

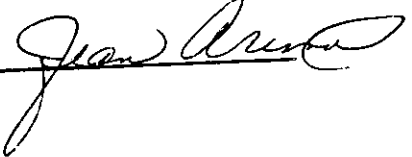
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FILED

DEC 18 2007

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7739 SF
)
DENNIS JOHN BADAGLIACCO,)	
)
Respondent.)	
_____)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 16, 2000, in Case No. H-7739 SF, a Decision was rendered which revoked the real estate broker license of Respondent effective July 7, 2000, but granted Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on July 14, 2000, and Respondent has operated as a restricted licensee since that time.

On July 19, 2007, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

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

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

12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

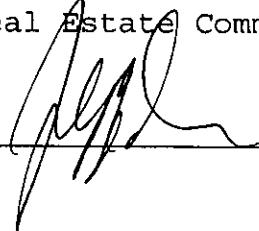
14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: _____

12-18-07

21 JEFF DAVI
22 Real Estate Commissioner

23 
24 _____
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FILED
JUL - 6 2000

DEPARTMENT OF REAL ESTATE

By *Lucretia J. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7739 SF
WILLOW CREEK INVESTMENTS, INC.,)	OAH NO. N-1999100243
AND DENNIS JOHN BADAGLIACCO,)	
)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On May 16, 2000, a Decision was rendered in the above-entitled matter. The Decision is to become effective July 7, 2000.

On June 7, 2000, Respondent petitioned for reconsideration of the Decision of May 16, 2000.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of May 16, 2000, and reconsideration is hereby denied.

IT IS HEREBY ORDERED July 9, 2000.

PAULA REDDISH ZINNE MANN
Real Estate Commissioner

Paula Reddish Zinnemann

FILED

JUN - 7 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Ziser

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7739 SF
WILLOW CREEK INVESTMENTS, INC.,)	OAH No. N-1999100243
AND DENNIS JOHN BADAGLIACCO,)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On May 16, 2000, a Stipulation and Agreement was rendered in the above-entitled matter to become effective June 7, 2000.

IT IS HEREBY ORDERED that the effective date of the Stipulation and Agreement of the Real Estate Commissioner of May 16, 2000, is stayed for a period of thirty (30) days.

The Stipulation and Agreement of the Real Estate Commissioner of May 16, 2000, shall become effective at 12 o'clock noon on July 7, 2000.

DATED: June 7, 2000

PAULA REDDISH ZINNE MANN
Real Estate Commissioner

Paula Reddish Zinnemann

1 Department of Real Estate
P. O. Box 187000
2 Sacramento, CA 95818-7000
3 Telephone: (916) 227-0789
4
5
6
7

FILED
MAY 17 2000

DEPARTMENT OF REAL ESTATE

By *Laurie A. Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-7739 SF
12 WILLOW CREEK INVESTMENTS, INC.,) OAH NO. N-1999100243
AND DENNIS JOHN BADAGLIACCO,)
13 Respondents.) STIPULATION AND AGREEMENT
14)

15 It is hereby stipulated by and between WILLOW CREEK
16 INVESTMENTS, INC. (hereinafter "Respondent WILLOW CREEK) and
17 DENNIS JOHN BADAGLIACCO (hereinafter "Respondent BADAGLIACCO"),
18 and their attorneys of record, Steven F. Spierer and
19 Charles I. Karlin, and the Complainant, acting by and through
20 David A. Peters, Counsel for the Department of Real Estate, as
21 follows for purpose of settling and disposing of the First
22 Amended Accusation filed December 14, 1999 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 Procedure Act (APA) (Government Code Section 11500 et seq.),

1 shall instead and in place thereof be submitted solely on the
2 basis of the provisions of this Stipulation and Agreement.

3 2. Respondents have received, read and understand the
4 Statement to Respondents, the Discovery Provisions of the APA,
5 and the First Amended Accusation filed by the Department of Real
6 Estate in this proceeding.

7 3. On October 21, 1999, Respondents filed their
8 Notices of Defense pursuant to Section 11505 of the Government
9 Code for the purpose of requesting a hearing on the allegations
10 in the Accusation. Respondents hereby freely and voluntarily
11 withdraws ^{their} ~~her~~ Notice of Defense. Respondents acknowledges that
12 by withdrawing said Notice of Defense they will thereby waive
13 their right to require the Commissioner to prove the allegations
14 in the Accusation at a contested hearing held in accordance with
15 the provisions of the APA and that they will waive other rights
16 afforded to them in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interests of
21 expedience and economy, Respondents chooses not to contest these
22 allegations, but to remain silent and understand that, as a
23 result thereof, these factual allegations, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove said factual
27 allegations.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 her Decision in this matter, thereby imposing the penalty and
4 sanctions of Respondents' real estate licenses and license rights
5 as set forth in the below "Order". In the event that the
6 Commissioner in her discretion does not adopt the Stipulation and
7 Agreement, it shall be void and of no effect, and Respondents
8 shall retain the right to a hearing and proceeding on the First
9 Amended Accusation under all the provisions of the APA and shall
10 not be bound by any admission or waiver made herein.

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

18 7. Respondents understand that by agreeing to this
19 Stipulation and Agreement in Settlement, Respondents agree to
20 pay, pursuant to Section 10148 of the Business and Professions
21 Code, the cost of the audit which led to this disciplinary
22 action. The amount of said costs is \$2,452.71.

23 8. Respondents have received, read, and understand
24 the "Notice Concerning Costs of Subsequent Audit". Respondents
25 further understand that by agreeing to this Stipulation and
26 Agreement in Settlement, the findings set forth below in the
27 DETERMINATION OF ISSUES become final, and that the Commissioner

1 may charge Respondents for the costs of any subsequent audit
2 conducted pursuant to Section 10148 of the Business and
3 Professions Code to determine if the violations have been
4 corrected. The maximum costs of said audit will not exceed
5 \$2,919.11.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, admissions and
8 waivers, and solely for the purpose of settlement of the pending
9 Accusation without a hearing, it is stipulated and agreed that
10 the following determination of issues shall be made:

11 I

12 The conduct of Respondent WILLOW CREEK, as described in
13 the First Amended Accusation, constitutes cause for the
14 suspension or revocation of the real estate license and license
15 rights of Respondent WILLOW CREEK under the provisions of Section
16 10177(d) of the Business and Professions Code in conjunction with
17 Sections 10145 of the Business and Professions Code and Sections
18 2832.1, and 2831.2 of Title 10, California Code of Regulations.

19 II

20 The conduct of Respondent BADAGLIACCO, as described in
21 the First Amended Accusation, constitutes cause for suspension or
22 revocation of the real estate license and license rights of
23 Respondent BADABLIACCO under the provisions of Section 10177(d)
24 of the Business and Professions Code in conjunction with Sections
25 10145 of the Business and Professions Code and Sections 2832.1
26 and 2831.2 of Title 10, California Code of Regulations.

27 ///

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

6 4. Pursuant to Section 10148 of the Business and
7 Professions Code, Respondent WILLOW CREEK or Respondent
8 BADAGLIACCO shall pay the Commissioner's reasonable cost for: a)
9 the audit which led to this disciplinary action and, b) a
10 subsequent audit to determine if Respondents have corrected the
11 trust fund violations found in Paragraphs I and II of the
12 Determination of Issues. In calculating the amount of the
13 Commissioner's reasonable cost, the Commissioner may use the
14 estimated average hourly salary for all persons performing audits
15 of real estate brokers, and shall include an allocation for
16 travel time to and from the auditor's place of work. Respondent
17 WILLOW CREEK or Respondent BADAGLIACCO shall pay such cost within
18 60 days of receiving an invoice from the Commissioner detailing
19 the activities performed during the audit and the amount of time
20 spent performing those activities. The Commissioner may suspend
21 the restricted license issued to Respondent WILLOW CREEK pending
22 a hearing held in accordance with Section 11500, et seq., of the
23 Government Code, if payment is not timely made as provided for
24 herein, or as provided for in a subsequent agreement between the
25 Respondents and the Commissioner. The suspension shall remain in
26 effect until payment is made in full or until Respondents enter
27 into an agreement satisfactory to the Commissioner to provide for

1 payment, or until a decision providing otherwise is adopted
2 following a hearing held pursuant to this condition.

3 7. Respondents shall prior to the effective date of
4 the Decision provide evidence satisfactory to the Commissioner
5 that Respondents have cured the trust fund shortage alleged in
6 the Accusation.

7 8. Any restricted real estate broker license issued
8 to Respondent WILLOW CREEK may be suspended or revoked for a
9 violation by Respondent WILLOW CREEK of any of the conditions
10 attaching to the restricted license.

11 II

12 A. The real estate broker license and all license
13 rights of Respondent BADAGLIACCO under the Real Estate Law are
14 revoked; provided, however, a restricted real estate broker
15 license shall be issued to Respondent BADAGLIACCO pursuant to
16 Section 10156.5 of the Business and Professions Code if
17 Respondent BADAGLIACCO makes application therefor and pays to the
18 Department of Real Estate the appropriate fee for the restricted
19 license within ninety (90) days from the effective date of this
20 Decision. The restricted license issued to Respondent
21 BADAGLIACCO shall be subject to all of the provisions of Section
22 10156.7 of the Business and Professions Code and to the following
23 limitations, conditions and restrictions imposed under authority
24 of Section 10156.6 of that Code:

25 1. The restricted license issued to Respondent
26 BADAGLIACCO may be suspended prior to hearing by Order of the
27 Real Estate Commissioner in the event of Respondent's conviction

1 or plea of nolo contendere to a crime which is substantially
2 related to Respondent's fitness or capacity as a real estate
3 licensee.

4 2. The restricted license issued to Respondent
5 BADAGLIACCO may be suspended prior to hearing by Order of the
6 Real Estate Commissioner on evidence satisfactory to the
7 Commissioner that Respondent has violated provisions of the
8 California Real Estate Law, the Subdivided Lands Law, Regulations
9 of the Real Estate Commissioner or conditions attaching to the
10 restricted license.

11 3. Respondent BADAGLIACCO shall not be eligible to
12 apply for the issuance of an unrestricted real estate license nor
13 for the removal of any of the conditions, limitations or
14 restrictions of a restricted license until one (1) year has
15 elapsed from the effective date of this Decision.

16 4. Respondent BADAGLIACCO shall, within nine (9)
17 months from the effective date of this Decision, present evidence
18 satisfactory to the Real Estate Commissioner that Respondent has,
19 since the most recent issuance of an original or renewal real
20 estate license, taken and successfully completed the continuing
21 education requirements of Article 2.5 of Chapter 3 of the Real
22 Estate Law for renewal of a real estate license. If Respondent
23 fails to satisfy this condition, the Commissioner may order the
24 suspension of the restricted license until the Respondent
25 presents such evidence. The Commissioner shall afford Respondent
26 the opportunity for a hearing pursuant to the Administrative
27 Procedure Act to present such evidence.

1 5. Respondent BADAGLIACCO shall, within six (6)
2 months from the effective date of this Decision, take and pass
3 the Professional Responsibility Examination administered by the
4 Department including the payment of the appropriate examination
5 fee. If Respondent fails to satisfy this condition, the
6 Commissioner may order suspension of Respondent's license until
7 Respondent passes the examination.

8 6. Pursuant to Section 10148 of the Business and
9 Professions Code, Respondent BADAGLIACCO or Respondent WILLOW
10 CREEK shall pay the Commissioner's reasonable cost for: a) the
11 audit which led to this disciplinary action and, b) a subsequent
12 audit to determine if Respondents have corrected the trust fund
13 violations found in paragraphs I and II of the Determination of
14 Issues. In calculating the amount of the Commissioner's
15 reasonable cost, the Commissioner may use the estimated average
16 hourly salary for all persons performing audits of real estate
17 brokers, and shall include an allocation for travel time to and
18 from the auditor's place of work. Respondent BADAGLIACCO or
19 Respondent WILLOW CREEK shall pay such cost within 60 days of
20 receiving an invoice from the Commissioner detailing the
21 activities performed during the audit and the amount of time
22 spent performing those activities. The Commissioner may suspend
23 the restricted license issued to Respondent BADAGLIACCO pending a
24 hearing held in accordance with Section 11500, et seq., of the
25 Government Code, if payment is not timely made as provided for
26 herein, or as provided for in a subsequent agreement between the
27 Respondents and the Commissioner. The suspension shall remain in

1 effect until payment is made in full or until Respondents enter
2 into an agreement satisfactory to the Commissioner to provide for
3 payment, or until a decision providing otherwise is adopted
4 following a hearing held pursuant to this condition.

5 7. Respondents shall prior to the effective date of
6 the Decision provide evidence satisfactory to the Commissioner
7 that Respondents have cured the trust fund shortage alleged in
8 the Accusation.

9 8. Any restricted real estate broker license issued
10 to Respondent BADAGLIACCO may be suspended or revoked for a
11 violation by Respondent BADAGLIACCO of any of the conditions
12 attaching to the restricted license.

13
14 4/24/00
15 DATED

14 David A. Peters
15 DAVID A. PETERS, Counsel
16 DEPARTMENT OF REAL ESTATE

16 * * *

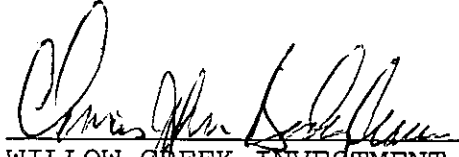
17 I have read the Stipulation and Agreement, have
18 discussed it with my counsel, and its terms are understood by me
19 and are agreeable and acceptable to me. I understand that I am
20 waiving rights given to me by the California Administrative
21 Procedure Act (including but not limited to Sections 11505,
22 11598, 11509, and 11513 of the Government Code), and I
23 willingly, intelligently, and voluntarily waive those rights,
24 including the right of requiring the Commissioner to prove the
25 allegations in the Second Amended Accusation at a hearing at
26 which I would have the right to cross-examine witnesses against

27 ///

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

3
4 4/28/00

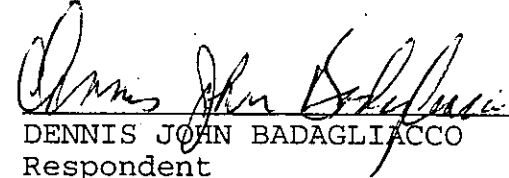
DATED



WILLOW CREEK INVESTMENT, INC.
Respondent
By: Dennis John Badagliacco

7 4/28/00

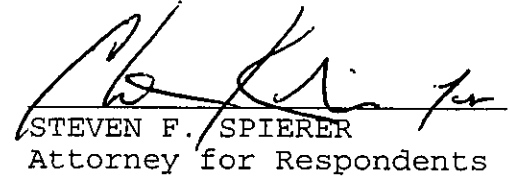
DATED


DENNIS JOHN BADAGLIACCO
Respondent

9 I have reviewed the Stipulation and Agreement in
10 Settlement as to form and content and have advised my client
11 accordingly.

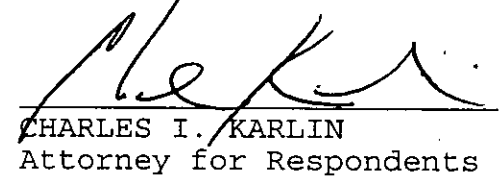
13 4/27/00

DATED


STEVEN F. SPIERER
Attorney for Respondents

16 4/27/00

DATED


CHARLES I. KARLIN
Attorney for Respondents

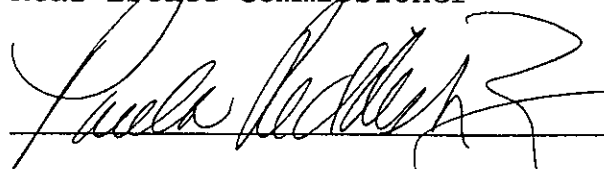
18 * * *

19 The foregoing Stipulation and Agreement for
20 Settlement is hereby adopted by the Real Estate Commissioner as
21 her Decision and Order and shall become effective at 12 o'clock
22 noon on June 7, 2000

23 IT IS SO ORDERED

May 16, 2000

24 PAULA REDDISH ZINNEMANN
25 Real Estate Commissioner



26 WILLOW CREEK INVESTMENTS, INC.
27 AND DENNIS JOHN BADAGLIACCO

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB - 8 2000

DEPARTMENT OF REAL ESTATE

By Laurie A. Zain

In the Matter of the Accusation of

WILLOW CREEK INVESTMENTS, INC., and
DENNIS JOHN BADAGLIACCO,

Case No. H-7739 SF

OAH No. N-1999100243

Respondent

SECOND AMENDED
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 1515 Clay Street, Suite 206,
Oakland, CA 94612

on Monday, May 1, 2000, 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: February 8, 2000

By David A. Peters
DAVID A. PETERS Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 14 1999

DEPARTMENT OF REAL ESTATE

Laurie A. Ziss

In the Matter of the Accusation of

WILLOW CREEK INVESTMENTS, INC., and
DENNIS JOHN BADAGLIACCO,

Case No. H-7739 SF

OAH No. N-1999100243

Respondent

FIRST AMENDED
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 1515 Clay Street, Suite 206,
Oakland, CA 94612

on Wednesday, February 2, 2000, 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: December 14, 1999

By David A. Peters
DAVID A. PETERS Counsel

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
DEC 14 1999

DEPARTMENT OF REAL ESTATE

Laurie A. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-7739 SF
12 WILLOW CREEK INVESTMENTS, INC. and)	<u>FIRST AMENDED</u>
13 DENNIS JOHN BADAGLIACCO,)	<u>ACCUSATION</u>
14 Respondents.)	

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California for cause of First
17 Amended Accusation against WILLOW CREEK INVESTMENTS, INC. dba
18 Re/Max Valley Properties (hereinafter "INVESTMENTS") and DENNIS
19 JOHN BADAGLIACCO (hereinafter "Respondent BADAGLIACCO"), is
20 informed and alleges as follows:

21 I

22 The Complainant, Les R. Bettencourt, a Deputy Real
23 Estate Commissioner of the State of California, makes this First
24 Amended Accusation in his official capacity.

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II

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

WILLOW CREEK, INVESTMENTS, INC. - as a real estate broker corporation.

DENNIS JOHN BADAGLIACCO - as a real estate broker and as designated broker-officer for Respondent INVESTMENTS.

III

Beginning on or before January 1, 1998 and continuing through on or about January 31, 1999, Respondents INVESTMENTS and BADAGLIACCO engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker in the State of California, within the meaning of Section 10131(b) of the Code wherein Respondents INVESTMENTS and BADAGLIACCO 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 San Jose, California.

IV

During the course of the property management activities described in Paragraph III above, Respondents INVESTMENTS and BADAGLIACCO received and disbursed funds held in trust on behalf of another or others.

///

1 V

2 Beginning on or before January 1, 1998 through on or
3 about January 31, 1999, Respondents INVESTMENTS and BADAGLIACCO
4 maintained the following trust fund account:

5

<u>TITLE AND ACCOUNT NUMBER</u>	<u>BANK</u>
6 Re/Max Valley Properties Trust Account	Citibank
7 Account No. 600888192 8 (hereinafter "Trust Account #1")	San Francisco, California

9 VI

10 In connection with the collection and disbursement of
11 trust funds described in Paragraph IV above, Respondents
12 INVESTMENTS and BADAGLIACCO failed to deposit and maintain said
13 trust funds in a Trust Account #1 in such manner that as of
14 December 31, 1998, there was a shortage of \$10,882.17 of trust
15 funds.

16 VII

17 In connection with the collection and disbursement of
18 trust funds described in Paragraph IV above, Respondents
19 INVESTMENTS and BADAGLIACCO failed to deposit and maintain said
20 trust funds in Trust Account #1 in such manner that as of
21 January 31, 1999, there was a shortage of \$10,489.59 of trust
22 funds.

23 VIII

24 Respondent failed to obtain prior written consent from
25 each of his principals for the reduction of the aggregate
26 balance of trust funds in Trust Account #1 to an amount less
27 than the existing aggregate trust fund liability to the owners

1 of said funds in violation of Section 2832.1 of Title 10,
2 California Code of Regulations (hereinafter "Regulations").

3 IX

4 In connection with the receipt and disbursement of
5 trust funds described in Paragraph IV above, Respondent failed
6 to adequately maintain and perform a reconciliation with records
7 of all trust funds received and disbursed as required by Section
8 2831.1 of the Regulations, at least once per month, in
9 conformance with Section 2831.2 of the Regulations.

10 X

11 The facts alleged above are grounds for the suspension
12 or revocation of Respondents INVESTMENTS and BADAGLIACCO
13 licenses under the following sections of the Code and
14 Regulations:

15 1) As to Paragraphs VI and VII, under Section
16 10177(d) of the Code in conjunction with Section 10145 of the
17 Code;


18 2) As to Paragraph VIII, under Section 10177(d) of
19 the Code in conjunction with Section 2832.1 of the Regulations;
20 and

21 3) As to Paragraph IX, under Section 10177(d) of the
22 Code in conjunction with Section 2831.2 of the Regulations.

23 In the alternative, the acts and/or omissions of
24 Respondent BADAGLIACCO, as described above, constitute failure
25 on the part of Respondent BADAGLIACCO, as the designated broker-
26 officer for Respondent INVESTMENTS, to exercise reasonable
27 supervision and control over the licensed activities of

1 Respondent INVESTMENTS required by Section 10159.2 of the Code,
2 and is cause for the suspension or revocation of Respondent
3 BADAGLIACCO's licenses and/or license rights under Section
4 10177(h) of the Code.

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

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13 
14 LES R. BETTENCOURT
15 Deputy Real Estate Commissioner

16 Dated at Oakland, California,
17 this 7th day of December, 1999.
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FILED
DEC 14 1999

DEPARTMENT OF REAL ESTATE

BY *Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
WILLOW CREEK INVESTMENTS, INC. and)
)
DENNIS JOHN BADAGLIACCO,)
)
Respondents.)

No. H-7739 SF
OAH NO. N-1999020258

DISMISSAL

The Accusation herein filed on August 17, 1999, is
DISMISSED as to Respondent COLLEEN ANN BADAGLIACCO only.

IT IS SO ORDERED this 9th day of December, 1999.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

John R. Liberator

BY: John R. Liberator
Chief Deputy Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV - 9 1999

DEPARTMENT OF REAL ESTATE
Laurie A. Zain

In the Matter of the Accusation of

WILLOW CREEK INVESTMENTS, INC., and
COLLEEN ANN BADAGLIACCO,

Case No. H-7739 SF

OAH No. N-1999100243

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 1515 Clay Street, Suite 206,
Oakland, CA 94612

on Wednesday, February 2, 2000, 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: November 9, 1999

By David A. Peters
DAVID A. PETERS
Counsel
(12)

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
AUG 17 1999

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zan*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) No. H-7739 SF
12 WILLOW CREEK INVESTMENTS, INC. and) ACCUSATION
13 COLLEEN ANN BADAGLIACCO,)
14 Respondents.)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against WILLOW CREEK INVESTMENTS, INC. dba Re/Max
18 Valley Properties (hereinafter "INVESTMENTS") and COLLEEN ANN
19 BADAGLIACCO (hereinafter "Respondent BADAGLIACCO"), is informed
20 and alleges as follows:

21 I

22 The Complainant, Les R. Bettencourt, a Deputy Real
23 Estate Commissioner of the State of California, makes this
24 Accusation in his official capacity.

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II

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

WILLOW CREEK INVESTMENTS, INC. - as a real estate broker corporation.

COLLEEN ANN BADAGLIACCO - as a real estate broker and as designated broker-officer for Respondent INVESTMENTS.

III

Beginning on or before January 1, 1998 and continuing through on or about January 31, 1999, Respondents INVESTMENTS and BADAGLIACCO engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker in the State of California, within the meaning of Section 10131(b) of the Code wherein Respondents INVESTMENTS and BADAGLIACCO 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 San Jose, California.

IV

During the course of the property management activities described in Paragraph III above, Respondents INVESTMENTS and BADAGLIACCO received and disbursed funds held in trust on behalf of another or others.

///

1 V

2 Beginning on or before January 1, 1998 through on or
3 about January 31, 1999, Respondents INVESTMENTS and BADAGLIACCO
4 maintained the following trust fund account:

5 <u>TITLE AND ACCOUNT NUMBER</u>	<u>BANK</u>
6 Re/Max Valley Properties Trust Account	Citibank
7 Account No. 600888192 8 (hereinafter "Trust Account #1")	San Francisco, California

9 VI

10 In connection with the collection and disbursement of
11 trust funds described in Paragraph IV above, Respondents
12 INVESTMENTS and BADAGLIACCO failed to deposit and maintain said
13 trust funds in a Trust Account #1 in such manner that as of
14 December 31, 1998, there was a shortage of \$10,882.17 of trust
15 funds.

16 VII

17 In connection with the collection and disbursement of
18 trust funds described in Paragraph IV above, Respondents
19 INVESTMENTS and BADAGLIACCO failed to deposit and maintain said
20 trust funds in Trust Account #1 in such manner that as of
21 January 31, 1999, there was a shortage of \$10,489.59 of trust
22 funds.

23 VIII

24 Respondent failed to obtain prior written consent from
25 each of his principals for the reduction of the aggregate
26 balance of trust funds in Trust Account #1 to an amount less
27 than the existing aggregate trust fund liability to the owners

1 of said funds in violation of Section 2832.1 of Title 10,
2 California Code of Regulations (hereinafter "Regulations").

3 IX

4 In connection with the receipt and disbursement of
5 trust funds described in Paragraph IV above, Respondent failed
6 to adequately maintain and perform a reconciliation with records
7 of all trust funds received and disbursed as required by Section
8 2831.1 of the Regulations, at least once per month, in
9 conformance with Section 2831.2 of the Regulations.

10 X

11 The facts alleged above are grounds for the suspension
12 or revocation of Respondents INVESTMENTS and BADAGLIACCO
13 licenses under the following sections of the Code and
14 Regulations:

15 1) As to Paragraphs VI and VII, under Section
16 10177(d) of the Code in conjunction with Section 10145 of the
17 Code;


18 2) As to Paragraph VIII, under Section 10177(d) of
19 the Code in conjunction with Section 2832.1 of the Regulations;
20 and

21 3) As to Paragraph IX, under Section 10177(d) of the
22 Code in conjunction with Section 2831.2 of the Regulations.

23 In the alternative, the acts and/or omissions of
24 Respondent BADAGLIACCO, as described above, constitute failure
25 on the part of Respondent BADAGLIACCO, as the designated broker-
26 officer for Respondent INVESTMENTS, to exercise reasonable
27 supervision and control over the licensed activities of

1 Respondent INVESTMENTS required by Section 10159.2 of the Code,
2 and is cause for the suspension or revocation of Respondent
3 BADAGLIACCO's licenses and/or license rights under Section
4 10177(h) of the Code.

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

12
13 
14 LES R. BETTENCOURT
15 Deputy Real Estate Commissioner

16 Dated at Oakland, California,
17 this 29th day of July, 1999.
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