

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

FILED

JUL 01 2004

DEPARTMENT OF REAL ESTATE

By Jean Duroch

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-3914 SAC
13 GUILD-WEST INVESTORS, INC.,)
14 and)
15 KELLIE CORINE MATTSON,) STIPULATION AND AGREEMENT
16)
17)
18 Respondents.)

17 It is hereby stipulated by and between GUILD-WEST
18 INVESTORS, INC. and KELLIE CORINE MATTSON (hereafter
19 Respondents), and the Complainant, acting by and through
20 Deidre L. Johnson, Counsel for the Department of Real Estate, as
21 follows for the purpose of settling and disposing the Accusation
22 filed on November 7, 2003, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondents
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. Respondents have received, read and understand the
4 Statement to Respondent, and the Discovery Provisions of the APA
5 filed by the Department of Real Estate in this proceeding.

6 3. On November 20, 2003, Respondents filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondents hereby freely and voluntarily withdraw
10 said Notice of Defense. Respondents acknowledges that they each
11 understand that by withdrawing said Notice of Defense they will
12 each thereby waive their rights to require the Commissioner to
13 prove the allegations in the Accusation at a contested hearing
14 held in accordance with the provisions of the APA, and that they
15 will waive other rights afforded to them in connection with the
16 hearing such as the right to present evidence in defense of the
17 allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. Respondents, pursuant to the limitations set forth
20 below, hereby admit that the factual allegations in Paragraphs I
21 through IV of the Accusation filed in this proceeding are true
22 and correct and the Real Estate Commissioner shall not be
23 required to provide further evidence of such allegations.

24 5. Without admitting the truth of the allegations
25 contained in the remaining paragraphs of the Accusation,
26 Respondents stipulate that they will not interpose a defense
27 thereto. This Stipulation is based on the factual allegations

1 contained in the Accusation. In the interests of expedience and
2 economy, Respondents choose not to contest these allegations, but
3 to remain silent and understand that, as a result thereof, these
4 factual allegations, without being admitted or denied, will serve
5 as the basis for the disciplinary action stipulated to herein.
6 The Real Estate Commissioner shall not be required to provide
7 further evidence to prove said factual allegations.

8 6. Respondents have received, read and understand the
9 "Notice Concerning Costs of Audits." Respondents understand, by
10 agreeing to this Stipulation and Agreement, and after the
11 findings set forth below in the "Determination of Issues" become
12 final, that the Commissioner may charge Respondents GUILD-WEST
13 INVESTORS, INC. and KELLIE CORINE MATTSON, jointly and severally,
14 for the costs of the following audits that have been and may be
15 conducted pursuant to Section 10148 of the Business and
16 Professions Code:

- 17 (a) Audit #SC02-0093 dated March 4, 2003:
18 Not more than \$2,038.48.00;
19 (b) Future follow-up audit: Not more
20 than \$2,100.00.

21 7. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement as
23 the decision in this matter thereby imposing the penalty and
24 sanctions on the real estate license and license rights of
25 Respondents, as set forth in the below "Order". In the event
26 that the Commissioner in his discretion does not adopt the
27 Stipulation and Agreement, it shall be void and of no effect, and

1 Respondents shall retain the rights to a hearing and proceeding
2 on the Accusation under all the provisions of the APA and shall
3 not be bound by any admission or waiver made herein.

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

11 DETERMINATION OF ISSUES

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

16 I

17 The acts and/or omissions of Respondent GUILD-WEST
18 INVESTORS, INC., as stipulated above, violate Section 10145 of
19 the California Business and Professions Code (hereafter the
20 Code), and Sections 2832 and 2834 of Title 10, California Code of
21 Regulations, and constitute grounds for disciplinary action
22 against the real estate license(s) and license rights of
23 Respondent under the provisions of Section 10177(d) of the Code.

24 II

25 The acts and/or omissions of Respondent KELLIE CORINE
26 MATTSON, as stipulated above, constitute grounds for disciplinary

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1 action against the real estate license(s) and license rights of
2 Respondent under the provisions of Section 10177(h) of the Code.

3 ORDER

4 A. All real estate licenses and license rights of
5 Respondents GUILD-WEST INVESTORS, INC. and KELLIE CORINE MATTSON
6 shall be suspended for a period of one hundred (180) days from
7 the effective date of the Decision.

8 B. The first one hundred and fifty (150) days of said
9 suspension as to each Respondent are stayed for a period of
10 two (2) years upon the following terms and conditions:

- 11 (1) Respondent KELLIE CORINE MATTSON shall, prior to
12 the effective date of this decision, submit proof
13 satisfactory to the Commissioner of having taken
14 and completed the continuing education course on
15 trust fund accounting and handling specified in
16 paragraph (3) of subdivision (a) of Section
17 10170.5 of the Business and Professions Code from
18 an approved continuing education course provider.
19 Said course may have been completed within one
20 hundred and twenty (120) days prior to the
21 effective date of the order herein. If Respondent
22 fails to satisfy this condition, the Commissioner
23 may order the suspension of Respondent KELLIE
24 CORINE MATTSON's license(s) until said Respondent
25 presents such evidence. The Commissioner shall
26 afford Respondent the opportunity for hearing

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1 pursuant to the Administrative Procedure Act to
2 present such evidence.

3 (2) Respondents GUILD-WEST INVESTORS, INC. and KELLIE
4 CORINE MATTSON shall obey all laws, rules and
5 regulations governing the rights, duties and
6 responsibilities of a real estate licensee in the
7 State of California; and,

8 (3) That no final subsequent determination be made,
9 after hearing or upon stipulation, that cause for
10 disciplinary action against either Respondent has
11 occurred within two (2) years from the effective
12 date of the Decision. Should such a determination
13 be made, the Commissioner may, in his discretion,
14 vacate and set aside the stay order and reimpose
15 all or a portion of the stayed suspension as to
16 that Respondent. Should no such determination be
17 made pursuant to this condition or condition C
18 below, the stay imposed herein shall become
19 permanent.

20 (4) Respondent KELLIE CORINE MATTSON shall, within
21 six (6) months from the effective date of this
22 Decision, take and pass the Professional
23 Responsibility Examination administered by the
24 Department including the payment of the
25 appropriate examination fee. If Respondent fails
26 to satisfy this condition, the Commissioner may
27 order suspension of Respondent KELLIE CORINE

1 MATTSON's license until Respondent passes the
2 examination.

3 (5) Pursuant to Section 10148 of the Business and
4 Professions Code, Respondents GUILD-WEST
5 INVESTORS, INC. and KELLIE CORINE MATTSON, jointly
6 and severally, shall pay the Commissioner's
7 reasonable costs for audits as a result of the
8 trust fund violations found herein, as follows:

9 (a) Audit #SC02-0093 dated March 4, 2003:
10 Not more than \$2,038.48.00;

11 (b) Future follow-up audit: Not more
12 than \$2,100.00.

13 In calculating the amount of the Commissioner's
14 reasonable costs, the Commissioner may use the
15 estimated average hourly salary for all Department
16 Audit Section personnel performing audits of real
17 estate brokers, and shall include an allocation
18 for travel costs, including mileage, time to and
19 from the auditor's place of work and per diem.

20 Respondents GUILD-WEST INVESTORS, INC. and KELLIE
21 CORINE MATTSON, jointly and severally, shall pay
22 such costs within sixty (60) days of receiving an
23 invoice from the Commissioner detailing the
24 activities performed during the audit and the
25 amount of time spent performing those activities.
26 The Commissioner may suspend the license of
27 Respondents pending a hearing held in accordance

1 with Section 11500, et seq., of the Government
2 Code, if payment is not timely made as provided
3 for herein, or as provided for in a subsequent
4 agreement between Respondents and the
5 Commissioner. The suspensions shall remain in
6 effect until payment is made in full for each
7 audit or until Respondents enter into an agreement
8 satisfactory to the Commissioner to provide for
9 payment, or until a decision providing otherwise
10 is adopted following a hearing held pursuant to
11 this condition.

12 C. If Respondents GUILD-WEST INVESTORS, INC. and
13 KELLIE CORINE MATTSON petition the Department in writing pursuant
14 to Section 10175.2 of the Code prior to the effective date of the
15 Decision, the remaining thirty (30) days of said suspension as to
16 each Respondent shall be stayed upon condition that:

- 17 (1) Respondents shall each pay a monetary penalty
18 pursuant to Section 10175.2 of the Code at the
19 rate of \$50.00 each for each remaining day of
20 suspension, for a total maximum monetary penalty
21 of \$1,500.00 each, or \$3,000 for both Respondents.
- 22 (2) Said payment shall be in the form of a cashier's
23 check(s) or certified check(s) made payable to the
24 Recovery Account of the Real Estate Fund. Said
25 check(s) must be received by the Department prior
26 to the effective date of the Decision in this
27 matter.

1 (3) No further cause for disciplinary action against
2 the license of each Respondent occurs within two
3 (2) years from the effective date of the Decision.

4 (4) If any Respondent fails to pay the monetary
5 penalty in accordance with the terms and
6 conditions of the Decision, the Commissioner may,
7 without a hearing, order the immediate execution
8 of all or any part of the stayed suspension as to
9 that Respondent, in which event, that Respondent
10 shall not be entitled to any repayment or credit,
11 prorated or otherwise, for money paid to the
12 Department under the terms of this Decision.

13 (5) If each Respondent pays the monetary penalty and
14 if no further cause for disciplinary action
15 against the real estate license of that Respondent
16 occurs within two (2) years from the effective
17 date of the Decision, the stay hereby granted
18 pursuant to this condition or condition B above as
19 to that Respondent shall become permanent.

20 (6) If the Real Estate Commissioner determines that
21 further cause for disciplinary action against
22 either Respondent's license has occurred within
23 two (2) years from the effective date of the
24 Decision, the stay of suspension hereby granted to
25 that Respondent, or such portion of the stay as

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1 the Real Estate Commissioner shall deem
2 appropriate, shall be vacated.
3

4 May 4, 2004
5 DATED

Deidre L. Johnson
6 DEIDRE L. JOHNSON
7 Counsel for the Complainant

8 * * *

9 I have read the Stipulation and Agreement, have
10 discussed it with my counsel, and its terms are understood by me
11 and are agreeable and acceptable to me. I understand that I am
12 waiving rights given to me by the California Administrative
13 Procedure Act, and I willingly, intelligently and voluntarily
14 waive those rights, including the right of requiring the
15 Commissioner to prove the allegations in the Accusation at a
16 hearing at which I would have the right to cross-examine
17 witnesses against me and to present evidence in defense and
18 mitigation of the charges.

19 GUILD-WEST INVESTORS, INC.
20 Respondent

21 April 30, 2004
22 DATED

23 By: Kellie Corine Mattson
24 KELLIE CORINE MATTSON
25 President

26 April 30, 2004
27 DATED

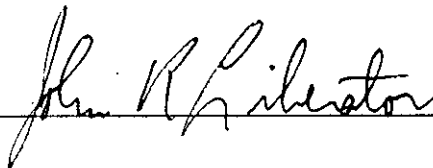
By: Kellie Corine Mattson
KELLIE CORINE MATTSON
Respondent

1 * * *

2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision and shall become effective at 12 o'clock
4 noon on July 22, 2004.

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6 IT IS SO ORDERED May 17, 2004.

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8 JOHN R. LIBERATOR
9 Acting Real Estate Commissioner

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

FILED
JAN 28 2004

DEPARTMENT OF REAL ESTATE

By 

In the Matter of the Accusation of

GUILD-WEST INVESTORS, INC.,
KELLIE CORINE MATTSON,

} Case No. H-3914 SAC

} OAH No. N-2003120024

Respondents

**FIRST 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, SUITES 340/360

SACRAMENTO, CALIFORNIA 95814

on **MAY 10, 2004**, 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.

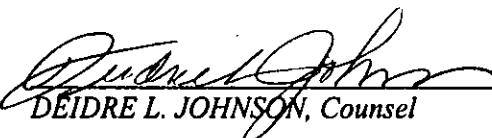
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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: JANUARY 23, 2004

By 
DEIDRE L. JOHNSON, Counsel

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

FILED
DEC 10 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

GUILD-WEST INVESTORS, INC.,
KELLIE CORINE MATTSON,

By *Laurie A. Zini*
Case No. H-3914 SAC

OAH No. N-2003120024

Respondents

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 **TUESDAY, FEBRUARY 17, 2004**, at the hour of **9:00 A.M.**, 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.

Dated: DECEMBER 10, 2003

DEPARTMENT OF REAL ESTATE

By *Deidre L. Johnson*
DEIDRE L. JOHNSON, Counsel (22)

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)

FILED
NOV - 7 2003

DEPARTMENT OF REAL ESTATE

By *Lucie Berin*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of	)	
12 GUILD-WEST INVESTORS INC.,	)	No. H-3914 SAC
13 KELLIE CORINE MATTSON,	)	<u>ACCUSATION</u>
14 Respondents.	)	

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 accusation against GUILD-WEST INVESTORS INC. (hereinafter
18 "Respondent GUILD-WEST") and KELLIE CORINE MATTSON (hereinafter
19 "Respondent MATTSON") is informed and alleges as follows:

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

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II

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

GUILD-WEST INVESTORS INC. - as a real estate broker corporation.

KELLIE CORINE MATTSON - as a real estate broker and as designated broker-officer of Respondent GUILD-WEST.

III

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of the Respondents named in the caption hereof, acting individually, jointly, and severally.

IV

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, wherein Respondents for or in expectation of a compensation solicited prospective tenants for, negotiated rental agreements for and collected rents from real properties owned by another or others and otherwise managed real properties located in or near Rocklin, California.

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1 V

2 Beginning on or about January 15, 2003, the Department
3 conducted an audit of Respondents' property management
4 activities for the time period September 6, 2002 to January 31,
5 2003 as set forth in Audit No. SC02-0093 dated March 4, 2003.
6 During the course of the property management activities
7 described in Paragraph IV above, Respondents received and
8 disbursed funds held in trust on behalf of another or others.

9 VI

10 Beginning on or before September 6, 2002 through on or
11 after January 31, 2003, Respondents maintained the following
12 trust fund accounts:

13	<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
14	Guild-West Investors	Washington Mutual
15	Account No. 198-347720-9	Roseville, California
	(hereinafter "Account #1")	
16	Guild-West Investors, Inc.	Western Sierra
17	Trust Account	National Bank
18	Account No. 14200943	Cameron Park, Calif.
	(hereinafter "Trust #1")	

19 VII

20 In connection with the receipt and disbursement of
21 trust funds described in Paragraph V above, Respondents failed
22 to maintain Account #1 in the name of Guild-West Investors Inc.,
23 or a fictitious name in which Respondent GUILD-WEST was licensed
24 by the Department, as a trustee at a bank or other financial
25 institution in violation of Section 10145 of the Code and
26 Section 2832 of Title 10, California Code of Regulations
27 (hereinafter "Regulations").

VIII

In connection with the receipt and disbursement of trust funds described in Paragraph V above, Respondents failed to deposit and maintain trust funds in Account #1 in such manner that as of December 31, 2002, there was a shortage of \$10,059.90 of trust funds.

IX

In connection with the receipt and disbursement of trust funds described in Paragraph V above, Respondents failed to deposit and maintain trust funds in Account #1 in such manner that as of January 31, 2003, there was a shortage of \$11,535.96 of trust funds.

X

Respondents failed to obtain prior written consent from each of the principals for the reduction of the aggregate balance of trust funds in Account #1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in violation of Section 2832.1 of the Regulations.

XI

In connection with the receipt and disbursement of trust funds described in Paragraph V above, Respondents permitted withdrawals to be made from Account #1 by someone other than a corporate officer, or a salesperson licensed to Respondents and authorized in writing by Respondent to withdraw said funds, or an authorized unlicensed employee covered by a fidelity bond indemnifying Respondents against loss in an amount sufficient to cover the maximum amount of funds to which the

1 employee had access at any time, as required by Section 2834 of
2 the Regulations.

3 XII

4 The facts alleged above are grounds for the suspension
5 or revocation of Respondents' licenses and license rights under
6 the following sections of the Code and Regulations:

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

10 (2) As to Paragraphs VIII and IX, under Section
11 10177(d) of the Code in conjunction with Section 10145 of the
12 Code; and

13 (3) As to Paragraph X, under Section 10177(d) of the
14 Code in conjunction with Section 2834 of the Regulations.

15 In the alternative, the acts and/or omissions of
16 Respondent MATTSON described above, constitute failure on the
17 part of Respondent MATTSON, as designated broker-officer for
18 Respondent GUILD-WEST, to exercise reasonable supervision and
19 control over the licensed activities of Respondent GUILD-WEST
20 required by Section 10159.2 of the Code, and is cause for the
21 suspension or revocation of Respondent MATTSON's license and/or
22 license rights under 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 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 5th day of November, 2003.