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FILED

JAN 04 2009

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
JOHN ERICK REUSCHE,
Respondent.

No. H-3368 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On November 22, 1998, in Case No. H-3368 SAC, a Decision was rendered revoking the real estate broker license of Respondent effective January 5, 1999, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on March 30, 1999, and Respondent has operated as a restricted licensee since that time.

On September 10, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

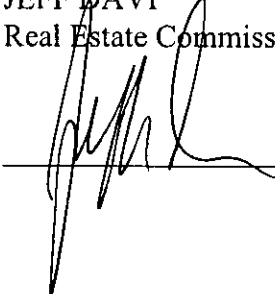
1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate broker license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this
4 order:

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

11 This Order shall become effective immediately.

12 DATED: 11-25-69

13 JEFF DAVI
14 Real Estate Commissioner

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1 Department of Real Estate
P. O. Box 187000
2 Sacramento, CA 95818-7000
3 Telephone: (916) 227-0789
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FILED
DEC 15 1998
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-3368 SAC
12 JOHN ERICK REUSCHE,)	OAH NO. N-1998070206
13 Respondent.)	<u>STIPULATION AND AGREEMENT</u>
14)	

15 It is hereby stipulated by and between JOHN ERICK
16 REUSCHE (hereinafter "Respondent") and his attorney of record
17 John H. McKinley, and the Complainant, acting by and through
18 David A. Peters, Counsel for the Department of Real Estate, as
19 follows for purpose of settling and disposing of the Accusation
20 filed June 16, 1998 in this matter:

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

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

5 3. On July 6, 1998, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that he waives other
14 rights afforded to him in connection with the hearing such as the
15 right to present evidence in defense of the allegations in the
16 Accusation and the right to cross-examine witnesses.

17 4. This Stipulation is based on the factual
18 allegations contained in the Accusation. In the interest of
19 expedience and economy, Respondent chooses not to contest these
20 allegations, but to remain silent and understands that, as a
21 result thereof, these factual allegations, without being admitted
22 or denied, will serve as a prima facie basis for the disciplinary
23 action stipulated to herein. The Real Estate Commissioner shall
24 not be required to provide further evidence to prove said factual
25 allegations.

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

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

18 7. Respondent has received, read, and understands the
19 "Notice Concerning Costs of Subsequent Audits". Respondent
20 understands that by agreeing to this Stipulation and Agreement,
21 the findings set forth below in the DETERMINATION OF ISSUES become
22 final, and that the Commissioner may charge Respondent for the
23 costs of any audit conducted pursuant to Section 10148 of the
24 Business and Professions Code to determine if the violations have
25 been corrected. The maximum costs of said audit will not exceed
26 \$3,667.95.

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DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondent as described in Paragraphs III through VIII of the Accusation are grounds for the suspension or revocation of all real estate licenses and license rights of Respondent under the provisions of Section 10177(d) of the Business and Professions Code (hereinafter "the Code") in conjunction with Section 10145 and 10148 of the Code and Section 2832 of Title 10, California Code of Regulations.

ORDER

I

A. The real estate broker license and all license rights of Respondent JOHN ERICK REUSCHE under the Real Estate Law are revoked.

B. A restricted real estate broker license shall be issued to Respondent pursuant to Business and Professions Code Section 10156.5, if Respondent makes application therefor and pays to the Department the appropriate fee for said license within ninety (90) days from the effective date of this Order.

C. The restricted license issued to Respondent shall be subject to all the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations,

///

1 conditions and restrictions imposed under authority of Section
2 10156.6 of that Code:

3 (1) The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real
5 Estate Commissioner in the event of Respondent's
6 conviction or plea of nolo contendere to a crime
7 which is substantially related to Respondent's
8 fitness or capacity as a real estate licensee.

9 (2) The restricted license issued to Respondent may be
10 suspended prior to hearing by Order of the Real
11 Estate Commissioner on evidence satisfactory to
12 the Commissioner that Respondent has violated
13 provisions of the California Real Estate Law, the
14 Subdivided Lands Law, Regulations of the Real
15 Estate Commissioner or conditions attaching to the
16 restricted license.

17 (3) Respondent shall not be eligible to apply for the
18 issuance of an unrestricted real estate license
19 nor for the removal of any of the conditions,
20 limitations or restrictions of a restricted
21 license until one (1) year has elapsed from the
22 effective date of this Decision.

23 D. Respondent shall, within nine (9) months from the
24 effective date of the Decision, present evidence satisfactory to
25 the Real Estate Commissioner that Respondent has, since the most
26 recent issuance of an original or renewal real estate license,
27 taken and successfully completed the continuing education

1 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
2 for renewal of a real estate license. If Respondent fails to
3 satisfy this condition, the Commissioner may order the suspension
4 of the restricted license until the Respondent presents such
5 evidence. The Commissioner shall afford Respondent the
6 opportunity for a hearing pursuant to the Administrative Procedure
7 Act to present such evidence.

8 E. Respondent shall, within six (6) months from the
9 effective date of this Decision, take and pass the Professional
10 Responsibility Examination administered by the Department
11 including the payment of the appropriate examination fee. If
12 Respondent fails to satisfy this condition, the Commissioner may
13 order the suspension of Respondent's license until Respondent
14 passes the examination.

15 F. Pursuant to Section 10148 of the Business and
16 Professions Code, Respondent shall pay the Commissioner's
17 reasonable cost for an audit to determine if Respondent has
18 corrected the trust fund violations found in Paragraphs V and VI
19 of the Determination of Issues. In calculating the amount of the
20 Commissioner's reasonable cost, the Commissioner may use the
21 estimated average hourly salary for all persons performing audits
22 of real estate brokers, and shall include an allocation for travel
23 costs, including mileage, time to and from the auditor's place of
24 work and per diem. The Commissioner's reasonable costs shall in
25 no event exceed \$3,667.95.

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27 ///

1 (1) Respondent shall pay such cost within sixty (60)
2 days from receipt of the invoice specified above,
3 the Commissioner's reasonable costs for an audit
4 to determine if Respondent has corrected the
5 violations found as set forth in the Determination
6 of Issues above, the Commissioner may order the
7 indefinite suspension of Respondent's real estate
8 license and license rights. The suspension shall
9 remain in effect until payment is made in full, or
10 until Respondent enters into an agreement
11 satisfactory to the Commissioner to provide for
12 such payment. The Commissioner may impose further
13 reasonable disciplinary terms and conditions upon
14 Respondent's real estate license and license
15 rights as part of any such agreement; and

16 (3) Should no order vacating the stay be issued,
17 either in accordance with this condition or any
18 other condition of this Order, the stay imposed
19 herein shall become permanent.

20 G. Respondent shall pay \$30,000.00 to Eleanor Morris,
21 Roger Midgette and Martha Midgette pursuant to the terms and
22 conditions of the settlement agreement in San Joaquin County
23 Superior Court Case No. CV002983. If Respondent fails to satisfy
24 the terms and conditions of said agreement, any real estate
25 license issued to Respondent may be suspended or revoked.

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H. Any restricted real estate broker license issued
to Respondent may be suspended or revoked for a violation by
Respondent of any of the conditions attaching to the restricted
license.

10/21/98

DATED

David A. Peters

DAVID A. PETERS, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement, have
discussed it with my counsel, 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.

10/26/98

DATED

John Erick Reusche

JOHN ERICK REUSCHE
Respondent

I have reviewed the Stipulation and Agreement as to form
and content and have advised my client accordingly.

10/26/98

DATED

John H. McKinley

JOHN H. MCKINLEY
Attorney for Respondent

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* * *

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
January 5, 1999.

IT IS SO ORDERED 11/22, 1998.

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
By Laurel A. Zain

In the Matter of the Accusation of

JOHN ERICK REUSCHE,

}

Case No. H-3368 SAC

OAH No. N-1998070206

Respondent

SECOND AMENDED
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, 560 J Street, Suite 340/360,
Sacramento, CA 95814

on Wednesday, October 28th, 1998, 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: August 17, 1998

By David A. Peters
DAVID A. PETERS Counsel

FILED
JUL 28 1998

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
By Laurel A. Zim

In the Matter of the Accusation of

JOHN ERICK REUSCHE,

Case No. H-3368 SAC

OAH No. N-1998070206

Respondent

FIRST AMENDED
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, 560 J Street, Suite 340/360,
Sacramento, CA 95814

on Wednesday, September 23rd, 1998, 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: July 28, 1998

By David A. Peters
DAVID A. PETERS Counsel

FILED
JUL 20 1998

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
Laurie A. Zain

In the Matter of the Accusation of

JOHN ERICK REUSCHE,

Case No. H-3368 SAC

OAH No. N-1998070206

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, 560 J Street, Suite 340/360,
Sacramento, CA 95814

on Friday, September 4th, 1998, 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: July 20, 1998

By *David A. Peters*
DAVID A. PETERS 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
JUN 16 1998
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JOHN ERICK REUSCHE,) NO. H-3368 SAC
13 Respondent.) ACCUSATION
14

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California for cause of Accusation
17 against JOHN ERICK REUSCHE dba RPI (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, Charles W. Koenig, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 against Respondent in his official capacity.

23 II

24 At all times herein mentioned, Respondent is presently
25 licensed and/or has license rights under the Real Estate Law,
26 (Part 1 of Division 4 of the California Business and Professions
27 Code) (hereinafter "Code"), as a real estate broker.



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III

Within the three-year period immediately preceding the filing of this Accusation, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code wherein Respondent for or in expectation of a compensation solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others and otherwise managed real properties located in or near Stockton, California.

IV

During the course of the property management activities described in Paragraph III above, Respondent received and disbursed funds held in trust on behalf of another or others.

V

Within the three-year period immediately preceding the filing of this Accusation through on or about August 21, 1996, Respondent failed to deposit the trust funds described in Paragraph IV above, into a trust fund account maintained by Respondent in a bank or recognized depository as required by Section 10145 of the Code.

VI

Within the three-year period immediately preceding the filing of this Accusation through on or about August 21, 1996, Respondent deposited the trust funds described in Paragraph IV above, into the following bank account wherein Respondent had access to and constructive possession of said trust funds:

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TITLE & ACCOUNT NO.

BANK

Martha M. or Roger W. Midgette,
Eleanor F. Morris and John E. Reusche
Account No. 22-33594-3-06
(hereinafter "Account #1")

Bank of Stockton
Stockton, California

Account #1 was not in the name of the Respondent as trustee at a bank or other financial institution as required by Section 2832 of Title 10, California Code of Regulations (hereinafter "Regulations").

VII

In connection with the collection and disbursement of trust funds described in Paragraph IV above, Respondent commingled his own money or property with the money or property of others which was received and held by Respondent in violation of Section 10176(e) of the Code.

VIII

On or about February 11, 1998, a representative of the Real Estate Commissioner, after service of a subpoena duces tecum on Respondent, required that all trust fund records, papers, books, accounts and documents in connection with transactions for which a real estate license is required, be made available for examination or inspection. Respondent refused and/or failed to make said records available for inspection and/or failed to retain said record in violation of Section 10148 of the Code.

XIV

The acts and/or omissions of Respondent described above are grounds for the suspension or revocation of Respondent's license and license rights under Section 10176(e) of the Code and

1 10177(d) of the Code in conjunction with Sections 10145 and 10148
2 of the Code and Section 2832 of the Regulations.

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 Respondent 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.

10
11 
12 CHARLES W. KOENIG
13 Deputy Real Estate Commissioner

14 Dated at Sacramento, California
15 this 8th day of June, 1998.
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