

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
OCT 18 2001

DEPARTMENT OF REAL ESTATE

By Shelly Key

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA
11

* * *

12 In the Matter of the Accusation of)
13) NO. H-7959 SF
14 FRED TIM THAYER,) STIPULATION AND AGREEMENT
15)
16 Respondent.)

17 It is hereby stipulated by and between FRED TIM
18 THAYER (hereafter Respondent), and the Complainant, acting by
19 and through Deidre L. Johnson, Counsel for the Department of
20 Real Estate, as follows for the purpose of settling and
21 disposing the Accusation filed on May 31, 2001, in this matter:

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

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

4 3. On June 21, 2001, Respondent filed his Notice of
5 Defense pursuant to Section 11505 of the Government Code for the
6 purpose of requesting a hearing on the allegations in the
7 Accusation. Respondent hereby freely and voluntarily withdraws
8 said Notice of Defense. Respondent acknowledges that he
9 understands that by withdrawing said Notice of Defense he will
10 thereby waive his rights to require the Commissioner to prove the
11 allegations in the Accusation at a contested hearing held in
12 accordance with the provisions of the APA, and that he will waive
13 other rights afforded to him in connection with the hearing such
14 as the right to present evidence in defense of the allegations in
15 the Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth
17 below, hereby admits that the factual allegations pertaining to
18 him in the Accusation filed in this proceeding are true and
19 correct and the Real Estate Commissioner shall not be required
20 to provide further evidence of such allegations.

21 5. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement as
23 the decision in this matter thereby imposing the penalty and
24 sanctions on the real estate licenses and license rights of
25 Respondent as set forth in the below "Order". In the event
26 that the Commissioner in her discretion does not adopt the
27 Stipulation and Agreement, it shall be void and of no effect,

1 and Respondent shall retain the rights to a hearing and
2 proceeding on the Accusation under all the provisions of the APA
3 and shall not be bound by any admission or waiver made herein.

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

11 DETERMINATION OF ISSUES

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

17 The acts and/or omissions of Respondent FRED TIM THAYER
18 as stipulated above constitute grounds for disciplinary action
19 against the real estate license and license rights of Respondent
20 under the provisions of Sections 490 and 10177(b) of the Code.

21 ORDER

22
23 A. All real estate license(s) and license rights of
24 Respondent FRED TIM THAYER are hereby revoked.

25 B. A restricted real estate salesperson license
26 shall be issued to Respondent pursuant to Section 10156.6 of
27 the Code, if he makes application therefor and pays to the

1 Department of Real Estate the appropriate fee for said license
2 within ninety (90) days from the effective date of the
3 decision.

4 C. The restricted license issued to Respondent shall
5 be subject to all of the provisions of Section 10156.7 of the
6 Business and Professions Code and to the following limitations,
7 conditions, and restrictions imposed under authority of Section
8 10156.6 of that Code:

9 (1) The restricted license issued to Respondent may
10 be suspended prior to hearing by Order of the
11 Real Estate Commissioner in the event of
12 Respondent's conviction or plea of nolo
13 contendere to a crime which is substantially
14 related to Respondent's fitness or capacity as
15 a real estate licensee.

16 (2) The restricted license issued to Respondent may
17 be suspended prior to hearing by Order of the
18 Real Estate Commissioner on evidence
19 satisfactory to the Commissioner that
20 Respondent has violated provisions of the
21 California Real Estate Law, the Subdivided
22 Lands Law, Regulations of the Real Estate
23 Commissioner, or conditions attaching to the
24 restricted license.

25 (3) Respondent shall not be eligible to apply for
26 the issuance of an unrestricted real estate
27 license, nor the removal of any of the

1 conditions of the restricted license, until two
2 (2) years has elapsed from the effective date
3 of this Decision.

4 (4) Respondent shall submit with any application
5 for license under an employing broker, or any
6 application for transfer to an new employing
7 broker, a statement signed by the prospective
8 employing real estate broker on a form approved
9 by the Department of Real Estate which shall
10 certify:

- 11 (a) That the employing broker has read the
12 Decision of the Commissioner which granted
13 the right to a restricted license; and,
14 (b) That the employing broker will exercise
15 close supervision over the performance by
16 the restricted licensee relating to
17 activities for which a real estate license
18 is required.

19 (5) The license issued pursuant to this order
20 shall be deemed to be the first renewal of
21 Respondent's real estate salesperson license
22 for the purpose of applying the provisions of
23 Section 10153.4. Within nine (9) months from
24 the date of this Order, Respondent shall submit
25 evidence of having taken and successfully
26 completed the courses specified in subdivisions
27 (a)(1), (2), (3) and (4) of Section 10170.5 of

1 the Real Estate Law for renewal of a real
2 estate license.

3 (6) Thereafter, upon renewal of the license issued
4 pursuant to this Order, Respondent shall submit
5 evidence of having taken and successfully
6 completed the continuing education requirements
7 of Article 2.5 of Chapter 3 of the Real Estate
8 Law for renewal of a real estate license.

9
10
11 September 13, 2001
12 DATED

13
14 Deidre L. Johnson
15 DEIDRE L. JOHNSON
16 Counsel for the Complainant

17 * * *

18 I have read the Stipulation and Agreement, understand
19 that I have the right to discuss it, or have discussed it, with
20 counsel, and its terms are understood by me and are agreeable and
21 acceptable to me. I understand that I am waiving rights given to
22 me by the California Administrative Procedure Act, 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 Accusation at a hearing at which I would have
26 the right to cross-examine witnesses against me and to present
27 evidence in defense and mitigation of the charges.

28 9-11-01
29 DATED

30 Fred Tim Thayer
31 FRED TIM THAYER
32 Respondent

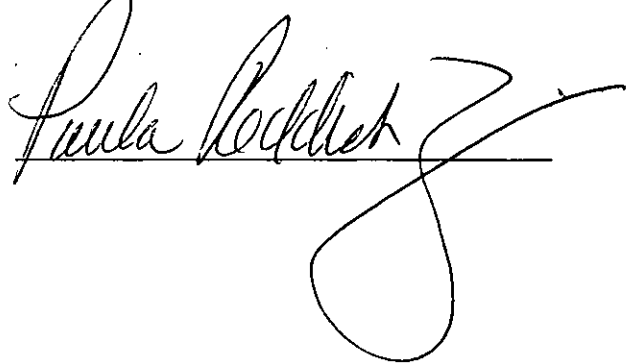
1 * * *

2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision and shall become effective at 12 o'clock
4 noon on November 7, 2001.

5
6 IT IS SO ORDERED

September 24, 2001.

7 PAULA REDDISH ZINNEMANN
8 Real Estate Commissioner

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JUL 11 2001

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

FRED TIM THAYER,

Case No. H-7959 SF

OAH No. _____

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 Elihi Harris State

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

on September 12, 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.

DEPARTMENT OF REAL ESTATE

Dated: July 3, 2001

By

Larry A. Alamao
LARRY A. ALAMAO

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
MAY 31 2001

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 FRED TIM THAYER,)
13 Respondent.)

NO. H-7959 SF

ACCUSATION

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against FRED TIM THAYER, is informed and alleges as
18 follows:

19 I

20 FRED TIM THAYER (hereafter Respondent) is presently
21 licensed and/or has license rights under the Real Estate Law,
22 Part 1 of Division 4 of the California Business and Professions
23 Code (hereafter Code) as a real estate salesperson, subject to
24 Section 10153.4 of the Code.

25 II

26 The Complainant, Les R. Bettencourt, a Deputy Real
27 Estate Commissioner of the State of California, makes this

1 Accusation against Respondent in his official capacity and not
2 otherwise..


3 III

4 On or about June 14, 2000, in the Superior Court of
5 California, County of San Mateo, Respondent was convicted of
6 violation of California Health and Safety Code Section 11359
7 (POSSESSION OF MARIJUANA FOR SALE), a felony, a crime involving
8 moral turpitude, and a crime which is substantially related under
9 Section 2910, Title 10, California Code of Regulations to the
10 qualifications, functions or duties of a real estate licensee.

11 IV

12 The facts alleged in Paragraph III above constitute
13 cause under Sections 490 and 10177(b) of the Code for suspension
14 or revocation of all license and license rights of Respondent
15 under the Real Estate Law.

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

23
24 
25 LES R. BETTENCOURT
Deputy Real Estate Commissioner

26 Dated at Oakland, California,
27 this 18th day of May, 2001.