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FILED

AUG 11 2004

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
JON SCOTT EMERSON, ) No. H-7070 SF  
Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 20, 1994, an Order was rendered herein  
revoking the real estate salesperson license of Respondent.

On December 18, 1997, an Order was rendered herein  
denying reinstatement of said real estate salesperson license,  
but granting Respondent the right to the issuance of a restricted  
real estate salesperson license. A restricted real estate  
salesperson license was issued to Respondent on January 8, 1998,  
and Respondent has operated as a restricted licensee without  
cause for disciplinary action against Respondent.

On December 19, 2002, Respondent petitioned for  
reinstatement of said real estate salesperson license, and the

///

1 Attorney General of the State of California has been given notice  
2 of the filing of said petition.

3 I have considered the petition of Respondent and the  
4 evidence and arguments in support thereof. Respondent has  
5 demonstrated to my satisfaction that Respondent meets the  
6 requirements of law for the issuance to Respondent of a real  
7 estate salesperson license and that it would not be against the  
8 public interest to issue said license to Respondent.

9 NOW, THEREFORE, IT IS ORDERED that Respondent's  
10 petition for reinstatement is granted and that a real estate  
11 salesperson license be issued to Respondent if Respondent  
12 satisfies the following conditions within nine months from the  
13 date of this Order:

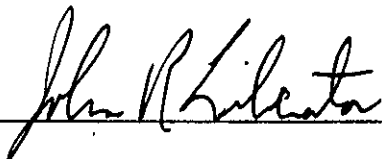
14 1. Submittal of a completed application and payment of  
15 the fee for a real estate salesperson license.

16 2. Submittal of evidence of having, since the most  
17 recent issuance of an original or renewal real estate license,  
18 taken and successfully completed the continuing education  
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
20 for renewal of a real estate license.

21 This Order shall be effective immediately.

22 DATED: August 9, 2004

24 JOHN. R. LIBERATOR  
25 Acting Real Estate Commissioner

26   
27

FILED  
JUL 20 2000

DEPARTMENT OF REAL ESTATE

By Shelly C. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
JON SCOTT EMERSON, )  
Respondent. )

NO. H-7070 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 20, 1994, an Order was rendered herein  
revoking the real estate salesperson license of Respondent.

On December 18, 1997, an Order was rendered herein  
denying reinstatement of said real estate salesperson license,  
but granting Respondent the right to the issuance of a restricted  
real estate salesperson license. A restricted real estate  
salesperson license was issued to Respondent on January 8, 1998,  
and Respondent has operated as a restricted licensee without  
cause for disciplinary action against Respondent.

On February 26, 1999, Respondent petitioned for  
reinstatement of said real estate salesperson license, and the

///

1 Attorney General of the State of California has been given notice  
2 of the filing of said petition.

3 I have considered the petition of Respondent and the  
4 evidence and arguments in support thereof. Respondent has  
5 demonstrated to my satisfaction that Respondent meets the  
6 requirements of law for the issuance to Respondent of a real  
7 estate salesperson license and that it would not be against the  
8 public interest to issue said license to Respondent.

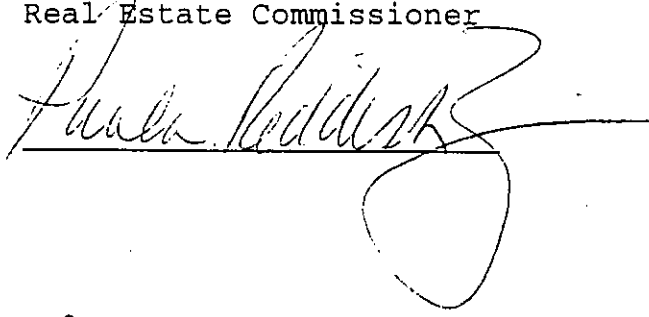
9 NOW, THEREFORE, IT IS ORDERED that Respondent's  
10 petition for reinstatement is granted and that a real estate  
11 salesperson license be issued to Respondent if Respondent  
12 satisfies the following conditions within nine months from the  
13 date of this Order:

14 1. Submittal of a completed application and payment of  
15 the fee for a real estate salesperson license.

16 2. Submittal of evidence of having, since the most  
17 recent issuance of an original or renewal real estate license,  
18 taken and successfully completed the continuing education  
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
20 for renewal of a real estate license.

21 This Order shall be effective immediately.

22 DATED: June 26, 2000.  
23

24 PAULA REDDISH ZINNEMANN  
25 Real Estate Commissioner  
26   
27

FILED  
DEC 19 1997

DEPARTMENT OF REAL ESTATE

*Shelly E.*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
JON SCOTT EMERSON, ) No. H-7070 SF  
Respondent. )

ORDER DENYING REINSTATEMENT OF LICENSE

On December 20, 1994, a Decision was rendered herein  
revoking the real estate salesperson license of Respondent.

On August 13, 1997, Respondent petitioned for  
reinstatement of said license and the Attorney General of the  
State of California has been given notice of the filing of said  
petition.

On October 16, 1997, an Order Denying Reinstatement of  
License was rendered in the above-entitled matter. The Order is  
to become effective December 24, 1997.

On November 13, 1997, Respondent petitioned for  
reconsideration of the Order of October 16, 1997. I have

1 considered said petition and said Order and have concluded that  
2 cause exists to grant Respondent's petition.

3 I have reconsidered Respondent's petition and the  
4 evidence and arguments in support thereof. Respondent has failed  
5 to demonstrate to my satisfaction that Respondent has undergone  
6 sufficient rehabilitation to warrant the reinstatement of  
7 Respondent's unrestricted real estate salesperson license, in that  
8 Respondent still owes \$16,000 to the Internal Revenue Service.  
9 Respondent has arranged to pay that debt but, in view of the  
10 amount still owing, I am not satisfied that Respondent is  
11 sufficiently rehabilitated to receive an unrestricted license.  
12 I am satisfied, however, that it will not be against the public  
13 interest to issue a restricted real estate salesperson license to  
14 Respondent.

15 NOW, THEREFORE, IT IS ORDERED that Respondent's petition  
16 for reinstatement of his real estate salesperson license is  
17 denied.

18 A restricted real estate salesperson license shall be  
19 issued to Respondent pursuant to Section 10156.5 of the Business  
20 and Professions Code, if Respondent satisfies the following  
21 conditions within six (6) months from the date of this Order:

- 22 1. Submittal of a completed application and payment of  
23 the fee for a real estate salesperson license.
- 24 2. Submittal of evidence of having, since the most  
25 recent issuance of an original or renewal real  
26 estate license, taken and successfully completed the  
27 continuing education requirements of Article 2.5 of



Chapter 3 of the Real Estate Law for renewal of a real estate license.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code.

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker on a form approved by the Department of Real Estate which shall certify:



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(a) That the employing broker has read the Decision  
of the Commissioner which granted the right to  
a restricted license; and,

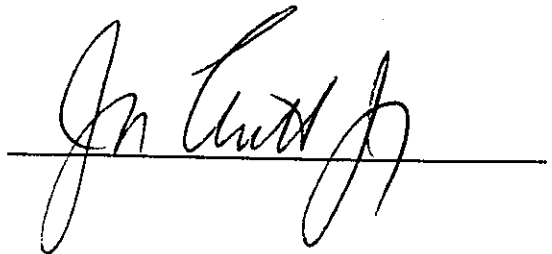
(b) That the employing broker will exercise close  
supervision over the performance by the  
restricted licensee relating to activities for  
which a real estate license is required.

4. Respondent shall not be eligible to apply for the  
issuance of an unrestricted real estate license nor  
the removal of any of the limitations, conditions or  
restrictions of a restricted license until one (1)  
year has elapsed from the date of the issuance of  
the restricted license to Respondent.

This Order shall be effective immediately.

DATED: 12/18/97

JIM ANTT, JR.  
Real Estate Commissioner





FILED  
NOV 19 1997

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
JON SCOTT EMERSON, ) NO. H-7070 SF  
Respondent. ) OAH NO. N-9406015

ORDER STAYING EFFECTIVE DATE

On October 16, 1997, a Decision was rendered in the above-entitled matter to become effective November 24, 1997.

On November 13, 1997, Respondent petitioned for reconsideration of the Decision of October 16, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed for a period of thirty (30). The Decision of October 16, 1997, shall become effective at 12 o'clock noon on December 24, 1997.

DATED: 11/13/97

JIM ANTT, JR.  
Real Estate Commissioner

J. Antt Jr.

FILED  
NOV 4 1997

DEPARTMENT OF REAL ESTATE

*by Shelly Ely*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
 )  
 JON SCOTT EMERSON, )  
 )  
 Respondent. )

NO. H-7070 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On December 20, 1994, a Decision was rendered herein  
revoking the real estate salesperson license of Respondent.

On August 13, 1997, Respondent petitioned for  
reinstatement of said license and the Attorney General of the  
State of California has been given notice of the filing of said  
petition.

I have considered Respondent's petition and the evidence  
and arguments in support thereof. Respondent has failed to  
demonstrate to my satisfaction that Respondent has undergone  
sufficient rehabilitation to warrant the reinstatement of  
Respondent's real estate salesperson license, in that Respondent  
has failed to discharge debts of \$35,969.08 owed to the Internal

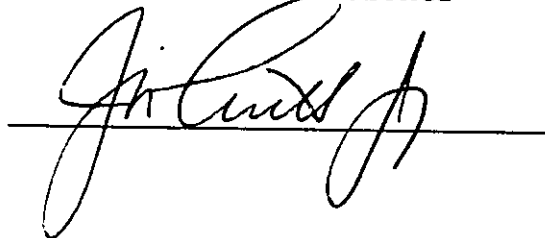
1 Revenue Service, \$1,771.11 owed to the California Franchise Tax  
2 Board, and a civil suit judgment in the amount of \$17,459.13 in  
3 favor of Jay Salaman. Respondent has arranged or is in the  
4 process of arranging to pay those debts but, in view of the  
5 amounts still owing, I am not satisfied that Respondent is  
6 sufficiently rehabilitated.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's petition  
8 for reinstatement of his real estate salesperson license is  
9 denied.

10 This Order shall become effective at 12 o'clock  
11 noon on November 24, 1997.

12 DATED: 10/16, 1997.  
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14 JIM ANTT, JR.  
15 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

By Victoria Dillon  
Victoria Dillon

No. H-7070 SF

OAH No. N 9406015

In the Matter of the Accusation of )  
ELADIA MARGARITA GANULIN )  
and JON SCOTT EMERSON, )  
Respondent(s). )

DECISION

The Proposed Decision dated December 15, 1994, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon  
on February 1, 1995.

IT IS SO ORDERED January 10, 1995.

JOHN R. LIBERATOR  
Interim Commissioner

John R. Liberator

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

ELADIA MARGARITA GANULIN )

and )

JON SCOTT EMERSON, )

Respondents. )

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No. H-7070 SF

OAH No. N-9406015

PROPOSED DECISION

Robert R. Coffman, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on November 11, 1994, at San Francisco, California.

John Van Driel, Counsel, represented the complainant.

Respondent Eladia Ganulin represented herself. There was no appearance by or on behalf of respondent Jon Emerson.

FINDINGS OF FACT

I

Joseph J. Mankewich made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Eladia Margarita Ganulin and Jon Scott Emerson are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

III

At all times mentioned herein, Ganulin was licensed as a real estate broker in her individual capacity doing business as Unique Homes of San Francisco.

IV

At all times material, Emerson was licensed as a real estate salesperson employed by Ganulin.

The Department and Emerson have entered into a stipulation outside this proceeding, settling all the issues in this matter as to Emerson, including the allegations against Emerson set forth in the Accusation herein. Therefore, no determination will be made in this Decision as to whether the license or license rights of Emerson should be disciplined, and no disciplinary order will be entered against him.

V

From May through July 1993, an investigative audit was made by the Department of Ganulin's books and records for the period of December 31, 1989 through July 22, 1993. The following facts were established by the audit:

(a) Ganulin maintained five trust accounts for the receipt and disbursement of trust funds, as that term is defined in section 10145 of the Code, as follows:

(1) Bank of America account #1829-15741, entitled "Unique Homes of San Francisco" (T/A #1).

(2) Bank of America account #1820-15656, entitled "Unique Homes of San Francisco Property Management Trust Account" (T/A #2).

(3) Security Pacific Bank account #0476-801-244, entitled "Unique Homes of San Francisco Property Management Trust Account" (T/A #3).

(4) Security Pacific Bank account #0476-801-631, entitled "Unique Homes of San Francisco 2298 Pacific Avenue Account" (T/A #4).

(5) Security Pacific Bank account #0476-801-626, entitled "Unique Homes of San Francisco Property 945 Green St. Account" (T/A #5).

(b) T/A #2 and T/A #3 were used by respondents to handle trust funds related to their property management activities. Deposits consisted of rents and security deposits received from tenants and capital contributions from owners. Disbursements were payments to owners, mortgage holders, respondents for management fees, and various vendors for goods and services provided to or for the benefit of the owners' properties.

(c) T/A #2 had a June 30, 1993 adjusted bank balance of (\$2,780.93) and minimum trust fund accountability of \$44,698.16, causing a trust fund shortage of at least (\$47,479.09).

(d) Ganulin failed to maintain and retain for three years a columnar control record of all trust funds received and paid out and separate beneficiary or transaction records for each of the trust accounts during the audit period, as required by

sections 2831 and 2831.1 of Title 10 of the California Code of Regulations (Regulations) and section 10148 of the Code.

(e) None of the five trust accounts were designated by the name of Ganulin, the broker, as trustee, as required by section 2830 of the Regulations.

## VI

In approximately April 1992, Unique Homes received a rent check in the amount of approximately \$624 from Barbara Keenan, the tenant at 86 Parker Avenue, for the account of Walter Moellerich, the property owner. The funds were not properly tendered to the owner.

## VII

The following additional facts were established by the evidence:

(a) The \$624 mentioned in Finding VI was promptly tendered to the owner as soon as respondent was made aware that the funds had not been forwarded to the owner. The rent check was evidently misplaced or lost by respondent's employee, but the funds were provided the owner when respondent was made aware of the oversight.

(b) Ganulin has now designated all the firm's trust accounts in her name as required by section 2830.

(c) Respondent Ganulin has been a licensed real estate agent in California for 20 years. She has held a broker's license since 1981 and has been Unique Homes broker of record since 1981.

Unique Homes was involved in real estate sales, leasing, and property management until February 1993 when the property management operation was discontinued.

Ganulin hired Emerson in 1983. Approximately 1988 he became Manager of the Property Management Department.

Michael Dee was hired approximately 1988 as a bookkeeper. His duties included maintenance of the property management records.

Emerson and Dee gave every appearance of being loyal, competent and trustworthy employees. Respondent had no reason to question their honesty and competence or to suspect that they were stealing funds from her company.

From 1988 to September 1991 only Emerson and Dee were familiar with Unique's computer programs that generated the written records that Ganulin and her company relied upon to determine that property management trust fund account balances

were in compliance with Code requirements. In addition, Ganulin reviewed the contracts, checks and other documentation that Emerson and other salespersons submitted when real estate transactions were consummated.

During 1989-1991 Dee forged Emerson's signature to approximately \$54,861 in trust account checks and deposited such funds in his personal bank account. Ganulin estimates that Dee stole approximately \$60,000 from her company.

Emerson also misappropriated a substantial amount of Unique's trust funds.

Numerous disbursements were made from the property management trust accounts, payable to individuals other than those reported to property owners. Such disbursements were made by Dee and/or Emerson and were concealed from Ganulin and Unique.

The trust account records related to property management activities are unreliable and incomplete, making the exact trust account shortage impossible to determine. The \$47,479.09 trust account shortage as of June 30, 1993, is a minimum shortage.

When Ganulin discontinued offering property management services she negotiated the amounts due the property owners she had represented, using her own funds to reimburse such property owners. This was required because of the embezzlement and the unreliable and incomplete records. She has or is reimbursing the property owners approximately \$70,000.

#### VIII

Dee, or Dee and Emerson, altered, destroyed and hid property management records that resulted in concealment of the trust fund shortages from Ganulin. They created two sets of records for the same properties, including one set of "false" records that were given to respondent and Department auditors, and another set of records that reflected the true state of the company's accounts.

Evidence, including expert testimony, established that Dee, or Dee and Emerson, created an elaborate and sophisticated scheme, using a computer system only they were familiar with, to conceal from Ganulin the embezzlement of large sums of money from her company, including trust funds.

Respondent uncovered the embezzlement by Dee in August 1991 by examining bank records that included checks forged by Dee. Evidence further established that a reasonable licensee, charged with the responsibility of complying with the real estate laws governing trust funds, would not with due diligence have any sooner discovered the embezzlement, the trust fund shortages, and the alteration of records described above.



Subsequent to the August 1991 discovery of the embezzlement, respondent's computer that contained property management information "crashed", a fire (arson) destroyed most of her property management records, and property management records she brought to her home were stolen.

Respondent has made extraordinary efforts to reconstruct her records. She has expended approximately \$70,000 in an attempt to do so.

## IX

Respondent has an excellent reputation in the community for honesty and as a highly competent real estate agent.

Respondent currently employs three salespersons on her sales staff. Neither respondent nor her company engages in any property management activities.

## DETERMINATION OF ISSUES

### I

Evidence did not establish that respondent Ganulin engaged in conduct constituting fraud or dishonest dealing, or that she has demonstrated negligence or incompetence within the meaning of section 10176(i) or 10177(g) of the Code.

### II

The conduct set forth in Finding VI is not of sufficient severity or gravity as to constitute grounds for discipline, under the circumstances surrounding such incident as set forth in Finding VII(a).

### III

The trust fund shortages described in the Findings were not caused by any negligence, incompetence or intentional act of the respondent, but by the theft of employees. Respondent is not charged with failure to exercise reasonable supervision over her employees and the evidence did not establish that she failed to do so. Respondent may be civilly liable for any loss suffered by her property owners, but she should not be disciplined for the unlawful acts of employees, under the circumstances of this case, absent some Code section that imposes discipline in such case.


### IV

Cause was established for discipline under Regulation section 2830 and Code section 10177(d) for the conduct set forth in Finding V(e).

ORDER

Respondent Eladia Margarita Ganulin's real estate broker's license is suspended for 30 days, with the order of suspension stayed for one year and respondent placed on probation for one year on condition that no further cause for discipline occurs during the one year probationary period. If cause for discipline occurs during such probationary period the Commissioner may vacate the stay and reimpose the order of suspension, or may in his discretion order such other discipline he deems appropriate, after providing respondent with notice and opportunity for hearing. Otherwise the license shall be fully restored without conditions or restrictions upon the expiration of the one year period of probation.

DATED: December 15, 1994.

  
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ROBERT R. COFFMAN  
Administrative Law Judge  
Office of Administrative Hearings

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

Telephone: (415) 904-5917

**FILED**  
JAN 06 1995

DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*  
Victoria Dillon

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H- 7070 SF
ELADIA MARGARITA GANULIN )	STIPULATION AND
and )	AGREEMENT IN
JON SCOTT EMERSON, )	SETTLEMENT AND
Respondents. )	ORDER

It is hereby stipulated by and between JON SCOTT EMERSON only (Respondent), and the Complainant, acting by and through John Van Driel, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on April 29, 1994 in this matter:

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

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

5           3. On May 17, 1994, Respondent filed a Notice of  
6 Defense pursuant to Section 11505 of the Government Code for the  
7 purpose of requesting a hearing on the allegations in the  
8 Accusation. Respondent hereby freely and voluntarily withdraws  
9 said Notice of Defense. Respondent acknowledges that he  
10 understands that by withdrawing said Notice of Defense he will  
11 thereby waive his right to require the Commissioner to prove the  
12 allegations in the Accusation at a contested hearing held in  
13 accordance with the provisions of the APA.

14           4. Respondent has read the Discovery Provisions of the  
15 APA and is aware of his right to conduct discovery in the  
16 proceeding, and by entering into this Stipulation and Agreement in  
17 Settlement, freely and voluntarily waives his right to conduct  
18 further discovery. Respondent does not waive any rights he may  
19 have under the Public Records Act.

20           5. For the purposes of establishing jurisdiction for  
21 the Commissioner to take disciplinary action against the licenses  
22 and license rights of Respondent, Respondent hereby admits that  
23 the factual allegations of the Accusation are true and correct and  
24 that the Real Estate Commissioner shall not be required to provide  
25 further evidence of such allegations. These admission are made  
26 solely in reference to this proceeding and any subsequent  
27 proceeding before the Commissioner and may not be used in or as a

1 part of any other civil action or criminal action now pending or  
2 which may be filed against Respondent pursuant to the provisions  
3 of Section 1152 of the California Evidence Code. A true copy of  
4 the Accusation is attached hereto as Annex A and incorporated  
5 herein by reference.

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

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

#### 23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions and  
25 waivers and for the purpose of settlement of the pending  
26 Accusation without a hearing, it is stipulated and agreed that the  
27 following determination of issues shall be made:

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The acts and/or omissions of Respondent, as described in Paragraphs IV and VIII through X of the Accusation, are grounds for disciplinary action under the provision of Sections 10177(g) of the Code.

ORDER

All licenses and licensing rights of Respondent JON SCOTT EMERSON under the Real Estate Law are revoked.

DATED: 16 Nov. 1994 DEPARTMENT OF REAL ESTATE

John Van Driel  
JOHN VAN DRIEL  
Counsel for Complainant

I have read the Stipulation and Agreement in Settlement, and its terms are understood by me and are agreeable and acceptable to me. I have knowingly and voluntarily chosen to not be represented by an attorney in the negotiations of this Stipulation and Agreement in Settlement. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly 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.

DATED: 11/16/94

Jon Scott Emerson  
JON SCOTT EMERSON

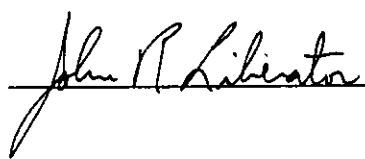
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DECISION AND ORDER

The foregoing Stipulation and Agreement in Settlement is  
hereby adopted as my Decision and Order and shall become effective  
at 12 o'clock noon on January 26, 1995.

IT IS SO ORDERED December 20, 1994.

JOHN R. LIBERATOR  
Interim Commissioner

  
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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA  
JUL 13 1994  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ELADIA MARGARITA GANULIN  
and  
JON SCOTT EMERSON,

}

By Victoria Dillon

Case No. H-7070 SF Victoria Dillon

OAH No. N 9406015

Respondents

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 \_\_\_\_\_

OFFICE OF ADMINISTRATIVE HEARINGS

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on Monday, November 21, 1994 (1 Day Hearing), at the hour of 9:00 a.m.,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: July 13, 1994

By John Van Driel  
JOHN VAN DRIEL, Counsel  
nd



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

**FILED**  
APR 29 1994

DEPARTMENT OF REAL ESTATE

4 Telephone: (415) 904-5917

By *Victoria Dillon*  
Victoria Dillon

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

12 In the Matter of the Accusation of )	No. H-7070 SF
13 ELADIA MARGARITA GANULIN )	<u>ACCUSATION</u>
14 and )	
14 JON SCOTT EMERSON, )	
15 Respondents. )	
_____ )	

17 The Complainant, JOSEPH J. MANKEWICH, a Deputy Real  
18 Estate Commissioner of the State of California, for cause of  
19 Accusation against ELADIA MARGARITA GANULIN and JON SCOTT EMERSON  
20 (Respondents), is informed and alleges as follows:

I

22 The Complainant, JOSEPH J. MANKEWICH, a Deputy Real  
23 Estate Commissioner of the State of California, makes this  
24 Accusation in his official capacity and not otherwise.

II

26 ELADIA MARGARITA GANULIN (Ganulin) and JON SCOTT EMERSON  
27 (Emerson) are presently licensed and/or have license rights under

1 the Real Estate Law, Part 1 of Division 4 of the Business and  
2 Professions Code (Code).

3 III

4 At all times mentioned herein, Ganulin was licensed as a  
5 real estate broker in her individual capacity doing business as  
6 Unique Homes of San Francisco.

7 IV

8 At all times mentioned herein, Emerson was licensed as a  
9 real estate salesperson employed by Ganulin.

10 FIRST CAUSE OF ACCUSATION

11 V

12 From May through July 1993, an investigative audit was  
13 made by the Department on Ganulin's books and records for the  
14 period of December 31, 1989 through July 22, 1993, (the audit  
15 period).

16 The following facts were ascertained by the audit.

17 a. Ganulin maintained five trust accounts for the  
18 receipt and disbursement of trust funds, as that term is defined  
19 in Section 10145 of the Code, designated as follows:

20 1. Bank of America account # 1829-15741 named "Unique  
21 Homes of San Francisco" (T/A # 1).

22 2. Bank of America account # 1820-15656 named "Unique  
23 Homes of San Francisco Property Management Trust Account"  
24 (T/A # 2).

25 3. Security Pacific Bank account # 0476-801-244 named  
26 "Unique Homes of San Francisco Property Management Trust Account"  
27 (T/A # 3).

1                   4. Security Pacific Bank account # 0476-801-631 named  
2 "Unique Homes of San Francisco 2298 Pacific Ave. Account"  
3 (T/A # 4).

4                   5. Security Pacific Bank account # 0476-801-626 named  
5 "Unique Homes of San Francisco Property 945 Green St. Account"  
6 (T/A # 5).

7                   b. T/A # 2 and T/A # 3 were used by Respondents to  
8 handle trust funds related to their property management  
9 activities. Deposits consisted of rents and security deposits  
10 received from tenants and capital contributions from owners.  
11 Disbursements were payments to owners, mortgage holders,  
12 Respondents for management fees, and various vendors for goods and  
13 services provided to or for the benefit of the owner's properties.

14                   c. T/A # 2 had a 6-30-93 adjusted bank balance of  
15 <\$2,780.93> and minimum trust fund accountability of \$44,698.16  
16 causing a trust fund shortage of at least <\$47,479.09>.

17                   d. Ganulin failed to maintain and retain for three  
18 years a columnar control record of all trust funds received and  
19 paid out and separate beneficiary or transaction records for each  
20 of the trust accounts during the audit period, as required by  
21 Sections 2831 and 2831.1 of Title 10, California Code of  
22 Regulations (Regulations) and Section 10148 of the Code.

23                   e. None of the five trust accounts were designated by  
24 the name of Ganulin, the broker, as trustee, as required by  
25 Section 2830 of the Regulations.

26 ///

27 ///

VI

In approximately April, 1992, Unique Homes received a rent check in the amount of approximately \$624 from Barbara Keenan, the tenant in 86 Parker Ave., for the account of Walter Moellerich, the property owner. Although demand has been made for payment of the owner's share of the rent payment, the funds have not been tendered to the owner as of the date of this accusation.

VII

The acts and/or omissions of Ganulin alleged above violated sections of the Code (BPC) and the Regulations (Reg) and are grounds for disciplinary action under the provisions set out below.

<u>Paragraph</u>	<u>Violation</u>	<u>Grounds for Discipline</u>
V c	BPC 10145, Reg 2832.1	BPC 10177(d)
V d	Reg 2831, 2831.1, BPC 10148	BPC 10177(d)
V e	Reg 2830	BPC 10177(d)
OR, in the alternative,		
V		BPC 10177(g)
VI		BPC 10176(i)

SECOND CAUSE OF ACCUSATION

VIII

From approximately 1986 through 1991, Emerson was employed by Ganulin as a property manager. In that capacity, he engaged in the solicitation of prospective renters and owners, negotiation of leases and/or rental agreements, leasing and/or renting of real property, and collection of rents on behalf of owners of real property, for or in expectation of compensation.

1 During that period, Emerson also acted as the manager of Ganulin's  
2 property management business and was authorized to disburse funds  
3 from T/A # 3, 4 and 5 on his signature only.

4 IX

5 Between at least January 1990 and July 1991, Emerson  
6 wrote, or caused to be written, at least 26 checks from T/A # 3 to  
7 any one of the group consisting of himself, a Bank of America  
8 account in his name or under his control, Unique Homes, or  
9 miscellaneous vendors. Notwithstanding the payee named on each of  
10 the 26 checks, all of the checks were deposited into Emerson's  
11 account at Bank of America, identified as account # 02863 04924.

12 X

13 Although Emerson was authorized to disburse trust funds  
14 from T/A # 3 for the benefit of the owners of the trust funds, he  
15 was not authorized by Ganulin to withdraw trust funds from any of  
16 the trust accounts and deposit those funds into his personal  
17 account.

18 XI

19 The acts and/or omissions of Emerson alleged above  
20 constitute grounds for discipline under Section 10177(j) of the  
21 Code.

22 WHEREFORE, the Complainant prays that a hearing be  
23 conducted on the allegations of this Accusation and that upon  
24 proof thereof, a decision be rendered imposing disciplinary action  
25 against all licenses and license rights of Respondent under the  
26  
27

1 Real Estate Law (Part 1 of Division 4 of the Business and  
2 Professions Code), and for such other and further relief as may be  
3 proper under other provisions of law.

4   
5 JOSEPH J. MANKEWICH  
6 Deputy Real Estate Commissioner

7 Dated at San Francisco, California,  
8 this 28 day of April, 1994.

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