

FILED
JUN 25 2007

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

DEPARTMENT OF REAL ESTATE

By *Gene Shaw*

Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID GEORGE REHMANN,)
Respondent.)

No. H-3626 SD

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between DAVID GEORGE REHMANN (hereinafter "Respondent") and his attorney, Frank M. Buda, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on October 12, 2006 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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 submitted solely on the basis of the provisions of this

1 Stipulation and Agreement.

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

5 3. Respondent filed a Notice of Defense pursuant to
6 Section 11505 of the Government Code for the purpose of
7 requesting a hearing on the allegations in the Accusation.
8 Respondent hereby freely and voluntarily withdraws said Notice of
9 Defense. Respondent acknowledges that he understands that by
10 withdrawing said Notice of Defense he will thereby waive his
11 rights to require the Commissioner to prove the allegations in
12 the Accusation at a contested hearing held in accordance with the
13 provisions of the APA, and that he will waive other rights
14 afforded to them in connection with the hearing such as the right
15 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 expediency and economy, Respondent chooses not to contest these
20 factual allegations, but to remain silent and understands that,
21 as a result thereof, these factual statements will serve as a
22 prima facie basis for the "Determination of Issues" and "Order"
23 set forth below. The Real Estate Commissioner shall not be
24 required to provide further evidence to prove such allegations.

25 5. This Stipulation and Respondent's decision not to
26 contest the Accusation are made for the purpose of reaching an
27

1 agreed disposition of this proceeding and are expressly limited
2 to this proceeding and any other proceeding or case in which the
3 Department of Real Estate (herein "the Department"), the state or
4 federal government, an agency of this state, or an agency of
5 another state is involved.

6 6. Respondent understands that by agreeing to this
7 Stipulation and Agreement, Respondent agrees to pay, pursuant to
8 Section 10148 of the California Business and Professions Code,
9 the cost of the audit which resulted in the determination that
10 Respondent committed the trust fund violation(s) found in
11 Paragraph I, below, of the Determination of Issues. The amount
12 of said costs is \$5,912.60.

13 7. Respondent further understands that by agreeing
14 to this Stipulation and Agreement in Settlement, the findings
15 set forth below in the Determination Of Issues become final, and
16 that the Commissioner may charge said Respondent for the
17 costs of any audit conducted pursuant to Section 10148 of
18 the California Business and Professions Code to determine if
19 the violations have been corrected. The maximum costs of
20 said audit shall not exceed \$5,912.60.

21 8. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement as
23 his decision in this matter thereby imposing the penalty and
24 sanctions on the real estate licenses and license rights of
25 Respondent as set forth in the below "Order". In the event that
26 the Commissioner in his discretion does not adopt the Stipulation
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1 and Agreement, it shall be void and of no effect, and Respondent
2 shall retain the right to a hearing and proceeding on the
3 Accusation under all the provisions of the APA and shall not be
4 bound by any admission or waiver made herein.

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

12 * * *

13 DETERMINATION OF ISSUES

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

19 I

20 The acts and omissions of Respondent DAVID GEORGE
21 REHMANN as described in the Accusation are grounds for the
22 suspension or revocation of Respondent licenses and license
23 rights under the following sections of the Code of Regulations:

24 (a) As to Paragraph VII(b), under Section 2834 of the
25 Regulations in conjunction with Section 10177(d) of the Code;
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1 (b) As to Paragraph IX, under Section 2731 of the
2 Regulations in conjunction with Section 10177(d) of the Code;
3 and

4 (c) As to Paragraph X, under Section 10161.8 of the
5 Code in conjunction with Section 10177(d) of the Code.

6 * * *

7 ORDER

8 All licenses and licensing rights of Respondent DAVID GEORGE
9 REHMANN under the Real Estate Law are suspended for a period of
10 forty-five (45) days from the effective date of this Order;
11 provided, however, that:

- 12 1) The forty-five (45) days of said suspension shall be stayed
13 for two (2) years upon the following terms and conditions:
14 a) Respondent shall obey all laws, rules and regulations
15 governing the rights, duties and responsibilities of a real
16 estate licensee in the State of California; and,
17 b) That no final subsequent determination be made, after
18 hearing or upon stipulation, that cause for disciplinary
19 action occurred within two (2) years from the effective date
20 of this Order. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside
22 the stay order and reimpose all or a portion of the stayed
23 suspension. Should no such determination be made, the stay
24 imposed herein shall become permanent.
25 2) Respondent shall, prior to the effective date of this
26 Decision, submit proof satisfactory to the Commissioner of
27 having taken and successfully completed the continuing

1 education course on trust fund accounting and handling
2 specified in subdivision (a) of Section 10170.5 of the
3 Business and Professions Code. Proof of satisfaction of this
4 requirement includes evidence that Respondent has successfully
5 completed the trust fund account and handling continuing
6 education course within 120 days prior to the effective date
7 of the Decision in this matter. If Respondent fails to satisfy
8 this condition, the Commissioner may order the suspension of
9 Respondent's license until Respondent presents proof that she
10 has successfully completed the trust fund course.

11 3) Pursuant to Section 10148 of the Business and Professions
12 Code, Respondent shall pay the sum of \$5,912.60 for the
13 Commissioner's cost of the audit which led to this
14 disciplinary action. Respondent shall pay such cost within
15 forty-five (45) days of receiving an invoice therefor from the
16 Commissioner. The Commissioner may suspend Respondent's
17 license pending a hearing held in accordance with Section
18 11500, et seq., of the Government Code, if payment is not
19 timely made as provided for herein, or as provided for in a
20 subsequent agreement between the Respondent and the
21 Commissioner. The suspension shall remain in effect until
22 payment is made in full or until Respondent enters into an
23 agreement satisfactory to the Commissioner to provide for
24 payment, or until a decision providing otherwise is adopted
25 following a hearing held pursuant to this condition.

26 4) Pursuant to Section 10148 of the Business and Professions
27 Code, Respondent shall pay the Commissioner's reasonable cost,

1 not to exceed \$5,912.60, for an audit to determine if
2 Respondents have corrected the trust fund violation(s) found
3 in Paragraph I of the Determination of Issues. In calculating
4 the amount of the Commissioner's reasonable cost, the
5 Commissioner may use the estimated average hourly salary for
6 all persons performing audits of real estate brokers, and
7 shall include an allocation for travel time to and from the
8 auditor's place of work. Respondent shall pay such cost
9 within forty-five (45) days of receiving an invoice therefor
10 from the Commissioner detailing the activities performed
11 during the audit and the amount of time spent performing those
12 activities. The Commissioner may suspend Respondent's license
13 pending a hearing held in accordance with Section 11500, et
14 seq., of the Government Code, if payment is not timely made as
15 provided for herein, or as provided for in a subsequent
16 agreement between Respondent and the Commissioner. The
17 suspension shall remain in effect until payment is made in
18 full or until Respondent enters into an agreement satisfactory
19 to the Commissioner to provide for payment, or until a
20 decision providing otherwise is adopted following a hearing
21 held pursuant to this condition.

22
23 14-May-06
24 DATED

22
23 
24 TRULY SUGHRUE
Counsel for Complainant

25 * * *

05/08/2007 10:49 818-999-9859
03/07/2007 13:30 FAX 8104410400

FRANK BUDA ESO
ONE LEGAL/INDEPENDENT

PAGE 11/11

1 I have read the Stipulation and Agreement, discussed it
2 with my counsel, and its terms are understood by me and are
3 agreeable and acceptable to me. I understand that I am waiving
4 rights given to me by the California Administrative Procedure
5 Act, and I willingly, intelligently and voluntarily waive those
6 rights, including the right of requiring the Commissioner to
7 prove the allegations in the Accusation at a hearing at which I
8 would have the right to cross-examine witnesses against me and to
9 present evidence in defense and mitigation of the charges.

08 MAY 07

DATED

DAVID GEORGE REHMANN
Respondent

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

5-8-07

DATED

FRANK M. BUDA
Attorney for Respondent

* * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision and shall become effective at 12 o'clock
21 noon on JUL 16 2007

IT IS SO ORDERED 6-20 2007.

JEFF DAVI
Real estate Commissioner

- 8 -

W-1526 SD
05/07/07

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
OCT 12 2006

DEPARTMENT OF REAL ESTATE

By H. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 DAVID GEORGE REHMANN,)
14 Respondents.)

No. H-3626 SD

ACCUSATION

15 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
16 Commissioner DAVID GEORGE REHMANN (Respondent), is informed and
17 alleges as follows:

18 I

19 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation in
21 his official capacity.

22 II

23 Respondent is presently licensed and/or have license
24 rights under the Real Estate Law (Part 1 of Division 4 of the
25 Business and Professions Code) (the Code).

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III

At all times herein mentioned, Respondent was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker.

IV

At all times herein mentioned, Respondent engaged in activities on behalf of others for which a real estate license is required under Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvement thereon.

V

In acting as real estate broker, as described in Paragraph IV, Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said trust funds.

VI

The aforesaid trust funds accepted or received by Respondent were deposited or caused to be deposited by

Respondent into one or more bank accounts (trust funds accounts) maintained by Respondent for the handling of trust funds, including but not limited to the following:

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
David Rehmann DBA David Rehmann Realty Group Account No. 3997338482 (Account #1)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020
David Rehmann Charter 44 Account No. 0376362240 (Account #2)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann DBA David Rehmann Account No. 3112885771 (Account #3)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020
David Rehmann DBA David Rehmann Realty Group Account No. 9737776378 (Account #4)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020
David Rehmann Realty Property Management for Amir Mansbacher Account No. 0769029752 (Account #5)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann Realty Property Management for Michael Whitlock Account No. 0763259504 (Account #6)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann Realty Property Management for Logsdon Trust Account No. 0495403263 (Account #7)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann Charter 43 Account No. 0747437853 (Account #8)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann Charter 72 Account No. 3112885269 (Account #9)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020

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TITLE AND ACCOUNT NUMBERS

BANK

David Rehmann Realty Property Management Account for Edward or Lou Ray Checkert Account No. 0763259363 (Account #10)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann Charter 82 Account No. 0763259496 (Account #11)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann DBA David Rehmann Account No. 3112885789 (Account #12)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020
David Rehmann Realty Property Management for Randy or Deena Stein Account No. 1009696715 (Account #13)	Wells Fargo Bank 250 N. 2 nd Street El Cajon, CA 92020
David Rehmann Realty Property Management for Gary Kruse Account No. 0769030263 (Account #14)	Wells Fargo Bank 1350 Fashion Valley San Diego, CA 92108
David Rehmann DBA David Rehmann Realty Account No. 9737776360 (Account #15)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020
David Rehmann DBA David Rehmann Realty Group Account No. 3999302064 (Account #16)	Wells Fargo Bank 1201 Avocado Avenue El Cajon, CA 92020

VII

Between on or about May 1, 2003 through April 30, 2006, in connection with the collection and disbursement of said trust funds Respondent:

(a) Failed to place trust funds entrusted to Respondent into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Respondent as trustee at a bank or other financial institution, in conformance with the

1 requirements of section 10145 of the Code and Section 2832(a) of
2 the Regulations in that Respondent placed such funds in Account
3 #1 through #16, accounts that were not in the name of Respondent
4 as trustee.

5 (b) Permitted withdrawals to be made from Account #7
6 by someone other than a corporate officer, or a salesperson
7 licensed to Respondent and authorized in writing by Respondent
8 to withdraw said funds, or an authorized unlicensed employee
9 covered by a fidelity bond indemnifying Respondent against loss
10 in an amount sufficient to cover the maximum amount of funds to
11 which the employee had access at any time, as required by
12 Section 2834 of the Regulations.

13 VIII

14 In connection with the disbursement of trust funds
15 described in Paragraph VI, Account #1 and #2, Respondent
16 permitted and/or caused the disbursement of trust funds to
17 contractors and vendors, but charged the accounts of owners
18 amounts which exceeded the actual cost of the services performed
19 by the vendors and contractors. Respondent made either no
20 disclosure or inadequate disclosure of these "mark-ups" to the
21 beneficiaries of said trust funds, did not obtain their informed
22 consent to these "mark-ups", and pocketed the difference between
23 the amounts paid and the actual cost of the services.
24 Respondent's acts and omissions constitute fraud or dishonest
25 dealing, and the taking of a secret profit, and are cause for
26 discipline under Sections 10176(g) and 10176(i) of the Code.

IX

Respondent operated his real estate business in El Cajon, California, under the fictitious business names of "Rehmann Realty Group", "David Rehmann Realty Group", and "Rehmann Properties", without Respondent obtaining a license bearing said fictitious business name as required by Section 2731 of the Regulations.

X

Respondent failed to immediately notify the Commissioner in writing of three salespersons terminated from Respondents' employ as required by Section 10161.8 of the Code.

XI

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:

(a) As to Paragraph VII(a), under Section 10145 and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;

(b) As to Paragraph VII(c), under Section 10145 and Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code.

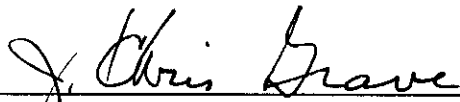
(c) As to Paragraph VIII, under Sections 10176(g) and 10176(i) of the Code;

(d) As to Paragraph IX, under Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code.

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1 (e) As to Paragraph X, under Section 10161.8 and
2 Section 2752 of the Regulations in conjunction with Section
3 10177(d) of the Code.

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

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12 
13 J. CHRIS GRAVES
14 Deputy Real Estate Commissioner

15 Dated at San Diego, California,
16 this 19th day of September, 2006
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