

FILED

AUG 26 2002

DEPARTMENT OF REAL ESTATE

By Jean Arnold

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
HANS MONVIK,) NO. H-3382 SAC
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 26, 1999, an Order was rendered herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on March 15, 1999, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent.

On April 26, 2001, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law
5 for the issuance to Respondent of an unrestricted real estate
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent, if Respondent
11 satisfies the following conditions within nine months from the
12 date of this Order:

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

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: August 21, 2002.

22
23 PAULA REDDISH ZINNEBANN
24 Real Estate Commissioner
25
26
27

FILED

JAN 31 2000

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-3382 SAC

HANS MONVIK,

Respondent.

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: HANS MONVIK

On March 15, 1999, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Decision effective March 15, 1999, in Case No. H-3382 SAC. This Decision granted the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those terms, conditions and restrictions, you were required to submit proof of having taken and completed specified

1 continuing education requirements within nine (9) months from the
2 effective date of the Decision. The Commissioner has determined
3 that as of December 22, 1999, you have failed to satisfy this
4 condition, and as such, you are in violation of Section 10177(k)
5 of the Business and Professions Code.

6 NOW, THEREFORE, IT IS ORDERED under authority of
7 Section 10156.7 of the Business and Professions Code of the State
8 of California that the restricted real estate salesperson license
9 heretofore issued to Respondent and the exercise of any
10 privileges thereunder is hereby suspended until such time as you
11 provide proof satisfactory to the Department of compliance with
12 the "condition" referred to above, or pending final determination
13 made after hearing (see "Hearing rights" set forth below).
14 Furthermore, you have no right to renew your restricted license
15 if this "condition" isn't satisfied by the date your restricted
16 license expires.

17 IT IS FURTHER ORDERED that all license certificates and
18 identification cards issued by the Department of Real Estate
19 which are in the possession of Respondent be immediately
20 surrendered by personal delivery or by mailing in the enclosed
21 self-addressed, stamped envelope to:

22 DEPARTMENT OF REAL ESTATE
23 Attention: Flag Section
24 P. O. Box 187000
Sacramento, CA 95818-7000

25 HEARING RIGHTS: Pursuant to the provisions of Section
26 10156.7 of the Business and Professions Code, you have the right
27 to a hearing to contest the Commissioner's determination that you

1 are in violation of Section 10177(k). If you desire a hearing,
2 you must submit a written request. The request may be in any
3 form, as long as it is in writing and indicates that you want a
4 hearing. Unless a written request for a hearing, signed by or on
5 behalf of you, is delivered or mailed to the Department of Real
6 Estate at 2201 Broadway, P. O. Box 187000, Sacramento, California
7 95818-7000, within twenty (20) days after the date that this
8 Order was mailed to or served on you, the Department will not be
9 obligated or required to provide you with a hearing.

10 This Order shall be effective immediately.

11 DATED: January 11, 2000.

12 PAULA REDDISH ZINNEMANN
13 Real Estate Commissioner
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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
FEB 22 1999

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 ALBERT FRANCIS NATICCHIONI,) NO. H-3382 SAC
14 and HANS MONVIK,) STIPULATION AND AGREEMENT
15 Respondents.) (AS TO HANS MONVIK ONLY.)

16 It is hereby stipulated by and between HANS MONVIK
17 only (Respondent), and the Complainant, acting by and through
18 Deidre L. Johnson, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing of the
20 Accusation filed on August 10, 1998:

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 August 20, 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 the 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 will waive
14 other rights afforded to him in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. Respondent, pursuant to the limitations set forth
18 below, hereby admits that the factual allegations set forth in
19 Paragraphs I, II and IV of the Accusation as to him are true and
20 correct. This Stipulation is based on the factual allegations
21 contained in the Accusation. In the interests of expedience and
22 economy, Respondent chooses not to contest the remainder of the
23 allegations in the Accusation as to him, but to remain silent and
24 understands that, as a result thereof, these factual allegations,
25 without being admitted or denied, will serve as a prima facie
26 basis for the disciplinary action stipulated to herein. The Real
27 Estate Commissioner shall not be required to provide further

1 evidence to prove said factual allegations. A true copy of the
2 Accusation is attached hereto as Annex A and incorporated herein
3 by reference.

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

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

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions and
22 waivers, and for the purpose of settlement of the pending
23 Accusation as to Respondent without a hearing, it is stipulated
24 and agreed that the following determination of issues shall be
25 made:

26 The acts and/or omissions of Respondent HANS MONVIK as
27 stipulated in Paragraph 4 above, constitute grounds for

1 disciplinary action under the provisions of Sections 10176(a) and
2 10177(g) of the Business and Professions Code (Code).

3 ORDER

4 A. All real estate license(s) and license rights of
5 Respondent HANS MONVIK are hereby revoked.

6 B. A restricted real estate salesperson license shall
7 be issued to Respondent pursuant to Section 10156.6 of the Code if
8 he makes application therefor and pays to the Department of Real
9 Estate the appropriate fee for said license within ninety (90)
10 days from the effective date of the decision.

11 C. The restricted license issued to Respondent shall be
12 subject to all of the provisions of Section 10156.7 of the Code
13 and to the following limitations, conditions, and restrictions
14 imposed under authority of Section 10156.6 of that Code:

15 (1) The restricted license issued to Respondent may
16 be suspended prior to hearing by Order of the
17 Real Estate Commissioner in the event of
18 Respondent's conviction or plea of nolo
19 contendere to a crime which is substantial
20 related to Respondent's fitness or capacity as a
21 real estate licensee.

22 (2) The restricted license issued to Respondent may
23 be suspended prior to hearing by Order of the
24 Real estate Commissioner on evidence
25 satisfactory to the Commissioner that Respondent
26 has violated provisions of the California Real
27 Estate Law, the Subdivided Lands Law,

1 Regulations of the Real Estate Commissioner or
2 conditions attaching to the restricted license.

3 (3) Respondent shall not be eligible to apply for
4 the issuance of an unrestricted real estate
5 license, nor the removal of any of the
6 conditions of the restricted license, until one
7 (1) year has elapsed from the effective date of
8 this Decision.

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

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

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

24 (5) Respondent shall, within nine (9) months from
25 the effective date of this Decision, present
26 evidence satisfactory to the Real Estate
27 Commissioner that Respondent has, since the most

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

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

22
23
24 January 13, 1999
25 DATED

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

27 * * *

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 witnesses
9 against me and to present evidence in defense and mitigation of
10 the charges.

11
12 _____
13 DATED

Hans Monvik 01/09/99
14 _____
15 HANS MONVIK
16 Respondent

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision and shall become effective at 12 o'clock
20 noon on March 15, 1999.

21 IT IS SO ORDERED January 26, 1999.

22 JOHN R. LIBERATOR
23 Acting Real Estate Commissioner

24 *John R. Liberator*
25 _____
26
27

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

FILED
JAN 7 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contessa

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

11 * * *

12 In the Matter of the Accusation of)	NO. H-3382 SAC
13 ALBERT FRANCIS NATICCHIONI,)	
14 and HANS MONVIK,)	<u>STIPULATION AND AGREEMENT</u>
15 Respondents.)	(AS TO ALBERT FRANCIS
	NATICCHIONI ONLY.)

16 It is hereby stipulated by and between ALBERT FRANCIS
17 NATICCHIONI only (Respondent), represented by Steven F. Spierer
18 and Spierer, Woodward, Corbalis & Goldberg, Attorneys at Law,
19 and the Complainant, acting by and through Deidre L. Johnson,
20 Counsel for the Department of Real Estate, as follows for the
21 purpose of settling and disposing of the Accusation filed on
22 August 10, 1998:

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 Procedures 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 August 24, 1998, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 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 he
12 understands that by withdrawing said Notice of Defense he will
13 thereby waive the right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA, and that he will waive
16 other rights afforded to him in connection with the hearing such
17 as the right to present evidence in defense of the allegations in
18 the Accusation and the right to cross-examine witnesses.

19 4. Respondent, pursuant to the limitations set forth
20 below, hereby admits that the factual allegations set forth in the
21 Accusation as to him are true and correct and the Real Estate
22 Commissioner shall not be required to provide further evidence of
23 such allegations. A true copy of the Accusation is attached
24 hereto as Annex A and incorporated herein by reference.

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 penalties and



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

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

20 The acts and/or omissions of Respondent ALBERT FRANCIS
21 NATICCHIONI as stipulated in Paragraph 4 above, constitute grounds
22 for disciplinary action under the provisions of Section 10177(h)
23 of the Code.

24 ORDER

25 A. All real estate license(s) and license rights of Respondent
26 ALBERT FRANCIS NATICCHIONI shall be suspended for a period of
27 forty-five (45) days from the effective date of the Decision;



1 provided, however that thirty (30) days of said suspension
2 shall be stayed for a period of one (1) year upon the following
3 terms and conditions:

- 4 (1) Respondent shall obey all laws, rules and regulations
5 governing the rights, duties and responsibilities of a
6 real estate licensee in the State of California; and,
7 (2) That no final subsequent determination be made, after
8 hearing or upon stipulation, that cause for disciplinary
9 action occurred within one (1) year of the effective date
10 of this Decision. Should such a determination be made,
11 the Commissioner may, in his discretion, vacate and set
12 aside the stay order and reimpose all or a portion of the
13 stayed suspension. Should no such determination be made,
14 the stay imposed herein shall become permanent.

15 B. As to the remaining fifteen (15) days of said suspension, said
16 suspension (or a portion thereof) shall be stayed if Respondent
17 so petitions, upon condition that:

- 18 (1) Respondent pays a monetary penalty pursuant to Section
19 10175.2 of the Code at the rate of \$100.00 for each day
20 of suspension for a total monetary penalty of \$1,500.00;
21 (2) Said payment shall be in the form of a cashier's check or
22 certified check made payable to the Recovery Account of
23 the Real Estate Fund. Said check must be delivered to
24 the Department prior to the effective date of the
25 Decision in this matter;
26 (3) That no final subsequent determination be made, after
27 hearing or upon stipulation, that further cause for



1 disciplinary action occurred within one (1) year of the
2 effective date of this Decision. Should such a
3 determination be made, the Commissioner may, in his
4 discretion, vacate and set aside the stay order and
5 reimpose all or a portion of the stayed suspension.
6 Should no such determination be made, the stay imposed
7 herein shall become permanent.

8 (4) If Respondent fails to pay the monetary penalty in
9 accordance with the terms and conditions of the Decision,
10 the Commissioner may, without a hearing, order the
11 immediate execution of all or any part of the stayed
12 suspension in which event Respondent shall not be
13 entitled to any repayment nor credit, prorated or
14 otherwise, for money paid to the Department under the
15 terms of the Decision.

16
17 December 15, 1998
18 DATED

17 Deidre L. Johnson
18 DEIDRE L. JOHNSON
19 Counsel for Complainant

20 * * *

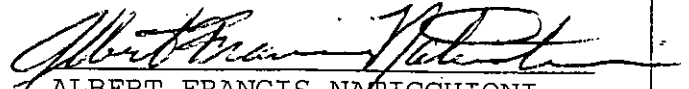
21 I have read the Stipulation in Settlement, have
22 discussed it with my counsel, and its terms are understood by me
23 and are agreeable and acceptable to me. I understand that I am
24 waiving rights given to me by the California Administrative
25 Procedure Act, and I willingly, intelligently and voluntarily
26 waive those rights, including the right of requiring the
27 Commissioner to prove the allegations in the Accusation at a



1 hearing at which I would have the right to cross-examine witnesses
2 against me and to present evidence in defense and mitigation of
3 the charges.

4
5 12-10-98

6 DATED

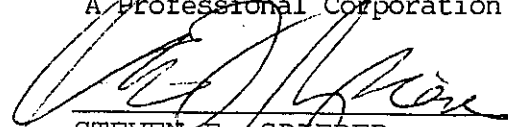

7 ALBERT FRANCIS NATICCHIONI
8 Respondent

9 APPROVED AS TO FORM:

SPIERER, WOODWARD, CORBALIS & GOLDBERG
A Professional Corporation

10 12/11/98

11 DATED


12 STEVEN F. SPIERER
13 Counsel for Respondent

14 * * *

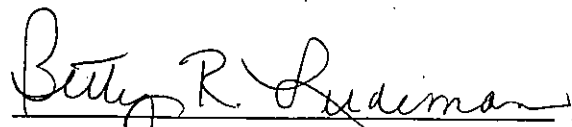
15 DECISION AND ORDER

16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision and Order and shall become effective at 12
18 o'clock noon on January 27, 1999.

19 IT IS SO ORDERED

December 28, 1998.

20 JIM ANTT, JR.
21 Real Estate Commissioner

22 
23 BY: Betty R. Ludeman
24 Assistant Commissioner
25
26
27



FILED
OCT 14 1998
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Contreras

In the Matter of the Accusation of

ALBERT FRANCIS NATICCHIONI,
and HANS MONVIK,

Case No. H-3382 SAC

OAH No. N-1998090219

Respondent

FIRST CONTINUED
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,

Suites 340/360, Sacramento, California 95814

on December 17, 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: October 13, 1998

By Deidre L. Johnson
DEIDRE L. JOHNSON Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 18 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ALBERT FRANCIS NATICCHIONI,
and, HANS MONVIK,

By Kathleen Contreras

Case No. H-3382 SAC

OAH No. N-1998090219

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,

Suites 340/360, Sacramento, California 95814

on October 16, 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

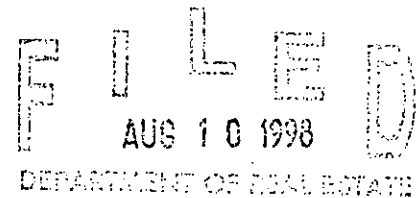
Dated: September 18, 1998

By

Deidre L. Johnson
DEIDRE L. JOHNSON

Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789



By Jean Dineo

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

11 * * *

12 In the Matter of the Accusation of)	
13)	
14 ALBERT FRANCIS NATICCHIONI,)	NO. H-3382 SAC
15 and HANS MONVIK,)	<u>ACCUSATION</u>
16 Respondent.)	

17 The Complainant, Charles W. Koenig, a Deputy Real Estate
18 Commissioner of the State of California, for causes of Accusation
19 against ALBERT FRANCIS NATICCHIONI and HANS MONVIK, is informed
20 and alleges as follows:

21 PRELIMINARY ALLEGATIONS

22 I

23 Respondent ALBERT FRANCIS NATICCHIONI and HANS MONVIK
24 (hereafter Respondents), are presently licensed and/or have
25 license rights under the Real Estate Law, Part 1 of Division 4
26 of the California Business and Professions Code (hereafter the
27 Code).



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II

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity and not otherwise.

III

At all times herein mentioned, Respondent ALBERT FRANCIS NATICCHIONI (hereafter NATICCHIONI) was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker, individually and doing business as RE/MAX OF REDDING.

IV

At all times herein mentioned, Respondent HANS MONVIK (hereafter MONVIK) was and is licensed by the Department as a real estate salesperson in the employ of NATICCHIONI.

V

Within the three years last past, Respondent NATICCHIONI engaged in the business and acted in the capacity of a real estate broker in California within the meaning of Section 10131(a) of the Code, wherein he sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, and/or negotiated the purchase, sale or exchange of real property.

FIRST CAUSE OF ACTION

VI

On or about August 1, 1996, Respondent NATICCHIONI, by and through his agent Respondent MONVIK, entered into a listing agreement with David and John Altman (hereafter Sellers) to sell their real property known as and located at the southeast corner



1 of Oasis Road and Old Oasis Road, A.P. Map No. 074-12-05 of Shasta
2 County, California.

3 VII

4 On or about September 24, 1996, MONVIK prepared and/or
5 received a real estate purchase contract and receipt for deposit
6 (hereafter Offer/Deposit Receipt) to constitute the offer of
7 prospective buyer Summit Development Corporation (hereafter Buyer)
8 to purchase the above real property. The Offer/Deposit Receipt
9 acknowledged receipt by Respondent MONVIK and RE/MAX OF REDDING
10 from Buyer of a deposit in the sum of \$2,500.00, in the form of a
11 personal check payable to "Redding Title," and stated that said
12 funds were to be held uncashed until acceptance of the offer, and
13 then deposited into escrow upon acceptance.

14 VIII

15 Respondent MONVIK presented the Offer/Deposit Receipt to
16 Sellers and expressly or impliedly represented that Buyer had
17 given him a check for the earnest money deposit; that the earnest
18 money deposit was in the sum of \$2,500.00; that RE/MAX OF REDDING
19 would hold the check uncashed until acceptance; and that, upon
20 acceptance, the company would immediately deposit the funds into
21 escrow with Redding Title. In reliance thereon, Sellers entered
22 into negotiations which led to acceptance on or about
23 September 26, 1996.

24 IX

25 Respondent MONVIK failed to disclose to Sellers that
26 neither he nor RE/MAX OF REDDING was in receipt of any earnest
27 money deposit from Buyer in any amount or form whatsoever.



1 X

2 On or about September 26, 1996, escrow for the
3 transaction was opened at Redding Title. On and after
4 September 26, 1996, Respondent MONVIK knew or should have known
5 that neither he nor RE/MAX OF REDDING had Buyer's earnest money
6 deposit to deposit into escrow at Redding Title, or any other
7 escrow or title company, immediately after acceptance or at any
8 time thereafter until on or about January 16, 1997. Respondent
9 MONVIK failed to so inform Sellers.

10 XI

11 The acts and/or omissions of Respondent MONVIK as
12 alleged above constitute grounds for disciplinary action under the
13 provisions of Section 10176(a) and/or Section 10177(g) of the
14 Code.

15 SECOND CAUSE OF ACTION

16
17 XII

18 NATICCHIONI failed to exercise reasonable supervision
19 over MONVIK and RE/MAX OF REDDING, including but not limited to
20 the following: NATICCHIONI permitted, ratified and/or caused the
21 conduct described in Paragraphs VI through XII above to occur; and
22 NATICCHIONI failed to reasonably or adequately review, oversee,
23 inspect and manage MONVIK's activities with the company, and/or to
24 establish reasonable policies, rules, procedures and systems for
25 such review, oversight, inspection and management, including but
26 not limited to the handling of trust funds in compliance with the
27 law.



XIII

The acts and/or omissions of Respondent NATICCHIONI as alleged above violate the provisions of Section 2725 of the Regulations, and constitute grounds for disciplinary action under Section 10177(d) and Section 10177(h) of the Code.

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


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 6th day of August, 1998.

