

1 Department of Real Estate
2 185 Berry Street, Room 3400
3 San Francisco, CA 94107-1770

4 Telephone: (415) 904-5917

FILED
SEP 28 1993

DEPARTMENT OF REAL ESTATE

By Victoria Dillon
Victoria Dillon

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
12	CALIFORNIA MORTGAGE FINANCIAL)	No. H-6789 SF
13	SERVICES, INC.,)	<u>STIPULATION AND AGREEMENT</u>
14	DAVID ALAN MORGENSEN, and)	<u>IN SETTLEMENT AND ORDER</u>
15	JAMES ARTHUR CAMPAGNA,)	
	Respondents.)	

16 It is hereby stipulated by and between JAMES ARTHUR
17 CAMPAGNA only (Respondent) and the Complainant, acting by and
18 through John Van Driel, Counsel for the Department of Real Estate,
19 as follows for the purpose of settling and disposing the
20 Accusation filed on September 23, 1992 and the First Amendment to
21 Accusation filed on August 3, 1993 (referred to together as the
22 Accusation) in this matter:

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

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

9 3. On March 29, 1993, Respondent filed his 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. Respondent hereby freely and voluntarily withdraws
13 said Notice of Defense. Respondent acknowledges that he
14 understands that by withdrawing said Notice of Defense he will
15 thereby waive his right to require the Commissioner to prove the
16 allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA.

18 4. Respondent has read the Discovery Provisions of the
19 APA and is aware of his right to conduct discovery in the
20 proceeding, and by entering into this stipulation, freely and
21 voluntarily waives his right to conduct further discovery.

22 5. Respondent, pursuant to the limitations set forth
23 below, hereby admits that the factual allegations (or findings of
24 fact as set forth below) of the First Amendment to Accusation as
25 they relate to JAMES ARTHUR CAMPAGNA only are true and correct and
26 the Real Estate Commissioner shall not be required to provide
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1 further evidence of such allegations. The admissions of fact made
2 herein are made solely for the purpose of establishing
3 jurisdiction for the Commissioner to take disciplinary action and
4 are made solely in reference to this proceeding and any subsequent
5 proceeding before the Commissioner and may not be used in or as a
6 part of any other civil action or criminal action now pending or
7 which may be filed against Respondent pursuant to the provisions
8 of Section 1152 of the California Evidence Code. A true copy of
9 the Accusation is attached hereto as Annex A and incorporated
10 herein by reference.

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

21 7. The Order or any subsequent Order of the Real Estate
22 Commissioner made pursuant to this Stipulation and Agreement in
23 Settlement shall not constitute an estoppel, merger or bar to any
24 further administrative or civil proceedings by the Department of
25 Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this
27 proceeding.

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DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and for the purpose of settlement of the pending
5 Accusation without a hearing, it is stipulated and agreed that the
6 following determination of issues shall be made:

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9 The acts and/or omissions of Respondent JAMES ARTHUR
10 CAMPAGNA, as described in Paragraphs V through VIII of the First
11 Amendment to Accusation violated Section 2970 of Title 10,
12 California Code of Regulations and are grounds for the suspension
13 or revocation of the real estate license and license rights of
14 Respondent under the provision of Section 10177(d) of the Code.

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16 ORDER

17 1. All licenses and licensing rights of respondent JAMES
18 ARTHUR CAMPAGNA under the Real Estate Law are suspended for a
19 period of ten (10) days from the effective date of this Order;
20 provided, however, that five (5) days of said suspension shall be
21 stayed for one (1) year upon the following terms and conditions:

22 (a) Respondent shall obey all laws, rules and regulations
23 governing the rights, duties and responsibilities of a real estate
24 licensee in the State of California; and

25 (b) That no final subsequent determination be made, after
26 hearing or upon stipulation, that cause for disciplinary action
27 occurred within one (1) year of the effective date of this Order.
Should such a determination be made, the Commissioner may, in his

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1 discretion, vacate and set aside the stay order and reimpose all
2 or a portion of the stayed suspension. Should no such
3 determination be made, the stay imposed herein shall become
4 permanent.

5 2. If Respondent petitions, five (5) additional days of said
6 suspension shall be stayed upon the terms and conditions of this
7 paragraph:

8 (a) Respondent pays a monetary penalty pursuant to
9 Section 10175.2 of the Business and Professions Code at the rate
10 of \$250.00 for each day of said suspension stayed, for a total
11 monetary penalty of \$1,250.00.

12 (b) Said payment shall be in the form of a cashier's
13 check or certified check made payable to the Recovery Account of
14 the Real Estate Fund. Said check must be delivered to the
15 Department prior to the effective date of the Order in this
16 matter.

17 (c) If Respondent fails to pay the monetary penalty in
18 accordance with the terms of this paragraph or this Order, the
19 Commissioner may, without a hearing, order the immediate execution
20 of all or any part of the ten (10) day stayed suspension, in which
21 event the Respondent shall not be entitled to any repayment nor
22 credit, prorated or otherwise, for money paid to the Department
23 under the terms of this Order.

24 (d) If Respondent pays the monetary penalty and if no
25 further cause for disciplinary action against the real estate

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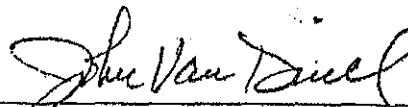
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1 license of respondent occurs within one year from the effective
2 date of this Order, the stay hereby granted shall become
3 permanent.

4 DATED:

9-16-93

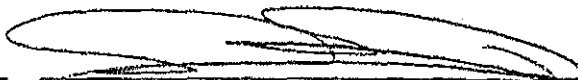


JOHN VAN DRIEL
Counsel for the Complainant

7 APPROVED AS TO FORM:

9 DATED:

9-15-93




CHRISTOPHER E. SCHUMB
Counsel for Respondent

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

23 DATED:

9-15-93



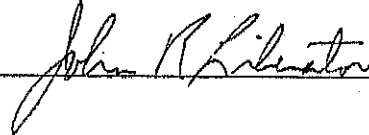
JAMES ARTHUR CAMPAGNA

1 DECISION AND ORDER

2 The foregoing Stipulation and Agreement in Settlement is
3 hereby adopted as my Decision and Order and shall become effective
4 at 12 o'clock noon on October 18, 1993.

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6 IT IS SO ORDERED September 23, 1993.

7 CLARK WALLACE
8 Real Estate Commissioner

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12 BY: **John R. Liberator**
13 **Chief Deputy Commissioner**
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