

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

FILED
JUL 27 1998
DEPARTMENT OF REAL ESTATE

Kathleen Contreras

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

11 * * *

12 In the Matter of the Accusation of)	
13 JOHN GERED MCLAUGHLIN, and)	NO. H-3333 SAC
14 LINDA ELAINE MYERS,)	<u>STIPULATION AND AGREEMENT</u>
15 Respondents.)	(AS TO JOHN GERED MCLAUGHLIN)

16 It is hereby stipulated by and between JOHN GERED
17 MCLAUGHLIN (sometimes referred to as "Respondent"), acting by and
18 through W. Z. Jefferson Brown, his attorney; and the Complainant,
19 acting by and through Thomas C. Lasken, Counsel for the Department
20 of Real Estate; as follows for the purpose of settling and
21 disposing of the Accusation filed on January 23, 1998, in this
22 matter:

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

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

3 2. Respondent has received, read and understands 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. On February 10, 1998, Respondent filed a Notice
8 of Defense pursuant to Section 11505 of the Government Code
9 for the purpose of requesting a hearing on the allegations in
10 the Accusation. Respondent hereby freely and voluntarily
11 withdraws said Notice of Defense. Respondent acknowledges that
12 he understands that by withdrawing said Notice of Defense he
13 will thereby waive his 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 he
16 will waive other rights afforded to him 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. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations or findings of
22 fact as set forth in the Accusation filed in this proceeding are
23 true and correct and the Real Estate Commissioner shall not be
24 required to provide further evidence of such allegations.

25 5. It is understood by the parties that the Real Estate
26 Commissioner may adopt the Stipulation and Agreement as his
27 Decision in this matter, thereby imposing the penalty and



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

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

14
15 DETERMINATION OF ISSUES

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

20 I

21 The conduct of the Respondent, as described in the
22 Accusation, is cause for the suspension or revocation of the real
23 estate license and license rights of Respondent under the
24 provisions of Section 10177(d) of the Business and Professions
25 Code ("Code") in conjunction with Section 10145 of the Code and
26 Section 2830 of Title 10, California Code of Regulations; and
27 under Sections 10177(g) and (h) of the Code.



1
2 ORDER

3 The real estate broker license and license rights of
4 Respondent JOHN GERED MCLAUGHLIN under the Real Estate Law are
5 suspended for a period of thirty (30) days from the effective date
6 of this Order; provided, however, all of said suspension shall be
7 stayed for two (2) years upon the following terms and conditions:

- 8 1. Respondent shall obey all laws, rules and regulations
9 governing the rights, duties, and responsibilities of a
10 real estate licensee in the State of California;
11 2. That no final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary
13 action occurred within two (2) years of the effective
14 date of this Order;
15 3. Should no order vacating the stay be issued, either in
16 accordance with any condition of this Order, the stay
17 imposed herein shall become permanent.

18 June 17, 1998
19 DATED

20 Thomas C. Lasken
21 THOMAS C. LASKEN, Counsel
22 DEPARTMENT OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement, have
25 discussed it with my counsel, and its terms are understood by me
26 and are agreeable and acceptable to me. I understand that I am
27 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

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

5
6 6/16/98
DATED

John Gered McLaughlin
JOHN GERED MCLAUGHLIN
Respondent

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

12 6/16/98
13 DATED

W. Z. Jefferson Brown
W. Z. JEFFERSON BROWN
Attorney for Respondent

14
15 * * *

16
17 The foregoing Stipulation and Agreement for settlement
18 is hereby adopted by the Real Estate Commissioner as his Decision
19 and Order and shall become effective at 12 o'clock noon on
20 August 17, 1998.

21 IT IS SO ORDERED 7/20, 1998.

22 JIM ANTT, JR.
Real Estate Commissioner

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24 Jim Antt, Jr.
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DEPARTMENT OF REAL ESTATE

Kathleen Contreras

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

12 In the Matter of the Accusation of)
13) NO. H-3333 SAC
14 JOHN GERED MCLAUGHLIN, and)
15 LINDA ELAINE MYERS,) STIPULATION AND AGREEMENT
16) (AS TO LINDA ELAINE MYERS)
17 Respondents.)

18 It is hereby stipulated by and between LINDA ELAINE
19 MYERS (sometimes referred to as "Respondent"), acting by and
20 through W. Z. Jefferson Brown, her attorney; and the Complainant,
21 acting by and through Thomas C. Lasken, Counsel for the Department
22 of Real Estate; as follows for the purpose of settling and
23 disposing of the Accusation filed on January 23, 1998, in this
24 matter:

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

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

3 2. Respondent has received, read and understands 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. On February 5, 1998, Respondent filed a Notice of
8 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 she
12 understands that by withdrawing said Notice of Defense she
13 will thereby waive her 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 she
16 will waive other rights afforded to her 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. Respondent, pursuant to the limitations set
21 forth below, hereby admits that the factual allegations or
22 findings of fact as set forth in the Accusation filed in this
23 proceeding are true and correct and the Real Estate Commissioner
24 shall not be required to provide further evidence of such
25 allegations.

26 5. It is understood by the parties that the Real Estate
27 Commissioner may adopt the Stipulation and Agreement as his



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

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

15 DETERMINATION OF ISSUES
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18 waivers, and solely for the purpose of settlement of the pending
19 Accusation without a hearing, it is stipulated and agreed that the
20 following determination of issues shall be made:

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23 Accusation, is cause for the suspension or revocation of the real
24 estate license and license rights of Respondent under the
25 provisions of Section 10177(d) of the Business and Professions
26 Code ("Code") in conjunction with Section 10145 of the Code; and
27 under Sections 10177(g) of the Code.



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1. Respondent shall obey all laws, rules and regulations governing the rights, duties, and responsibilities of a real estate licensee in the State of California;
2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Order;
3. Should no order vacating the stay be issued, either in accordance with any condition of this Order, the stay imposed herein shall become permanent.


THOMAS C. LASKEN, Counsel
DEPARTMENT OF REAL ESTATE

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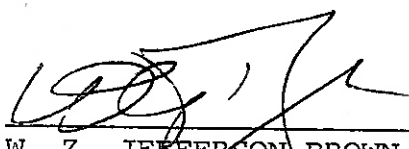
1 right of requiring the Commissioner to prove the allegations in
2 the Accusation at a hearing at which I would have the right to
3 cross-examine witnesses against me and to present evidence in
4 defense and mitigation of the charges.

5
6 6-15-98
7 DATED


LINDA ELAINE MYERS
Respondent

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

12 6/15/98
13 DATED

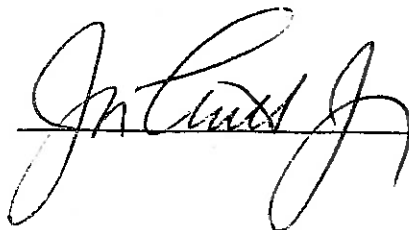

W. Z. JEFFERSON BROWN
Attorney for Respondent

14
15
16 * * *

17 The foregoing Stipulation and Agreement for settlement
18 is hereby adopted by the Real Estate Commissioner as his Decision
19 and Order and shall become effective at 12 o'clock noon on
20 August 17, 1998.

21 IT IS SO ORDERED 7/20, 1998.

22 JIM ANTT, JR.
23 Real Estate Commissioner

24
25 
26
27

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
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DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

9 BEFORE THE
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11 STATE OF CALIFORNIA
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* * *

13 In the Matter of the Accusation of)
14)
15 JOHN GERED MCLAUGHLIN, and)
16 LINDA ELAINE MYERS,)
17 Respondents.)

NO. H-3333 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 JOHN GERED MCLAUGHLIN ("Respondent MCLAUGHLIN") and LINDA
21 ELAINE MYERS (Respondent MYERS"), is informed and alleges as
22 follows:

23 I

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.

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II

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

JOHN GERED MCLAUGHLIN - as a real estate broker.

LINDA ELAINE MYERS - as a real estate salesperson in the employ of Respondent MCLAUGHLIN.

III

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of the Respondents named in the caption hereof, acting individually, jointly, and severally, and as agents of each other. At all times herein mentioned, Respondents were performing acts requiring a real estate license.

IV

On or about July 3, 1996, Respondents prepared an offer by one Judith Buckley ("Buyer") for the purchase of a mobile home and lot owned by Lee and Patricia Thorpe ("Sellers") and commonly known as 13580 David Court, Magalia, California ("the property"). On the same date, in connection with Buyer's offer, Respondents received from Buyer a check for \$1,000 made payable to Fidelity National Title Company ("Fidelity"), to be deposited with Fidelity upon acceptance of the offer.

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V

On or about July 5, 1996, Buyer accepted a counteroffer made by Sellers.

VI

Respondents failed to deliver the check to Fidelity or deposit it into a trust account maintained by Respondent MCLAUGHLIN. Instead, Respondents held the check uncashed until on or about July 11, 1996, at which time they returned the check to Buyer without the knowledge or consent of Sellers. The sale of the property from Sellers to Buyer never consummated.

VII

The acts and omissions of Respondent MCLAUGHLIN set forth above constitute violation of Section 10145 of the California Business and Professions Code ("Code") and Section 2830 of Chapter 6, Title 10, California Administrative Code; negligence or incompetence in performing acts requiring a real estate license; and failure to exercise proper supervision over the activities of Respondent MYERS; and are cause under Sections 10177(d), (g), and (h) of the Code for suspension or revocation of all licenses and license rights of the Respondent MCLAUGHLIN under the Real Estate Law.

VIII

The acts and omissions of Respondent MYERS as set forth above constitute violation of Section 10145 of the Code, and negligence or incompetence in performing acts requiring a real estate license; and are cause under Sections 10177 (d) and (g) of

1 the Code for suspension or revocation of all licenses and license
2 rights of Respondent MYERS under the Real Estate Law.

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

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14 CHARLES W. KOENIG
15 Deputy Real Estate Commissioner
16

17 Dated at Sacramento, California,
18 this 5th day of January 1998.
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