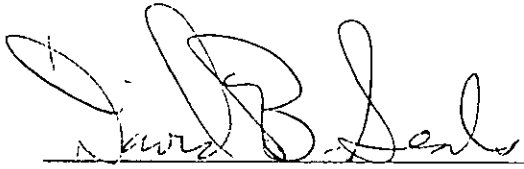
1 Code and Section 2832 Title 10, California Code of Regulations
2 both in conjunction with Section 10177(d) of the Code and (b)
3 Respondent JOSEPH RAY SCHOLFIELD under Section 10177(h) of the
4 Code.

5 ORDER

6 1. All licenses and licensing rights of Respondents
7 JOSEPH RAY SCHOLFIELD and AMD ENTERPRISES, INC. under the Real
8 Estate Law are revoked.

9 2. Respondents shall not be eligible to apply for the
10 issuance of a restricted or unrestricted real estate license
11 until one (1) year has elapsed from the effective date of this
12 Decision.

13
14 DATED: 6/21/2004


DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

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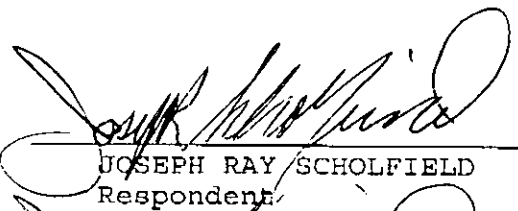
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1 I have read the Stipulation and Agreement, have
2 discussed it with my counsel if appropriate, and its terms are
3 understood by me and are agreeable and acceptable to me. I
4 understand that I am waiving rights given to me by the
5 California Administrative Procedure Act (including but not
6 limited to Sections 11506, 11508, 11509, and 11513 of the
7 Government Code), and I willingly, intelligently, and
8 voluntarily waive those rights, including the right of requiring
9 the Commissioner to prove the allegations in the Accusation at a
10 hearing at which I would have the right to cross-examine
11 witnesses against me and to present evidence in defense and
12 mitigation of the charges.

13
14 DATED: 6-2-2004
JOSEPH RAY SCHOLFIELD
Respondent15
16 DATED: 6-2-2004
AMD ENTERPRISES, INC.
Respondent17
18
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H-2946 SD

* * *

The foregoing Stipulation and Agreement in Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
JULY 22, 2004.

IT IS SO ORDERED June 30, 2004.


JOHN R. LIBERATOR
Acting Real Estate Commissioner

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

FILED
MAR 15 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

JOSEPH RAY SCHOLFIELD and
AMD ENTERPRISES, INC.

} Case No. H-2946 SD Shelly Ely
OAH No. L2004030161

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 **MONDAY--JUNE 7, 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: MARCH 15, 2004

By David B. Seals
DAVID B. SEALS, 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)
7

FILED
JAN 21 2004

DEPARTMENT OF REAL ESTATE

Laurie G. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12 JOSEPH RAY SCHOLFIELD,)	No. H-2946 SD
13 and AMD ENTERPRISES, INC.,)	<u>ACCUSATION</u>
14 Respondents.)	

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JOSEPH RAY SCHOLFIELD dba Mark-One Real Estate Services
18 (hereinafter "Respondent SCHOLFIELD") and AMD ENTERPRISES, INC.
19 (hereinafter "Respondent ENTERPRISES") is informed and alleges
20 as follows:

21 I

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

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1 II

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

5 JOSEPH RAY SCHOLFIELD - as a real estate broker and as
6 designated broker-officer of Respondent AMD ENTERPRISES, INC.
7 and R V Group, Inc.

8 AMD ENTERPRISES, INC. - as a real estate broker
9 corporation.

10 III

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

16 IV

17 At all times herein mentioned, Respondents engaged in
18 the business of, acted in the capacity of, advertised or assumed
19 to act as a real estate broker in the State of California within
20 the meaning of Section 10131(d) of the Code, including the
21 operation and conduct of a mortgage loan brokerage business with
22 the public wherein lenders and borrowers were solicited for
23 loans secured directly or collaterally by liens on real property
24 or a business opportunity, and wherein such loans were arranged,
25 negotiated, processed, and consummated on behalf of others for
26 compensation or in expectation of a compensation.

27 ///

1 V

2 Beginning on or about November 13, 2001 (Audit No. SD
3 010023) and beginning on or about December 12, 2001 (Audit No.
4 SD 010034), the Department conducted Audit No. SD 010023 dated
5 January 23, 2002 and Audit No. SD 010034 dated January 22, 2002.
6 Said audits covered the mortgage loan brokerage activities of
7 Respondents for the period October 1, 2000 to October 31, 2001.
8 During the course of the mortgage loan brokerage activities
9 described in Paragraph IV above, Respondents received and
10 disbursed funds held in trust on behalf of another or others.

11 VI

12 In connection with the receipt and disbursement of
13 trust funds described in Paragraph V above, Respondents failed
14 to maintain trust funds in the name of Respondents, or a
15 fictitious name in which Respondents were licensed by the
16 Department, as a trustee at a bank or other financial
17 institution in violation of Section 10145 of the Code and
18 Section 2832 of Title 10, California Code of Regulations
19 (hereinafter "Regulations").

20 VII

21 Within the three-year period immediately preceding the
22 filing of this Accusation, Respondent SCHOLFIELD failed to have
23 a written agreement with his salesperson Marc Schiermeyer,
24 covering material aspects of the relationship between the
25 parties as required by Section 2726 of the Regulations.

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VIII

Within the three-year period immediately preceding the filing of this Accusation, Respondents in connection with the mortgage loan brokerage activities described in Paragraph IV above, failed to present to said borrowers, before said borrowers became obligated to complete the loan, a statement signed by the borrower and the broker with the contents set forth in Section 10241 of the Code, in violation of Section 10240(a) of the Code.

IX

In connection with the mortgage loan brokerage activities described in Paragraph IV above, Respondents failed to disclose in Mortgage Loan Disclosure Statements all of the information required by Section 10236.4 of the Code.

X

In connection with the mortgage loan brokerage activities described in Paragraph IV above, Respondents failed to disclose to borrowers the material fact that Respondents would received compensation paid outside of the borrower's loan proceeds on said transactions thereby receiving a secret or undisclosed amount of compensation. Respondents receipt of said secret or undisclosed amounts of compensation include, but are not limited to the following transactions:

///

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///

<u>DATE</u>	<u>BORROWERS</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
05/01/01	Gerald & Sherry	1225 La Presa Ave.	\$917.50
	Russell	Spring Valley, CA	
08/13/01	Henry & Laura	7211 Hamlet Ave.	\$1,335.00
	Greenberg	San Diego, CA	

XI

On or about August 26, 2002, a representative of the Real Estate Commissioner, after service of a subpoena duces tecum on Respondents, required that records, papers, books, accounts and documents executed or obtained in connection with transactions for which a real estate license is required be made available for examination and inspection. Respondents failed and/or refused to make said records available for inspection and/or failed to retain said records.

XII

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

(1) As to Paragraph VI, under Section 10177(d) of the Code and Section 2832 of the Regulations;

(2) As to Paragraph VII, under Section 10177(d) of the Code in conjunction with Section 2726 of the Regulations as to Respondent SCHOLFIELD;

(3) As to Paragraph VIII, under Section 10177(d) of the Code in conjunction with Sections 10141 and 10240(a) of the Code;

///

1 (4) As to Paragraph IX, under Section 10177(d) of the
2 Code in conjunction with Section 10236.4 of the Code;

3 (5) As to Paragraph X, under Sections 10176(a),
4 10176(g), and 10176(i) or 10177(j) of the Code; and

5 (6) As to Paragraph XI, under Section 10177(d) of the
6 Code in conjunction with Section 10148 of the Code.

7 In the alternative, the acts and/or omissions of
8 Respondent SCHOLFIELD described above, constitute failure on the
9 part of Respondent SCHOLFIELD, as designated broker-officer for
10 Respondent ENTERPRISES, to exercise reasonable supervision and
11 control over the licensed activities of Respondent ENTERPRISES
12 required by Section 10159.2 of the Code, and is cause for the
13 suspension or revocation of Respondent SCHOLFIELD's license
14 and/or license rights under Section 10177(h) of the Code.

15 PRIOR DISCIPLINARY ACTION

16 On or about June 26, 2000, effective August 4, 2000,
17 in Case No. H-2548 SD, the Real Estate Commissioner, suspended
18 Respondent JOSEPH RAY SCHOLFIELD's real estate broker license
19 for twenty (20) days, stayed on terms and conditions for
20 violation of Section 10177(d) of the Code in conjunction with
21 Sections 10148 and 10161.8(b) of the Code.

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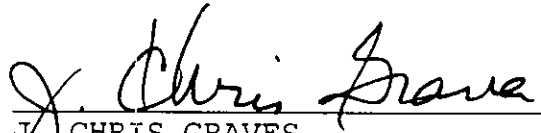
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents,
5 under the 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 13th day of January, 2004.