

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789
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7

FILED

AUG 20 2009

DEPARTMENT OF REAL ESTATE
By L. Frost

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-5150 SAC
13 LOUISE ELLEN JOHNSON,) STIPULATION AND AGREEMENT
14)
15 Respondent.)

16 It is hereby stipulated by and between Respondent LOUISE ELLEN JOHNSON
17 (hereinafter referred to as "Respondent"), and by and through Mark A. Habib, Counsel for
18 Respondent, and the Complainant, acting by and through Michael B. Rich, Counsel for the
19 Department of Real Estate, as follows for the purpose of settling and disposing of the
20 Accusation filed on February 2, 2009, in this matter (hereinafter "the Accusation"):

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

26 2. Respondent has received, read and understands the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department

DRE No. H-5150 SAC

LOUISE ELLEN JOHNSON

1 of Real Estate in this proceeding.

2 3. On February 9, 2009, Respondent filed a Notice of Defense pursuant to
3 Section 11505 of the Government Code for the purpose of requesting a hearing on the
4 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
5 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
6 Notice of Defense Respondent will thereby waive Respondent's right to require the
7 Commissioner to prove the allegations in the Accusation at a contested hearing held in
8 accordance with the provisions of the APA and that Respondent will waive other rights
9 afforded to Respondent in connection with the hearing such as the right to present evidence in
10 defense of the allegations in the Accusation and the right to cross-examine witnesses.

11 4. Respondent, pursuant to the limitations set forth below, hereby admits that
12 the factual allegations in the Accusation pertaining to Respondent are true and correct and
13 stipulates and agrees that the Real Estate Commissioner shall not be required to provide further
14 evidence of such allegations.

15 5. It is understood by the parties that the Real Estate Commissioner may
16 adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the
17 penalty and sanctions on Respondent's real estate license and license rights as set forth in the
18 "Order" below. In the event that the Commissioner in his discretion does not adopt the
19 Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the
20 right to a hearing and proceeding on the Accusation under all the provisions of the APA and
21 shall not be bound by any admission or waiver made herein.

22 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
23 bar to any further administrative or civil proceedings by the Department of Real Estate with
24 respect to any matters which were not specifically alleged to be causes for accusation in this
25 proceeding.

26 7. Respondent understands that by agreeing to this Stipulation and Agreement
27 in settlement, Respondent agrees to pay, pursuant to Section 10148 of the Business and

1 Professions Code (hereinafter "the Code"), the cost of the audit that led to this disciplinary
2 action. The amount of said costs is \$9,274.60.

3 8. Respondent has received, read, and understands the "Notice Concerning
4 Costs of Audits". Respondent further understands that by agreeing to this Stipulation and
5 Agreement in Settlement, the findings set forth below in the DETERMINATION OF ISSUES
6 become final, and that the Commissioner may charge Respondent for the costs of any
7 subsequent audit conducted pursuant to Section 10148 of the Code to determine if the violations
8 have been corrected. The maximum costs of said audit will not exceed \$9,274.60.

9 DETERMINATION OF ISSUES

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

13 I

14 The acts and omissions of Respondent LOUISE ELLEN JOHNSON described in
15 the Accusation are grounds for the suspension or revocation of the licenses and license rights of
16 Respondent under the provisions of Sections 10145 and 10148 of the Code in conjunction with
17 Section 10177(d) of the Code and Sections 2831, 2831.2, 2832.1 of Chapter 6, Title 10,
18 California Code of Regulations (hereinafter "Regulations") in conjunction with Section
19 10177(d) of the Code.

20 ORDER

21 I

22 A. All licenses and licensing rights of Respondent LOUISE ELLEN
23 JOHNSON under the Real Estate Law are indefinitely suspended until such time as Respondent
24 provides proof satisfactory to the Commissioner that Respondent has, within one hundred
25 twenty (120) days prior to the effective date of the Decision herein or any date after said
26 effective date, taken and successfully completed the trust fund accounting and handling course
27 specified in paragraph (3), subdivision (a) of Section 10170.5 of the Business and Professions

1 Code. Upon satisfaction of this condition, the indefinite suspension provided in this paragraph
2 shall be stayed.

3 B. All licenses and licensing rights of Respondent LOUISE ELLEN
4 JOHNSON under the Real Estate Law are indefinitely suspended until such time as
5 Respondent shall, prior to the effective date of the Decision, provide evidence satisfactory to
6 the Commissioner that Respondent has cured the trust fund shortages alleged in the
7 Accusation.

8 C. All licenses and licensing rights of Respondent LOUISE ELLEN
9 JOHNSON under the Real Estate Law are suspended for a period of sixty (60) days from the
10 effective date of this Decision; provided, however, that sixty (60) days of said suspension shall
11 be stayed for two (2) years upon the following terms and conditions:

12 1. Respondent shall obey all laws, rules and regulations governing the rights,
13 duties and responsibilities of a real estate licensee in the State of California; and

14 2. That no final subsequent determination be made, after hearing or upon
15 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
16 of this Decision. Should such a determination be made, the Commissioner may, in his
17 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
18 suspension. Should no such determination be made, the stay imposed herein shall become
19 permanent.

20 D. Respondent shall, within sixty (60) days of receiving an invoice therefor
21 from the Commissioner, pay the Commissioner's costs in the amount of \$9,274.60 of the audit
22 conducted pursuant to Section 10148 of the Business and Professions Code that resulted in the
23 determination that Respondent committed the violations described in Paragraph I of the
24 Determination of Issues, above. If Respondent fails to pay such cost within the sixty (60) days,
25 the Commissioner may in his or her discretion indefinitely suspend all license and licensing
26 rights of Respondent under the Real Estate Law until payment is made in full or until
27 Respondent enters into an agreement satisfactory to the Commissioner to provide for payment.

1 Upon payment in full, any indefinite suspension provided in this paragraph shall be stayed.

2 E. Respondent shall pay the Commissioner's costs, not to exceed \$9,274.60 of
3 any audit conducted pursuant to Section 10148 of the Business and Professions Code to
4 determine if Respondent has corrected the violations described in Paragraph I of the
5 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
6 cost, the Commissioner may use the estimated average hourly salary for all persons performing
7 audits of real estate brokers, and shall include an allocation for travel time to and from the
8 auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an
9 invoice therefor from the Commissioner detailing the activities performed during the audit and
10 the amount of time spent performing those activities. If Respondent fails to pay such cost
11 within the sixty (60) days, the Commissioner may in his or her discretion indefinitely suspend
12 all license and licensing rights of Respondent under the Real Estate Law until payment is made
13 in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide
14 for payment. Upon payment in full, the indefinite suspension provided in this paragraph shall be
15 stayed.

16
17
18 8/3/09
19 DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

20 * * *

21 I have read the Stipulation and Agreement and its terms are understood by
22 me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
23 by the California Administrative Procedure Act (including but not limited to Sections 11506,
24 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
25 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
26 allegations in the Accusation at a hearing at which I would have the right to cross-examine
27

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

2
3 7/27/09

4 DATED


LOUISE ELLEN JOHNSON
Respondent

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7 Approved as to form and content by counsel for Respondent.

8
9 7/27/09

10 DATED


MARK A. HABIB
Attorney for Respondents

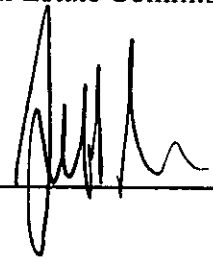
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13 * * *

14 The foregoing Stipulation and Agreement is hereby adopted by me as my
15 Decision in this matter as to Respondent LOUISE ELLEN JOHNSON and shall become
16 effective at 12 o'clock noon on SEP 09 2009

17 IT IS SO ORDERED

8-19-09

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19 JEFF DAVI
Real Estate Commissioner

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FILE

FILED

FEB 02 2009

DEPARTMENT OF REAL ESTATE

By L. Frost

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Department of Real Estate
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Sacramento, CA 95818-7007
Telephone: (916) 227-1126

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	
	)	NO. H-5150 SAC
	)	
LOUISE ELLEN JOHNSON,	)	ACCUSATION
	)	
	)	
Respondent.	)	

The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondent LOUISE ELLEN JOHNSON, doing business under the fictitious business name of MID VALLEY REALTY, is informed and alleges as follows:

FIRST CAUSE OF ACTION

I

The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

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1 II

2 Respondent LOUISE ELLEN JOHNSON (hereinafter "Respondent") is presently
3 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
4 California Business and Professions Code (hereafter "the Code").

5 III

6 At all times herein mentioned, Respondent was and is licensed by the
7 Department as a real estate broker.

8 IV

9 Within the three year period prior to the filing of this Accusation and at all times
10 herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or
11 assumed to act as a real estate broker within the State of California within the meaning of
12 Section 10131(b) of the Code, including the operation and conduct of a property management
13 business with the public wherein, on behalf of others, for compensation or in expectation of
14 compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and
15 solicited listings of places for rent, and solicited for prospective tenants of real property or
16 improvements thereon, and/or collected rents from real property or improvements thereon.

17 V

18 In so acting as a real estate broker as described in Paragraph IV, above,
19 Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of
20 owners, tenants and/or others in connection with the property management activities.

21 VI

22 Within the three year period prior to the filing of this Accusation, in connection
23 with the collection and disbursement of trust funds, the aforesaid trust funds accepted or
24 received by Respondent were deposited or caused to be deposited by Respondent into a bank
25 account maintained by Respondent at Bank of America, 801 East Avenue in Chico, California,
26 Account No. 07535-15917, entitled "Johnson, Louise Ellen dba Mid Valley Realty Trust"
27 (hereinafter "Trust Account #1).

1 VII

2 In connection with the collection and disbursement of trust funds, Respondent
3 failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or
4 to deliver them into the hands of the owners of the funds, as required by Section 10145 of the
5 Code, in such a manner that as of May 12, 2008, there was a trust fund shortage in the
6 approximate sum of \$136,961.75 in Trust Account 1.

7 VIII

8 Within the three year period next preceding to the filing of this Accusation, in
9 connection with the collection and disbursement of trust funds, as alleged above, Respondent
10 failed to obtain the prior written consents of the principals for the reduction of the aggregate
11 balance of trust funds in Trust Account #1 to an amount less than the existing aggregate trust
12 fund liability to the owners of said funds in conformance with Chapter 6, Title 10, California
13 Code of Regulations, Section 2832.1 (hereinafter "Regulations").

14 IX

15 Within the three year period prior to the filing of this Accusation, in connection
16 with the collection and disbursement of trust funds, as alleged above, Respondent:

- 17 (a) Failed to maintain a written control record of all trust funds received and
18 disbursed containing all information required by Section 10145 of the
19 Code and Section 2831 of the Regulations, including but not limited to
20 recordation of all deposits, recordation of dates of receipt, and recordation
21 of accurate dates of deposit of trust funds for Trust Account #1;
- 22 (b) Failed to reconcile the balance of separate beneficiary or transaction
23 records with the control records of trust funds received and disbursed at
24 least once a month, and/or failed to maintain a record of such
25 reconciliations as required by Section 2831.2 of the Regulations for Trust
26 Account #1; and,
27

1 (c) Failed to maintain for a period of three years all transaction records
2 obtained by Respondent in connection with the property management
3 activities for which a real estate broker license is required, including, but
4 not limited to invoices and receipts, as required by Section 10148 of the
5 Code.

6 X

7 The acts and/or omissions of Respondent as alleged above constitute cause for
8 the suspension or revocation of the licenses and license rights of Respondent under the
9 following provisions:

- 10 (a) As alleged in Paragraph VII, under Section 10145 of the Code in
11 conjunction with Section 10177(d) of the Code;
12 (b) As alleged in Paragraph VIII, under Section 2832.1 of the Regulations in
13 conjunction with Section 10177(d) of the Code;
14 (c) As alleged in Paragraph IX(a), under Section 10145 of the Code and
15 Section 2831 of the Regulations in conjunction with Section 10177(d)
16 of the Code;
17 (d) As alleged in Paragraph IX(b), under Section 2831.2 of the Regulations in
18 conjunction with Section 10177(d) of the Code; and,
19 (e) As alleged in Paragraph IX(c), under Section 10148 of the Code in
20 conjunction with Section 10177(d) of the Code.

21 SECOND CAUSE OF ACTION

22 XI

23 There is hereby incorporated in this Second, separate and distinct, Cause of
24 Action, all of the allegations contained in Paragraphs I through X, inclusive, of the Accusation
25 with the same force and effect as if herein fully set forth.

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1 XII

2 Respondent engaged in the business of and acted in the capacity of a real estate
3 broker in California, on behalf of another or others, for or in expectation of compensation under
4 Section 10131(a) of the Code, whereby Respondent sold or offered to sell, bought or offered to
5 buy, solicited prospective sellers or purchases of, solicited or obtained listings of, and/or
6 negotiated the purchase or sale of real property.

7 XIII

8 Within the three year period prior to the filing of this Accusation, Respondent
9 negotiated the sale and purchase of real property in California, and received and disbursed
10 earnest money deposits, including, but not limited to, the following:

11	<u>Buyer</u>	<u>Property</u>	<u>Deposit</u>
12	<u>Name</u>	<u>Address</u>	<u>Amount</u>
13	Steve Gaddini	21 E. Tehama Street	\$1,000
14	Lisa Gaddini	Orland, California	
15	Kenneth Allen	1721 Salem Street	\$1,000
16	Margie Parrish	Chico, California	
17	Gregory A. Querio	283 St. Augustine Drive	\$2,500
18		Chico, California	

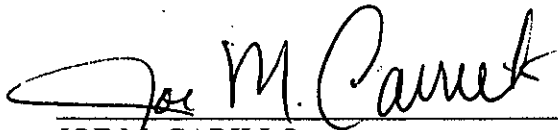
18 XIV

19 In connection with the receipt and disbursement of trust funds as alleged in
20 Paragraph XIII, above, Respondent failed to maintain a record of trust funds received and not
21 placed in a trust account with regard to the earnest money deposits made by Steve and Lisa
22 Gaddini, Kenneth Allen and Margie Parrish, and Gregory A. Querio, as set forth in Paragraph
23 XIII, above, in violation of Section 2831 of the Regulations.

24 XV

25 The acts and/or omissions of Respondent as alleged above constitute cause for
26 the suspension or revocation of the licenses and license rights of Respondent under Section
27 2831 of the Regulations in conjunction with Section 10177(d) of the Code.

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

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9 JOE M. CARILLO
10 Deputy Real Estate Commissioner
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13 Dated at Sacramento, California,
14 this 30 day of January, 2009.
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