

1 On July 22, 2005, Respondents petitioned for
2 reinstatement of said real estate broker licenses, and the
3 Attorney General of the State of California has been given notice
4 of the filing of said Petition (herein "Petition").

5 I have considered Respondents' Petition and the
6 evidence and arguments in support thereof. Respondents have
7 failed to demonstrate to my satisfaction that Respondents have
8 undergone sufficient rehabilitation to warrant the reinstatement
9 of Respondents' real estate broker licenses.

10 The burden of proving rehabilitation rests with the
11 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
12 petitioner is required to show greater proof of honesty and
13 integrity than an applicant for first time licensure. The proof
14 must be sufficient to overcome the prior adverse judgment on the
15 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
16 395).

17 The Department has developed criteria in Section 2911
18 of Title 10, California Code of Regulations (herein
19 "Regulations") to assist in evaluating the rehabilitation of an
20 applicant for reinstatement of a license. Among the criteria
21 relevant in this proceeding are:

22 Section 2911(k). Correction of business practices
23 resulting in injury to others or with the potential to cause such
24 injury.

25 The Decision of May 29, 2003 disciplined Respondents'
26 real estate broker licenses pursuant to the provisions of
27 Sections 10177(d) and 10177(h) of the Code and Sections 2831,

1 2831.1, 2831.2, 2832.1 and 2834 of the Code on the grounds, among
2 others, that in course of Respondents' real estate resale,
3 property management, mortgage loan brokerage and trust fund
4 handling activities Respondents placed trust funds into bank
5 accounts that were not designated as trust accounts, failed to
6 maintain conforming control accounts and separate records, failed
7 to perform required monthly reconciliations of trust fund
8 accounts, and had a trust fund shortage of \$11,407.53 as of
9 April 30, 2001.

10 In response to Item 4 of the Petition ("Civil Court -
11 Have you ever been a defendant in any civil court litigation?)
12 Respondents answered "No". This was not accurate. An examination
13 of public records disclosed:

14 (a) On June 24, 2005, in the Superior Court of the
15 State of California, County of Sacramento, Case No. 05SC04528, a
16 small claims action was filed by Alexander Winfield III against
17 Respondents GLENN N. FONG & CO., GLENN N. FONG, and others,
18 alleging that in the course of Respondents property management
19 activities Respondents wrongfully charged \$1,730.00 against a
20 \$1,900.00 rental deposit. On February 27, 2006, a judgment was
21 entered in favor of plaintiff and against the Respondents in the
22 sum of \$1,699.60.

23 (b) On August 15, 2005, in the Superior Court of the
24 State of California, County of Sacramento, Case No. 05SC05860, a
25 small claims action was filed by Rita Marie Townsend against
26 Respondent GLENN N. FONG & CO., alleging that in course of
27 Respondents' property management activities Respondents

1 constructively evicted plaintiff by failing to install locks and
2 trim a tree to make plaintiff's rental residence safe from
3 burglary. On October 5, 2005, a judgment was entered against
4 plaintiff and in favor of Respondents.

5 In November, 2006, the Department conducted an
6 examination of Respondent's records for the period from
7 January 1, 2006 through October 31, 2006 to evaluate Respondents'
8 compliance with the real estate law. The examination determined
9 that in course of Respondents' mortgage loan brokerage
10 activities, Respondents had failed to provide borrowers the
11 mortgage loan disclosure statement required by Section 10240 of
12 the Code in 4 of the 13 loans originated by Respondents during
13 the period covered by the examination.

14 In view of the violations found and the results of a
15 Department examination of Respondents' Petition and business
16 activities, it is concluded that Respondents have failed to
17 demonstrate correction of business practices causing injury to
18 others or with the potential to cause such injury. Since
19 Respondent has not established that Respondents have complied
20 with Section 2911(k) of Chapter 6, Title 10, California Code of
21 Regulations, I am not satisfied that Respondents are sufficiently
22 rehabilitated to receive unrestricted real estate broker
23 licenses.

24 NOW, THEREFORE, IT IS ORDERED that Respondents petition
25 for reinstatement of Respondents' real estate broker licenses is
26 denied.

27 ///

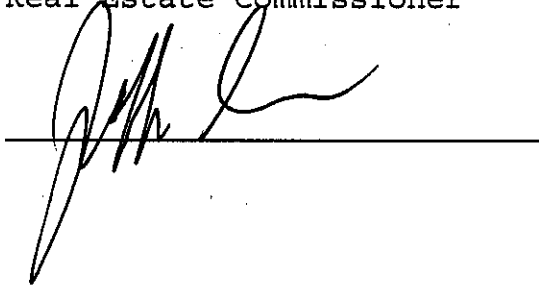
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This Order shall become effective at 12 o'clock
JUN 15 2007

noon _____, 2007.

DATED: 53, 2007.

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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7

FILED
JUL 02 2003

DEPARTMENT OF REAL ESTATE

Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-3665 SAC
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17 It is hereby stipulated by and between Respondent GLENN
18 N. FONG & CO., (hereinafter "Respondent COMPANY") and GLENN KING
19 NGAR FONG (hereinafter "Respondent FONG") and their attorney of
20 record, Kirk Giberson, and the Complainant, acting by and through
21 Michael B. Rich, Counsel for the Department of Real Estate, as
22 follows for the purpose of settling and disposing of the
23 Accusation filed on March 26, 2002, in this matter (hereinafter
24 "the Accusation"):

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27 at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act (APA), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement.

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

9 3. On April 10, 2002, Respondents filed a Notice of
10 Defense pursuant to Section 11505 of the Government Code for the
11 purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notice of Defense. Respondents acknowledge that they
14 understand that by withdrawing said Notice of Defense Respondents
15 will thereby waive their right to require the Commissioner to
16 prove the allegations in the Accusation at a contested hearing
17 held in accordance with the provisions of the APA and that
18 Respondents will waive other rights afforded to them in
19 connection with the hearing such as the right to present evidence
20 in defense of the allegations in the Accusation and the right to
21 cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interests of
24 expedience and economy, Respondents choose not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27 or denied, will serve as a prima facie basis for the disciplinary

1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. The parties understand that the Real Estate
5 Commissioner may adopt the Stipulation and Agreement as her
6 decision in this matter, thereby imposing the penalty and
7 sanctions on Respondents' real estate license and license rights
8 as set forth in the "Order" below. In the event that the
9 Commissioner in her discretion does not adopt the Stipulation and
10 Agreement, it shall be void and of no effect, and Respondents
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 admission or waiver made herein.

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

21 7. Respondents understand that by agreeing to this
22 Stipulation and Agreement in Settlement, Respondents agree to
23 pay, pursuant to Section 10148 of the Business and Professions
24 Code, the cost of the audit that led to this disciplinary action.
25 The amount of said costs is \$3,386.28.

26 8. Respondents have received, read, and understand
27 the "Notice Concerning Costs of Audits". Respondents further

1 understand that by agreeing to this Stipulation and Agreement in
2 Settlement, the findings set forth below in the DETERMINATION OF
3 ISSUES become final, and that the Commissioner may charge
4 Respondents for the costs of any subsequent audit conducted
5 pursuant to Section 10148 of the Business and Professions Code to
6 determine if the violations have been corrected. The maximum
7 costs of said audit will not exceed \$4,055.08.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations, admissions and
10 waivers and solely for the purpose of settlement of the pending
11 Accusation without hearing, it is stipulated and agreed that the
12 following Determination of Issues shall be made:

13 I

14 The conduct of Respondents, as described in the
15 Accusation, constitutes cause for the suspension or revocation of
16 the real estate license and license rights of Respondents under
17 the provisions of: Section 10177(d) and (h) of the Business and
18 Professions Code in conjunction with Section 10145 of the Code,
19 and Sections 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834 of
20 Title 10, California Code of Regulations.

21
22 ORDER

23 I

24 The respective real estate broker licenses and all
25 license rights of Respondent GLENN N. FONG & CO. and Respondent
26 GLENN KING NGAR FONG under the Real Estate Law are revoked;
27 provided, however, a restricted corporate real estate broker

1 license shall be issued to Respondent COMPANY and a restricted
2 real estate broker license shall be issued to Respondent FONG
3 pursuant to Section 10156.5 of the Business and Professions Code
4 if Respondents respectively make application therefor and pay to
5 the Department of Real Estate the respective appropriate fee for
6 the restricted license within ninety (90) days from the effective
7 date of this Decision. The restricted licenses respectively
8 issued to Respondents (permitting Respondents to conduct all
9 activities permitted by a broker license) shall be subject to all
10 of the provisions of Section 10156.7 of the Business and
11 Professions Code and to the following limitations, conditions and
12 restrictions imposed under authority of Section 10156.6 of that
13 Code:

14 1. The restricted licenses issued to Respondents may
15 be suspended prior to hearing by Order of the Real Estate
16 Commissioner in the event of either Respondent COMPANY's or
17 Respondent FONG's respective conviction or plea of nolo
18 contendere to a crime which is substantially related to
19 Respondent's fitness or capacity as a real estate licensee.

20 2. The restricted licenses issued respectively to
21 Respondents may be suspended prior to hearing by Order of the
22 Real Estate Commissioner on evidence satisfactory to the
23 Commissioner that either Respondent has violated provisions of
24 the California Real Estate Law, the Subdivided Lands Law,
25 Regulations of the Real Estate Commissioner or conditions
26 attaching to the restricted license.

1 3. Respondents, respectively, shall not be eligible
2 to apply for the issuance of an unrestricted real estate license
3 nor for the removal of any of the conditions, limitations, or
4 restrictions of a restricted license until two (2) years have
5 elapsed from the effective date of this Decision.

6 4. Respondent FONG shall, within nine (9) months from
7 the effective date of this Decision, present evidence
8 satisfactory to the Real Estate Commissioner that Respondent FONG
9 has, since the most recent issuance of an original or renewal
10 real estate license, taken and successfully completed the
11 continuing education requirements of Article 2.5 of Chapter 3 of
12 the Real Estate Law for renewal of a real estate License. If
13 Respondent FONG fails to satisfy this condition, the Commissioner
14 may order the suspension of the restricted licenses until
15 Respondent FONG presents such evidence. The Commissioner shall
16 afford Respondent FONG the opportunity for a hearing pursuant to
17 the Administrative Procedure Act to present such evidence.

18 5. Respondent FONG shall, within six (6) months from
19 the effective date of this Decision, take and pass the
20 Professional Responsibility Examination administered by the
21 Department including the payment of the appropriate examination
22 fee. If Respondent FONG fails to satisfy this condition, the
23 Commissioner may order suspension of Respondents' respective
24 licenses until Respondent FONG passes the examination.

25 6. Pursuant to Section 10148 of the Business and
26 Professions Code, Respondents and each of them, jointly and
27 severally, shall pay the Commissioner's reasonable cost for: a)

1 the audit which led to this disciplinary action and, b) a
2 subsequent audit to determine if Respondents have corrected the
3 trust fund violations found in paragraph I of the Determination
4 of Issues (not to exceed \$4,055.08.). In calculating the amount
5 of the Commissioner's reasonable cost, the Commissioner may use
6 the estimated average hourly salary for all persons performing
7 audits of real estate brokers, and shall include an allocation
8 for travel time to and from the auditor's place of work.
9 Respondents jointly and severally shall pay such cost within
10 sixty (60) days of receiving an invoice from the Commissioner
11 detailing the activities performed during the audit and the
12 amount of time spent performing those activities. The
13 Commissioner may suspend the restricted licenses issued to
14 Respondents pending a hearing held in accordance with Section
15 11500, et seq., of the Government Code, if payment is not timely
16 made as provided for herein, or as provided for in a subsequent
17 agreement between the Respondents and the Commissioner. The
18 suspension shall remain in effect until payment is made in full
19 or until Respondents enter into an agreement satisfactory to the
20 Commissioner to provide for payment, or until a decision
21 providing otherwise is adopted following a hearing held pursuant
22 to this condition.

23 7. Respondents shall prior to the effective date of
24 the Decision and as a condition to be met prior to the issuance
25 of the restricted licenses provide evidence satisfactory to the
26 Commissioner that Respondents have cured the trust fund shortages
27 alleged in the Accusation.

1 8. Any restricted real estate broker license issued to
2 Respondents may be suspended or revoked for a violation,
3 respectively, by either Respondent of any of the conditions
4 attaching to the restricted licenses.

5 9. Respondent FONG shall, prior to and as a condition
6 of the issuance of the restricted license, submit proof
7 satisfactory to the Commissioner of having taken and successfully
8 completed the continuing education course on trust fund
9 accounting and handling specified in subdivision (a) of Section
10 10170.5 of the Business and Professions Code. Proof of
11 satisfaction of this requirement includes evidence that
12 Respondent FONG has successfully completed the trust fund account
13 and handling continuing education course within 120 days prior to
14 the effective date of the Decision in this matter.

15 10. The restricted licenses issued to Respondents are
16 suspended for a period of sixty (60) days from the effective date
17 of this Decision; provided, however, that if Respondents
18 petition, said suspensions (or a portion thereof) shall be stayed
19 upon condition that:

20 a. Respondents, and each of them respectively, pays a
21 monetary penalty pursuant to Section 10175.2 of the
22 Business and Professions Code at the rate of \$50.00 for
23 each day of the suspension for a total monetary penalty
24 of \$3,000.00 each.

25 b. Said payment shall be in the form of a cashier's
26 check or certified check made payable to the Recovery
27 Account of the Real Estate Fund. Said check must be

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delivered to the Department prior to the effective date of the Decision in this matter.

c. No further cause for disciplinary action against the real estate licenses of Respondents occurs within one year from the effective date of the Decision in this matter.

d. If Respondents fail to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondents shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

e. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate licenses of Respondents occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

5/20/03
DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
DEPARTMENT OF REAL ESTATE

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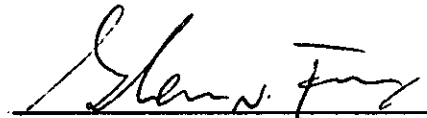
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* * *

I have read the Stipulation and Agreement 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.

MAY 19 2003

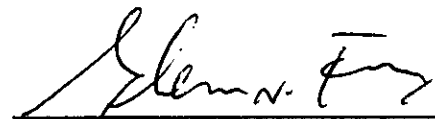
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GLENN N. FONG & CO.
Respondent
By: GLENN KING NGAR FONG

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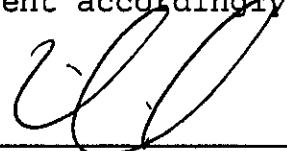
DATED



GLENN KING NGAR FONG
Respondent

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

5/19/03
DATED



KIRK GIBERSON
Attorney for Respondent

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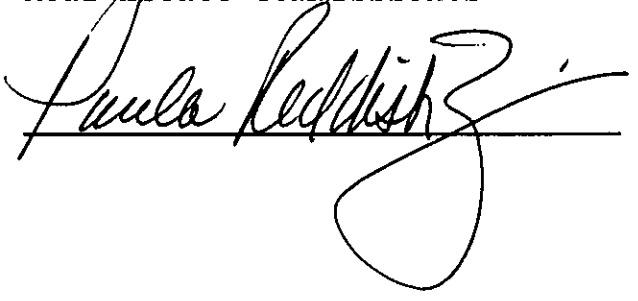
The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as her Decision
and Order and shall become effective at 12 o'clock noon on _____

JULY 22, 2003.

IT IS SO ORDERED

May 29, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 06 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

GLENN N. FONG & CO. and
GLENN KING NGAR FONG,

} Case No. H-3665 SAC *Shelley Ely*

} OAH No. N2002050213

Respondents

**SECOND CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **WEDNESDAY--MAY 28, 2003**, 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: APRIL 8, 2003

By

Michael B. Rich
MICHAEL B. RICH, Counsel

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED
AUG 08 2002

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) H-3665 SAC
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II

At all time herein mentioned, Respondent GLENN N. FONG & CO. (hereinafter "Respondent CORPORATION") was licensed as a Corporate Real Estate Broker acting by and through Respondent GLENN KING NGAR FONG (hereinafter "Respondent FONG") as its designated broker/officer.

III

At all times herein mentioned, Respondent FONG was licensed as a real estate broker and as the broker/officer of Respondent CORPORATION.

IV

The Complainant, CHARLES KOENIG, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

V

Within the last three years, Respondents engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, by:

(a) Selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or business opportunities in California;

(b) Leasing or renting, offering to lease or rent, soliciting prospective tenants for, collecting rents on, and/or managing certain real properties in California; and,

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1 (c) Soliciting borrowers or lenders for or negotiating
2 loans or collecting payments or performing services for borrowers
3 or lenders or note owners in connection with loans secured
4 directly or collaterally by liens on real property or on a
5 business opportunity in California.

6 VI

7 Beginning in October of 2001, the Department conducted
8 an audit of the above business activities of Respondents for the
9 time period of October 7, 1999 through August 31, 2001. During
10 the course of the activities described above, Respondents
11 received and disbursed funds in trust on behalf of others.

12 VII

13 Within the last three years, Respondent CORPORATION
14 deposited the above trust funds into a bank account at Union Bank
15 of California in San Diego, California, bearing account number
16 1280008571, in the name of "Glenn N. Fong & Company, Fong
17 Management" (hereinafter referred to as Account #1").

18 VIII

19 Within the last three years, Respondent CORPORATION
20 deposited the above trust funds into a bank account at Union Bank
21 of California in San Diego, California, bearing account number
22 1280008563, in the name of "Glenn N. Fong & Company, Carmichael
23 Mortgage Co." (hereinafter referred to as Account #2").

24 IX

25 In connection with the collection and disbursement of
26 trust funds, Respondents failed to deposit and maintain the trust
27 funds in a trust account or neutral escrow depository, or to

1 deliver them into the hands of the owners of the funds, as
2 required by Section 10145 of the Code, in such a manner that as
3 of April 30, 2001, there was a trust fund shortage in Account #1
4 in the approximate sum of \$11,407.53.

5 X

6 Respondents failed to obtain the prior written consents
7 of the principals for the reduction of the aggregate balance of
8 trust funds in the Account #1 to an amount less than the existing
9 aggregate trust fund liability to the owners of said funds
10 in conformance with Section 2832.1 of the Regulations.

11 XI

12 In connection with the receipt and disbursement of
13 trust funds as above alleged, and as set forth in Audit No. SC00-
14 0010, dated December 22, 2000, and accompanying working papers
15 and exhibits, Respondents:

16 (a) Failed to maintain a written control record of all
17 trust funds received and disbursed for Account #1
18 containing all information required by Section 2831
19 of the Regulations, including but not limited to
20 recordation of all deposits, recordation of dates
21 of receipt, and recordation of accurate dates of
22 deposit of trust funds;

23 (b) Failed to keep a separate record for each
24 beneficiary or transaction, accounting for all
25 funds that have been deposited to Account #2,
26 containing all of the information required by
27 Section 2831.1 of the Regulations, including, but

1 not limited to an accurate daily balance after
2 posting transactions;

3 (c) Failed to reconcile the balance of separate
4 beneficiary or transaction records with the
5 control records of trust funds received and
6 disbursed at least once a month, and/or failed
7 to maintain a record of such reconciliations
8 as required by Section 2831.2 of the Regulations;

9 (d) Failed to designate Accounts #1 and #2, inclusive,
10 which contained trust funds, as trust accounts as
11 required by Section 2832 of the Regulations; and,

12 (e) Permitted an individual who neither held a real
13 estate license nor was bonded to be a signatory on
14 Account #1 and Account #2 with authority to
15 withdraw funds from said accounts in violation of
16 Section 2834 of the Regulations.

17 XII

18 Respondent CORPORATION and Respondent FONG commingled
19 trust funds with Respondent FONG's own money or property and
20 converted said trust funds to Respondents' own use or benefit or
21 to purposes not authorized by the rightful owner or owners of
22 said funds.

23 XIII

24 The acts and/or omissions of Respondents as alleged
25 above constitute grounds for disciplinary action under the
26 following provisions:

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- (a) As to Paragraph IX, under Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
- (b) As to Paragraph X, under Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code.
- (c) As to Paragraph XI(a), under Section 10145 of the Code and Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As to Paragraph XI(b), under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (e) As to Paragraph XI(c), under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;
- (f) As to Paragraph XI(d), under Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (g) As to Paragraph XI(e), under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code; and,
- (h) As to Respondent CORPORATION and Respondent FONG as alleged in Paragraph XII, under Sections 10176(e) and 10176(i) of the Code.

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1 SECOND CAUSE OF ACCUSATION

2 XIV

3 There is hereby incorporated in this Second, separate,
4 and distinct Cause of Accusation, all of the allegations
5 contained in Paragraphs I, II, III, IV, and V of the First Cause
6 of Accusation with the same force and effect as if herein fully
7 set forth.

8 XV


9 At all times above mentioned, Respondent FONG was
10 responsible, as the designated officer of Respondent CORPORATION,
11 for the supervision and control of the activities conducted on
12 behalf of Respondent Corporation by its officers and employees.
13 Respondent FONG failed to exercise reasonable supervision and
14 control over the property management, mortgage brokering,
15 purchase and sale brokering, and employment activities of
16 Respondent Corporation. In particular, Respondent FONG
17 permitted, ratified and/or caused the conduct described in the
18 First Cause of Accusation above to occur, and failed to take
19 reasonable steps, including but not limited to the proper
20 handling of trust funds, employment of licensed and/or bonded
21 signators on the accounts, and the implementation of policies,
22 rules, procedures, and systems, to ensure the compliance of the
23 corporation with the Real Estate Law.

24 XVI

25 The above acts and/or omissions of Respondent FONG
26 constitute grounds for disciplinary action under the provisions
27 of Section 10177(h) of the Code.

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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 license(s) 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 KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 5th day of August, 2002

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

FILED
JUL 31 2002

DEPARTMENT OF REAL ESTATE

By Shelley C. [Signature]

In the Matter of the Accusation of

GLENN N. FONG & CO. and GLENN KING
NGAR FONG

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Case No. H-3665 SAC

OAH No. N2002-05-0213

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, SUITE 340/360, SACRAMENTO, CALIFORNIA 95814** on **THURSDAY--OCTOBER 10, 2002**, 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 31, 2002

By Michael B. Rich [Signature]
MICHAEL B. RICH, Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 23 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By Shelly Chy

GLENN N. FONG & CO. and GLENN KING
NGAR FONG

Case No. H-3665 SAC

OAH No. N2002-05-0213

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, CALIFORNIA 95814 on WEDNESDAY--AUGUST 21, 2002, 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: MAY 23, 2002

By

Michael B. Rich

MICHAEL B. RICH,

Counsel

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II

At all times herein mentioned, Respondent GLENN N. FONG & CO. (hereinafter "Respondent CORPORATION) was licensed as a Corporate Real Estate Broker acting by and through Respondent GLENN KING NGAR FONG (hereinafter "Respondent FONG") as its designated broker/officer.

III

At all times herein mentioned, Respondent FONG was licensed as a real estate broker and as the broker/officer of Respondent CORPORATION.

IV

The Complainant, CHARLES KOENIG, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

V

Within the last three years, Respondents engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, by:

(a) Selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or business opportunities in California;

(b) Leasing or renting, offering to lease or rent, soliciting prospective tenants for, collecting rents on, and/or managing certain real properties in California; and,

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1 (c) Soliciting borrowers or lenders for or negotiating
2 loans or collecting payments or performing services for borrowers
3 or lenders or note owners in connection with loans secured
4 directly or collaterally by liens on real property or on a
5 business opportunity in California.

6 VI

7 Beginning in October of 2001, the Department conducted
8 an audit of the above business activities of Respondents for the
9 time period of October 7, 1999 through August 31, 2001. During
10 the course of the activities described above, Respondents
11 received and disbursed funds in trust on behalf of others.

12 VII

13 Within the last three years, Respondent CORPORATION
14 deposited the above trust funds into a bank account at Union Bank
15 of California in San Diego, California, bearing account number
16 1280008571, in the name of "Glenn N. Fong & Company, Fong
17 Management" (hereinafter referred to as Account #1").

18 VIII

19 Within the last three years, Respondent CORPORATION
20 deposited the above trust funds into a bank account at Union Bank
21 of California in San Diego, California, bearing account number
22 1280008563, in the name of "Glenn N. Fong & Company, Carmichael
23 Mortgage Co." (hereinafter referred to as Account #2").

24 IX

25 In connection with the collection and disbursement of
26 trust funds, Respondents failed to deposit and maintain the trust
27 funds in a trust account or neutral escrow depository, or to

1 deliver them into the hands of the owners of the funds, as
2 required by Section 10145 of the Code, in such a manner that as
3 of April 30, 2001, there was a trust fund shortage in Account #1
4 in the approximate sum of \$11,407.53.

5 X

6 Respondents failed to obtain the prior written consents
7 of the principals for the reduction of the aggregate balance of
8 trust funds in the Account #1 to an amount less than the existing
9 aggregate trust fund liability to the owners of said funds
10 in conformance with Section 2832.1 of the Regulations.

11 XI

12 In connection with the receipt and disbursement of
13 trust funds as above alleged, and as set forth in Audit No. SC00-
14 0010, dated December 22, 2000, and accompanying working papers
15 and exhibits, Respondents:

16 (a) Failed to maintain a written control record of all
17 trust funds received and disbursed for Account #1
18 containing all information required by Section
19 2831 of the Regulations, including but not limited
20 to recordation of all deposits, recordation of
21 dates of receipt, and recordation of accurate
22 dates of deposit of trust funds;

23 (b) Failed to keep a separate record for each
24 beneficiary or transaction, accounting for all
25 funds that have been deposited to Account #2,
26 containing all of the information required by
27 Section 2831.1 of the Regulations, including, but

1 not limited to an accurate daily balance after
2 posting transactions;

- 3 (c) Failed to reconcile the balance of separate
4 beneficiary or transaction records with the
5 control records of trust funds received and
6 disbursed at least once a month, and/or failed
7 to maintain a record of such reconciliations
8 as required by Section 2831.2 of the Regulations;
- 9 (d) Failed to designate Accounts #1 and #2, inclusive,
10 which contained trust funds, as trust accounts as
11 required by Section 2832 of the Regulations; and,
- 12 (e) Permitted an individual who neither held a real
13 estate license nor was bonded to be a signatory on
14 Account #1 and Account #2 with authority to
15 withdraw funds from said accounts in violation of
16 Section 2834 of the Regulations.

17 XII

18 The acts and/or omissions of Respondents as alleged
19 above constitute grounds for disciplinary action under the
20 following provisions:

- 21 (a) As to Paragraph IX, under Section 10145 of the
22 Code in conjunction with Section 10177(d) of the
23 Code;
- 24 (b) As to Paragraph X, under Section 2832.1 of the
25 Regulations in conjunction with Section 10177(d)
26 of the Code.
27

- 1 (c) As to Paragraph XI(a), under Section 10145 of the
2 Code and Section 2831 of the Regulations in
3 conjunction with Section 10177(d) of the Code;
- 4 (d) As to Paragraph XI(b), under Section 2831.1 of the
5 Regulations in conjunction with Section 10177(d)
6 of the Code;
- 7 (e) As to Paragraph XI(c), under Section 2831.2 of the
8 Regulations in conjunction with Section 10177(d)
9 of the Code;
- 10 (f) As to Paragraph XI(d), under Section 2832 of the
11 Regulations in conjunction with Section 10177(d)
12 of the Code; and
- 13 (g) As to Paragraph XI(e), under Section 2834 of the
14 Regulations in conjunction with Section 10177(d)
15 of the Code;

16 SECOND CAUSE OF ACCUSATION

17 XIII

18 There is hereby incorporated in this Second, separate,
19 and distinct Cause of Accusation, all of the allegations
20 contained in Paragraphs I, II, III, IV, and V of the First Cause
21 of Accusation with the same force and effect as if herein fully
22 set forth.

23 XIV


24 At all times above mentioned, Respondent FONG was
25 responsible, as the designated officer of Respondent CORPORATION,
26 for the supervision and control of the activities conducted on
27 behalf of Respondent Corporation by its officers and employees.

1 Respondent FONG failed to exercise reasonable supervision and
2 control over the property management, mortgage brokering,
3 purchase and sale brokering, and employment activities of
4 Respondent Corporation. In particular, Respondent FONG
5 permitted, ratified and/or caused the conduct described in the
6 First Cause of Accusation above to occur, and failed to take
7 reasonable steps, including but not limited to the proper
8 handling of trust funds, employment of licensed and/or bonded
9 signators on the accounts, and the implementation of policies,
10 rules, procedures, and systems, to ensure the compliance of the
11 corporation with the Real Estate Law.

12 XV

13 The above acts and/or omissions of Respondent FONG
14 constitute grounds for disciplinary action under the provisions
15 of Section 10177(h) of the Code.

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

23 
24 CHARLES KOENIG
25 Deputy Real Estate Commissioner

26 Dated at Sacramento, California,
27 this 21st day of March, 2002