

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0425

FILED
APR 21 2000

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 CASEY PAIK)
14)
15 Respondent.)
16 _____)

NO. H-7769 SF

STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between CASEY PAIK,
18 individually and doing business as NARA GROUP INTERNATIONAL
19 (Respondent), represented by Jee Soo Kim, Attorney at Law, and
20 the Complainant, acting by and through Deidre L. Johnson,
21 Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on
23 November 8, 1999:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

1 Procedures Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

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

8 3. On December 6, 1999, Respondent filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that he
13 understands that by withdrawing said Notice of Defense he will
14 thereby waive the right to require the Commissioner to prove the
15 allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA, and that he will waive
17 other rights afforded to him in connection with the hearing such
18 as the right to present evidence in defense of the allegations in
19 the Accusation and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations set forth in
22 Paragraphs I through III of the Accusation are true and correct
23 and the Real Estate Commissioner shall not be required to provide
24 further evidence of such allegations.

25 5. Without admitting the truth of the allegations
26 contained in the remainder of the Accusation, Respondent
27 stipulates that he will not interpose a defense thereto. This

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

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

19 7. Respondent has received, read and understands the
20 "Notice Concerning Costs of Subsequent Audit." Respondent
21 understands, by agreeing to this Stipulation and Agreement, and
22 after the findings set forth below in the "Determination of
23 Issues" become final, that the Commissioner may charge Respondent
24 for the costs of an audit that may be conducted pursuant to
25 Section 10156.6 of the Business and Professions Code. The total
26 costs shall not exceed the sum of \$2,200.00.

27

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

8 DETERMINATION OF ISSUES

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

14 The acts and/or omissions of Respondent CASEY PAIK, as
15 stipulated in Paragraphs 4 and 5 above, violate Sections 10085
16 and 10146 of the California Business and Professions Code (the
17 Code), and Sections 2970 and 2972 of Title 10, California Code of
18 Regulations, and constitute grounds for disciplinary action under
19 the provisions of Sections 10176(e) and 10177(d) of the Code.

20 ORDER

21 A. All real estate license(s) and license rights of Respondent
22 CASEY PAIK are revoked.

23 B. A restricted real estate broker license shall be issued to
24 Respondent pursuant to Section 10156.6 of the Code if he
25 makes application therefor and pays to the Department the
26 appropriate fee for said license within ninety (90) days of
27 the effective date of the Decision.



1 C. The restricted license issued to Respondent shall be subject
2 to all of the provisions of Section 10156.7 of the Business
3 and Professions Code and to the following limitations imposed
4 under authority of Section 10156.6 of said Code:

5 1) The restricted license issued to Respondent may be
6 suspended prior to hearing by order of the Real Estate
7 Commissioner in the event of Respondent's conviction or
8 plea of nolo contendere to a crime which bears a
9 substantial relationship to Respondent's fitness or
10 capacity as a real estate licensee.

11 2) The restricted license issued to Respondent may be
12 suspended prior to hearing by Order of the Real Estate
13 Commissioner on evidence satisfactory to the Commissioner
14 that Respondent has violated provisions of the California
15 Real Estate Law, the Subdivided Lands Law, Regulations of
16 the Real Estate Commissioner or conditions attaching to
17 the restricted license.

18 3) Respondent shall not be eligible to apply for the
19 issuance of an unrestricted real estate license, nor the
20 removal of any of the conditions of the restricted
21 license, until two (2) years has elapsed from the
22 effective date of this Decision.

23 4) Pursuant to Section 10156.6 of the Business and
24 Professions Code, Respondent shall pay the Commissioner's
25 reasonable costs for an audit as a result of the advance
26 fee violations found in the Determination of Issues. In
27 calculating the amount of the Commissioner's reasonable



1 costs, the Commissioner may use the estimated average
2 hourly salary for all Department Audit Section personnel
3 performing audits of real estate brokers, and shall
4 include an allocation for travel time to and from the
5 auditor's place of work. Respondent shall pay such costs
6 within sixty (60) days of receiving an invoice for an
7 audit from the Commissioner detailing the activities
8 performed during the audit and the amount of time spent
9 performing those activities. The total costs shall not
10 exceed \$2,200.00. The Commissioner may suspend the
11 restricted license issued to Respondent pending a hearing
12 held in accordance with Section 11500, et seq., of the
13 Government Code, if payment is not timely made as
14 provided for herein, or as provided for in a subsequent
15 agreement between Respondent and the Commissioner. The
16 suspension shall remain in effect until payment is made
17 in full or until Respondent enter into an agreement
18 satisfactory to the Commissioner to provide for payment,
19 or until a decision providing otherwise is adopted
20 following a hearing held pursuant to this condition:

- 21 5) Respondent shall, within nine (9) months from the
22 effective date of this Decision, present evidence
23 satisfactory to the Real Estate Commissioner that he has,
24 since the most recent issuance of an original or renewal
25 real estate license, taken and successfully completed the
26 continuing education requirements of Article 2.5 of
27 Chapter 3 of the Real Estate Law for renewal of a real



1 estate license. If Respondent fails to satisfy this
2 condition, the Commissioner may order the suspension of
3 the restricted license until Respondent presents such
4 evidence. The Commissioner shall afford Respondent the
5 opportunity for hearing pursuant to the Administrative
6 Procedure Act to present such evidence.

7
8 March 30, 2000
9 DATED

Deidre L. Johnson
DEIDRE L. JOHNSON
Counsel for Complainant

10 * * *

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

21 3/27/2000
22 DATED

Casey Paik
CASEY PAIK, Respondent

23
24 APPROVED AS TO FORM:

25 3/27/2000
26 DATED

Jee Soo Kim
JEE SOO KIM
Counsel for Respondent

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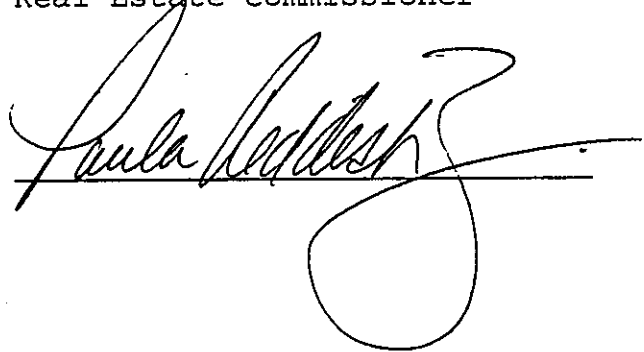
DECISION AND ORDER

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at
12 o'clock noon on May 11, 2000.

IT IS SO ORDERED

April 11, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

CASEY PAIK,

Case No. H-7769 SF

OAH No. N-2000020344

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, the Elihu Harris State

Building, 1515 Clay Street, Suite 206, Oakland, California 94612

on April 7, 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 29, 2000

By Deidre L. Johnson
DEIDRE L. JOHNSON Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department Of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED

NOV 08 1999

DEPARTMENT OF REAL ESTATE

By Jean Rundo

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CASEY PAIK,)
13)
14 Respondents.)

NO. H-7769 SF
ACCUSATION

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against CASEY PAIK, is informed and alleges as
18 follows:

19 I

20 The Complainant, Les R. Bettencourt, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity and not otherwise.

23 II

24 CASEY PAIK (hereafter Respondent) is presently licensed
25 by the Department of Real Estate (hereafter the Department)
26 and/or has license rights as a restricted real estate broker,
27 individually and doing business as NARA GROUP INTERNATIONAL.

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III

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the State of California, including the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and/or borrowers were solicited for loans secured directly or collaterally by liens on real property, and wherein such loans were arranged, negotiated, processed, and consummated on behalf of others, for or in expectation of compensation.

IV

In or about November of 1998, the Department conducted an audit of Respondent's books and records pertaining to the above mortgage loan business for a period from approximately January 1, 1997 to February 27, 1998. In acting as mortgage loan brokers as alleged above, Respondent accepted or received funds in trust from borrowers in connection with the solicitation, negotiation, processing and funding of loans on their behalf.

V

The trust funds accepted or received by Respondent were deposited or caused to be deposited from time to time into an account at Wells Fargo Bank in Oakland, California, Account No. 0500-534987. Said account was not a trust fund account in the name of Respondent as trustee.

VI

In connection with Respondent's mortgage loan business described above, and in advance of any such loans, Respondent

1 charged and collected a fee for purposes including but not
2 limited to "consulting" fees, deposits, and expenses incurred in
3 obtaining a loan for a borrower, including but not limited to the
4 following:

BORROWER	DATE PAID	ADVANCE FEE
Rashpal Kaur	July 6, 1998	\$1,500.00

9
10 VII

11 In connection with charging the above fees, Respondent
12 utilized a written agreement with the borrowers entitled
13 "Agreement for Financial Services and Irrevocable Pay Order"
14 which provided, *inter alia*, that the above fees would be
15 nonrefundable in the event the borrower elects not to accept the
16 loan, or the borrower elects to utilize the services of another
17 company.

18 VIII

19 The above-described fees are advance fees and trust
20 funds as defined under Sections 10026, 10131.2, and/or 10146 of
21 the Code. Respondent failed to obtain approval from the
22 Department for any and all agreements and related materials used
23 by Respondent prior to soliciting or negotiating with the public
24 regarding the advance fee agreements, and prior to collecting
25 such advance fees.

26 ///

27 ///

IX

Upon collection of such fees, Respondent failed to deposit the trust funds into a trust account, and instead deposited some or all of such funds into the account described in Paragraph V above, and commingled said funds with funds belonging to Respondent.

X

With respect to the transaction with borrower Kaur as alleged in Paragraph VI above, Respondent failed to provide a verified accounting at the conclusion of the contract that contained all of the information required by Section 2972 of Title 10, California Code of Regulations (hereafter the Regulations), and failed to refund the trust funds to the borrower.

XI

The above acts and/or omissions of Respondent violate Sections 10085 and 10146 of the Code, and Sections 2970 and 2972 of the Regulations, and constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code. Said acts and/or omissions constitute grounds for disciplinary action pursuant to Sections 10176(e) and 10177(f) of the Code.


XII

PRIOR DISCIPLINARY ACTION

Effective April 22, 1993, in Case No. H-6731 SF, the Real Estate Commissioner revoked the real estate broker license of Respondent CASEY PAIK for violation of Section 10137 of the California Business and Professions Code, and Sections 2725 and

1 2741 of the Regulations, and pursuant to Section 10177(d) of the
2 Code.

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

10 
11 LES R. BETTENCOURT
Deputy Real Estate Commissioner

12 Dated at Oakland, California,
13 this 8th day of November, 1999