

ORIGINAL
COPY

Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
NOV 14 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-7913 SF
HUBERT ALFRED TEMPLE, JR.,)	<u>STIPULATION AND AGREEMENT</u>
STONEMAN CORPORATION, MARION)	<u>AS TO</u>
ELLEN ALDEN and HUBERT ALFRED)	<u>HUBERT ALFRED TEMPLE, JR.</u>
TEMPLE,)	<u>STONEMAN CORPORATION and</u>
Respondents.)	<u>HUBERT ALFRED TEMPLE ONLY</u>

It is hereby stipulated by and between HUBERT ALFRED TEMPLE, JR., STONEMAN CORPORATION and HUBERT ALFRED TEMPLE (Respondents) and their attorney of record, Thomas A. Brackey II of Freund & Brackey LLP, and the Complainant, acting by and through David B. Seals, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 11, 2001, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents 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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement in Settlement.

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

7 3. A Notice of Defense was filed on January 30, 2001 by
8 Respondent HUBERT ALFRED TEMPLE, JR., and on January 31, 2001 by
9 Respondents HUBERT ALFRED TEMPLE and STONEMAN CORPORATION,
10 pursuant to Section 11505 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notices
13 of Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notices of Defense they will thereby waive their
15 right to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual allegations
22 contained in the Accusation. In the interests of expedience and
23 economy, Respondents choose not to contest these allegations, but
24 to remain silent and understand that, as a result thereof, these
25 factual allegations, without being admitted or denied, will serve
26 as a prima facie basis for the disciplinary action stipulated to

27 ///

1 herein. The Real Estate Commissioner shall not be required to
2 provide further evidence to prove said factual allegations.

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

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

21 DETERMINATION OF ISSUES

22 I

23 By reason of the foregoing stipulations, admissions
24 and waivers and solely for the purpose of settlement of the
25 pending Accusation without a hearing, it is stipulated and agreed
26 that the facts alleged above are grounds for the suspension or
27 revocation of the licenses and license rights of Respondents

1 HUBERT ALFRED TEMPLE, JR., STONEMAN CORPORATION and HUBERT ALFRED
2 TEMPLE under Section 10176(a) of the Code.

3 ORDER

4 I

5 All licenses and licensing rights of Respondents HUBERT
6 ALFRED TEMPLE, JR. and STONEMAN CORPORATION under the Real Estate
7 Law are suspended for a period of sixty (60) days from the
8 effective date of this Order; provided, however, that:

9 1. Thirty (30) days of said suspension shall be stayed
10 for one (1) year upon the following terms and conditions:

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

15 B. That no final subsequent determination be
16 made, after hearing or upon stipulation, that cause
17 for disciplinary action occurred within one (1) year
18 from the effective date of this Order. Should such a
19 determination be made, the Commissioner may, in her
20 discretion, vacate and set aside the stay order and
21 reimpose all or a portion of the stayed suspension.
22 Should no such determination be made, the stay imposed
23 herein shall become permanent.

24 2. The remaining thirty (30) days of said 60-day
25 suspension shall be stayed, as to each Respondent individually,
26 upon the condition that each Respondent petition pursuant to
27 Section 10175.2 of the Business and Professions Code and each

1 pays a monetary penalty pursuant to Section 10175.2 of the
2 Business and Professions Code at a rate of \$100 for each day of
3 the suspension for a total monetary penalty of \$3000 for each
4 Respondent:

5 A. Said payment shall be in the form of a
6 cashier's check or certified check made payable to the
7 Recovery Account of the Real Estate Fund. Said check
8 must be delivered to the Department prior to the
9 effective date of the Order in this matter.

10 B. No further cause for disciplinary action
11 against the Real Estate licenses of said Respondent
12 occurs within one (1) year from the effective date of
13 the decision in this matter.

14 C. If any Respondent fails to pay the
15 monetary penalty as provided above prior to the
16 effective date of this Order, the stay of the
17 suspension shall be vacated as to that Respondent and
18 the order of suspension shall be immediately executed,
19 under this Paragraph 2 of this Order, in which event
20 the said Respondent shall not be entitled to any
21 repayment nor credit, prorated or otherwise, for the
22 money paid to the Department under the terms of this
23 Order.

24 D. If said Respondents pay the monetary
25 penalty and any other moneys due under this Stipulation
26 and Agreement and if no further cause for disciplinary
27 action against the real estate licenses of said

1 Respondents occurs within one (1) year from the
2 effective date of this Order, the entire stay hereby
3 granted under Paragraphs 1 and 2 of this Order, as to
4 said Respondents only, shall become permanent.

5 II

6 All licenses and licensing rights of Respondent HUBERT
7 ALFRED TEMPLE under the Real Estate Law are suspended for a
8 period of thirty (30) days from the effective date of this Order;
9 provided, however, that:

10 1. All thirty (30) days of said suspension shall be
11 stayed for one (1) year upon the following terms and conditions:

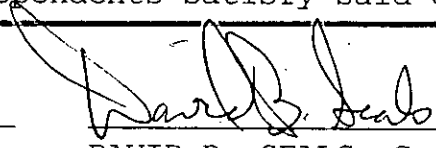
12 A. Respondent HUBERT ALFRED TEMPLE shall obey
13 all laws, rules and regulations governing the rights,
14 duties and responsibilities of a real estate licensee
15 in the State of California; and,

16 B. That no final subsequent determination be
17 made against HUBERT ALFRED TEMPLE, after hearing or
18 upon stipulation, that cause for disciplinary action
19 occurred within one (1) year from the effective date
20 of this Order. Should such a determination be made,
21 the Commissioner may, in her discretion, vacate and
22 set aside the stay order and reimpose all or a portion
23 of the stayed suspension. Should no such
24 determination be made and all other moneys due under
25 this Stipulation and Agreement for which Respondent
26 HUBERT ALFRED TEMPLE is jointly and severally liable
27 have been paid, the stay imposed herein shall become
permanent.

III

Respondents HUBERT ALFRED TEMPLE, JR., STONEMAN CORPORATION and/or HUBERT ALFRED TEMPLE shall be jointly and severally liable for the payment of \$4,199 to Arlie L. and Geneva L. Burress for the loss they suffered as a result of Respondents' misrepresentation regarding their purchase of a 1977 Suncrest mobilehome as determined by Paul Madden of the Department of Housing and Community Development. Such payment shall be made prior to the effective date of this Stipulation and Agreement. If said Respondents fail to satisfy this condition, all licenses and license rights of Respondents HUBERT ALFRED TEMPLE, JR., STONEMAN CORPORATION and HUBERT ALFRED TEMPLE shall be suspended and remain suspended until said Respondents satisfy said condition.

DATED: 10/16/2001


DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

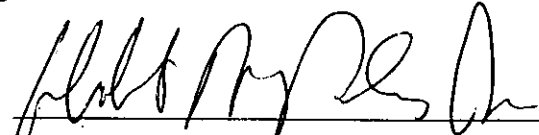
* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, 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

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

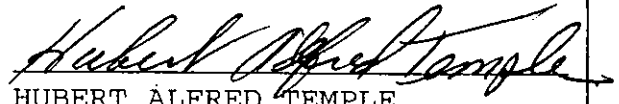
3
4 DATED:

9/17/01


HUBERT ALFRED TEMPLE, JR.
Respondent

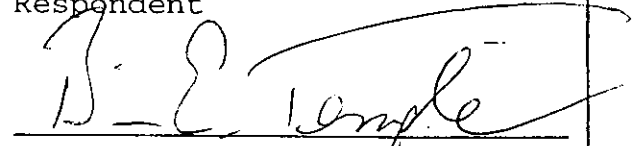
6
7 DATED:

9-24-01


HUBERT ALFRED TEMPLE
Respondent

8
9
10 DATED:

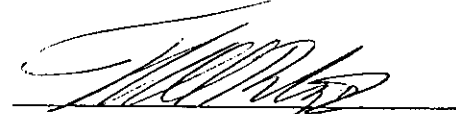
9/24/01


STONEMAN CORPORATION
Respondent

11
12
13 I have reviewed the Stipulation and Agreement as to
14 form and content and have advised my client accordingly.

15
16 DATED:

10/1/01

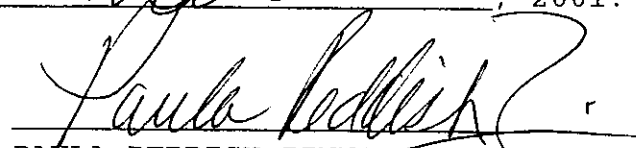

Thomas A. Brackey II
Attorney for Respondent

17
18
19 * * *

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

23 December 4, 2001.

24 IT IS SO ORDERED October 22, 2001.

25
26 
27 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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. A Notice of Defense was filed on January 24, 2001 by
6 Respondent MARION ELLEN ALDEN, pursuant to Section 11505 of the
7 Government Code for the purpose of requesting a hearing on the
8 allegations in the Accusation. Respondent hereby freely and
9 voluntarily withdraws said Notices of Defense. Respondent
10 acknowledges that she understands that by withdrawing said Notice
11 of Defense she will thereby waive her right to require the
12 Commissioner to prove the allegations in the Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that she will waive other rights afforded to her in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

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

26 5. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation and Agreement in

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

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

16 DETERMINATION OF ISSUES

17 I

18 By reason of the foregoing stipulations, admissions
19 and waivers and solely for the purpose of settlement of the
20 pending Accusation without a hearing, it is stipulated and agreed
21 that the facts alleged above are grounds for the suspension or
22 revocation of the licenses and license rights of Respondent
23 MARION ELLEN ALDEN under Section 10176(a) of the Code.

24 ORDER

25 I

26 All licenses and licensing rights of Respondent MARION
27 ELLEN ALDEN under the Real Estate Law are suspended for a period

1 of sixty (60) days from the effective date of this Order;
2 provided, however, that:

3 1. Thirty (30) days of said suspension shall be
4 stayed for one (1) year upon the following terms and conditions:

5 A. Respondent shall obey all laws, rules and
6 regulations governing the rights, duties and
7 responsibilities of a real estate licensee in the
8 State of California; and,

9 B. That no final subsequent determination be
10 made, after hearing or upon stipulation, that cause
11 for disciplinary action occurred within one (1) year
12 from the effective date of this Order. Should such a
13 determination be made, the Commissioner may, in her
14 discretion, vacate and set aside the stay order and
15 reimpose all or a portion of the stayed suspension.
16 Should no such determination be made, the stay imposed
17 herein shall become permanent.

18 2. The remaining thirty (30) days of said 60-day
19 suspension shall be stayed upon the condition that Respondent
20 petition pursuant to Section 10175.2 of the Business and
21 Professions Code and pays a monetary penalty pursuant to Section
22 10175.2 of the Business and Professions Code at a rate of \$100
23 for each day of the suspension for a total monetary penalty of
24 \$3000:

25 A. Said payment shall be in the form of a
26 cashier's check or certified check made payable to
27 the Recovery Account of the Real Estate Fund.

1 Said check must be delivered to the Department
2 prior to the effective date of the Order in this
3 matter.

4 B. No further cause for disciplinary action
5 against the Real Estate licenses of Respondent occurs
6 within one (1) year from the effective date of the
7 decision in this matter.

8 C. If Respondent fails to pay the monetary
9 penalty as provided above prior to the effective date
10 of this Order, the stay of the suspension shall be
11 vacated and the order of suspension shall be
12 immediately executed, under this Paragraph 2 of this
13 Order, in which event Respondent shall not be entitled
14 to any repayment nor credit, prorated or otherwise, for
15 the money paid to the Department under the terms of
16 this Order.

17 D. If Respondent pays the monetary penalty
18 and if no further cause for disciplinary action against
19 the real estate licenses of Respondent occurs within
20 one (1) year from the effective date of this Order, the
21 entire stay hereby granted under Paragraphs 1 and 2 of
22 this Order shall become permanent.

23
24
25 DATED: 6/14/2001


26 DAVID B. SEALS, Counsel
27 DEPARTMENT OF REAL ESTATE

1 * * *

2 I have read the Stipulation and Agreement, have had the
3 opportunity to consult with legal counsel, and its terms are
4 understood by me and are agreeable and acceptable to me. I
5 understand that I am waiving rights given to me by the California
6 Administrative Procedure Act (including but not limited to
7 Sections 11506, 11508, 11509 and 11513 of the Government Code),
8 and I willingly, intelligently and voluntarily waive those
9 rights, including the right of requiring the Commissioner to
10 prove the allegations in the Accusation at a hearing at which I
11 would have the right to cross-examine witnesses against me and to
12 present evidence in defense and mitigation of the charges.

13
14 6-7-01

DATED

15 Marion Ellen Alden
16 MARION ELLEN ALDEN
17 Respondent

18 * * *

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

22 July 26, 2001.

23 IT IS SO ORDERED

24 June 29, 2001.

25 Paula Reddish Zinnemann
26 PAULA REDDISH ZINNEBANN
27 Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB 15 2001

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

HUBERT ALFRED TEMPLE, JR.,
STONEMAN CORPORATION, MARIAN ELLEN
ALDEN and HUBERT ALFRED TEMPLE

Case No. H-7913 SF

OAH No. N2001020151

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

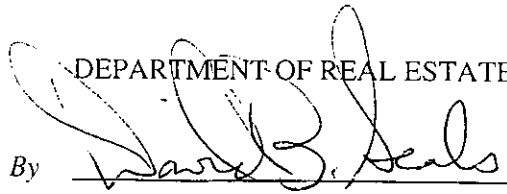
You are hereby notified that a hearing will be held before the Department of Real Estate at THE OFFICE OF ADMINISTRATIVE HEARINGS, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on FRIDAY--MARCH 30, 2001, at the hour of 9:00 AM, or as soon thereafter as the matter can 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.

Dated: FEBRUARY 15, 2001

DEPARTMENT OF REAL ESTATE
By 
DAVID B. SEALS, Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED
JAN 11 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of	)	No. H-7913 SF
	)	
12 HUBERT ALFRED TEMPLE, JR.,	)	<u>ACCUSATION</u>
	)	
13 STONEMAN CORPORATION, MARIAN	)	
	)	
14 ELLEN ALDEN and HUBERT ALFRED	)	
	)	
15 TEMPLE,	)	
	)	
Respondents.	)	

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California for cause of
18 Accusation against HUBERT ALFRED TEMPLE, JR., STONEMAN
19 CORPORATION, MARIAN ELLEN ALDEN and HUBERT ALFRED TEMPLE is
20 informed and alleges as follows:

21 I

22 The Complainant, Charles W. Koenig, a Deputy Real
23 Estate Commissioner of the State of California, makes this
24 Accusation in his official capacity.

25 ///

26 ///

27 ///

1 II

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

5 a. STONEMAN CORPORATION (hereinafter "STONEMAN") as a
6 corporate real estate broker;

7 b. HUBERT ALFRED TEMPLE (hereinafter "TEMPLE") as a
8 real estate broker and as the designated officer of Respondent
9 STONEMAN;

10 c. HUBERT ALFRED TEMPLE, JR. (hereinafter "TEMPLE,
11 JR.") as a real estate salesperson; and

12 d. MARIAN ELLEN ALDEN (hereinafter "ALDEN") as a real
13 estate salesperson.

14 III

15 During the period from on or about December 15, 1997
16 through June, 1998, in connection with purchase of a 1977
17 Suncrest manufactured home, Respondents TEMPLE, JR., TEMPLE,
18 STONEMAN, and ALDEN, substantially misrepresented the length of
19 such home to the buyers, Arlie L. and Geneva L. Burress. The
20 length of the home was much shorter than represented to Arlie L.
21 and Geneva L. Burress.

22 IV

23 Respondents and each of them knew or should have known
24 the correct length of the home but failed to inform Arlie L. and
25 Geneva L. Burress of the correct length. As a result of the
26 misinformation given by Respondents and each of them to Arlie L.

27 ///

1 and Geneva L. Burress, they purchased the 1977 Suncrest
2 manufactured home.

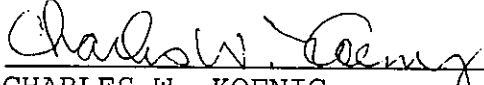
3 V

4 Arlie L. and Geneva L. Burress would not have purchased
5 said home at the price for which it was purchased had they known
6 the true length of the home.

7 VI

8 The acts and/or omissions of Respondents TEMPLE, JR.,
9 TEMPLE, STONEMAN, and ALDEN to deceive and/or make
10 misrepresentations to Arlie L. and Geneva L. Burress with the
11 intent to substantially benefit themselves constitute violation
12 of Sections 10176(a) and/or (i) and/or 10177(j) of the Code and
13 are grounds for the suspension or revocation of their California
14 real estate licenses.

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

22 
23 CHARLES W. KOENIG
24 Deputy Real Estate Commissioner

24 Dated at Sacramento, California,
25 this 11th day of January, 2001.