

FILED

OCT 26 2007

DEPARTMENT OF REAL ESTATE

By Juan Arreola

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-8575 SF
HAWTHORNE STONE R E)
INVESTMENTS, INC.,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 21, 2004, in Case No. H-8575 SF, a Decision was rendered revoking the corporate real estate broker license of Respondent effective July 23, 2004, but granting Respondent the right to the issuance of a restricted corporate real estate broker license. A restricted corporate real estate broker license was issued to Respondent on September 27, 2004, and Respondent has operated as a restricted licensee since that time.

On September 28, 2006, Respondent petitioned for reinstatement of said corporate 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 corporate real estate broker license and that it
6 would not be against the public interest to issue said license to
7 Respondent.

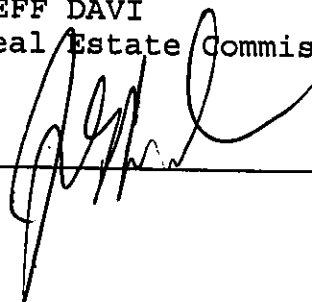
8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a corporate real
10 estate broker license be issued to Respondent if Respondent
11 satisfies the following conditions within nine (9) months from
12 the date of this Order:

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

15 This Order shall be effective immediately.

16 DATED: _____

17 JEFF DAVI
18 Real Estate Commissioner

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FILED

OCT 26 2007

DEPARTMENT OF REAL ESTATE

By Jean Arment

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-8575 SF
ROB CASSIL,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 21, 2004, in Case No. H-3521 SAC, a Decision was rendered revoking the real estate broker license of Respondent effective July 23, 2004, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on September 27, 2004, and Respondent has operated as a restricted licensee since that time.

On September 28, 2006, 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: _____

21 JEFF DAVIS
22 Real Estate Commissioner
23
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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

JUL 02 2004

DEPARTMENT OF REAL ESTATE

By Jean Alamao

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

11 * * *

12 In the Matter of the Accusation of)
13 HAWTHORNE STONE R. E.) NO. H-8575 SF
14 INVESTMENTS INC., and)
15 ROB CASSIL,) STIPULATION AND AGREEMENT
16 Respondents.)

17 It is hereby stipulated by and between HAWTHORNE STONE
18 R. E. INVESTMENTS INC., (hereafter Respondent HAWTHORNE) and ROB
19 CASSIL (hereafter Respondent CASSIL), represented by Julian T.
20 Lastowski, Attorney at Law, and the Complainant, acting by and
21 through Larry A. Alamao, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing the
23 Accusation filed on November 7, 2003, in this matter:

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

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

7 3. On November 18, 2003, Respondents filed a Notice
8 of Defense pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondents hereby freely and voluntarily withdraw
11 said Notice of Defense. Respondents acknowledge that they
12 understand that by withdrawing said Notice of Defense they will
13 thereby waive their rights to require the Commissioner to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA, and that they will
16 waive other rights afforded to them in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. Respondents, pursuant to the limitations set forth
21 below, hereby admit that the factual allegations pertaining to
22 them in Paragraphs I through IV of the Accusation filed in this
23 proceeding are true and correct and the Real Estate Commissioner
24 shall not be required to provide further evidence of such
25 allegations.

26 5. Without admitting the truth of the allegations
27 contained in the remaining paragraphs of the Accusation,

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

10 6. Respondents understand that by agreeing to this
11 Stipulation and Agreement, Respondents agree to pay, pursuant to
12 Section 10148 of the California Business and Professions Code,
13 the costs of the audit which resulted in the determination that
14 Respondents committed the trust fund violation(s) found in
15 Paragraph I, below, of the Determination of Issues. The amount
16 of said costs is \$5,491.50.

17 7. Respondents further understand that by agreeing to
18 this Stipulation and Agreement, the findings set forth below in
19 the Determination of Issues become final, and that the
20 Commissioner may charge said Respondents for the costs of any
21 audit conducted pursuant to Section 10148 of the California
22 Business and Professions Code to determine if the violations
23 have been corrected. The maximum costs of said audit shall not
24 exceed \$5,491.50.

25 8. It is understood by the parties that the Real
26 Estate Commissioner may adopt the Stipulation and Agreement as
27 his decision in this matter thereby imposing the penalty and

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

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

15 * * *

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations and waivers,
18 and solely for the purpose of settlement of the pending
19 Accusation without a hearing, it is stipulated and agreed that
20 the following determination of issues shall be made:

21 The acts and/or omissions of Respondents HAWTHORNE
22 STONE R. E. INVESTMENTS INC., and ROB CASSIL as stipulated above
23 violate Section 10145 of the California Business and Professions
24 Code (hereafter the Code), and Sections 2831.1, 2831.2, and
25 2832.1 of Title 10, California Code of Regulations, and
26 constitute grounds for disciplinary action under the provisions
27 of Section 10177(d) of the Code.

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I

B. A restricted real estate broker license shall be issued to
Respondent HAWTHORNE pursuant to Section 10156.6 of the Code,
if Respondent HAWTHORNE makes application therefor and pays
to the Department the appropriate fee for said license within
ninety (90) days of the effective date of the Order.

1) Respondent HAWTHORNE shall, prior to and as a condition
of the issuance of said restricted license, submit proof
satisfactory to the Commissioner of having cured the
shortage alleged in Paragraph VII of the Accusation.

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

3) The restricted license may be suspended prior to hearing
by Order of the Real Estate Commissioner on evidence

1 satisfactory to the Commissioner that Respondent
2 HAWTHORNE has violated provisions of the California Real
3 Estate Law, the Subdivided Lands Law, Regulations of the
4 Real Estate Commissioner, or conditions attaching to the
5 restricted license.

6 4) Respondent HAWTHORNE shall not be eligible to apply for
7 the issuance of an unrestricted real estate license, nor
8 the removal of any of the conditions of the restricted
9 license, until two (2) years have elapsed from the
10 effective date of this Order.

11 5) Pursuant to Section 10148 of the Business and Professions
12 Code, Respondent HAWTHORNE shall pay the sum of \$5,491.50
13 for the Commissioner's cost of the audit which led to
14 this disciplinary action. Respondent HAWTHORNE shall pay
15 such cost within sixty (60) days of receiving an invoice
16 therefor from the Commissioner. The Commissioner may
17 suspend the restricted license issued to Respondent
18 HAWTHORNE pending a hearing held in accordance with
19 Section 11500, et seq., of the Government Code, if
20 payment is not timely made as provided for herein, or as
21 provided for in a subsequent agreement between the
22 Respondent HAWTHORNE and the Commissioner. The suspension
23 shall remain in effect until payment is made in full or
24 until Respondent HAWTHORNE enters into an agreement
25 satisfactory to the Commissioner to provide for payment,
26 or until a decision providing otherwise is adopted
27 following a hearing held pursuant to this condition.

1 6) Pursuant to Section 10148 of the Business and Professions
2 Code, Respondent HAWTHORNE shall pay the Commissioner's
3 reasonable cost, not to exceed \$5,491.50, for an audit
4 to determine if Respondent HAWTHORNE has corrected the
5 trust fund violation(s) found in Paragraph I of the
6 Determination of Issues. In calculating the amount of the
7 Commissioner's reasonable cost, the Commissioner may use
8 the estimated average hourly salary for all persons
9 performing audits of real estate brokers, and shall
10 include an allocation for travel time to and from the
11 auditor's place of work. Respondent HAWTHORNE shall pay
12 such cost within sixty (60) days of receiving an invoice
13 therefor from the Commissioner detailing the activities
14 performed during the audit and the amount of time spent
15 performing those activities. The Commissioner may suspend
16 the restricted license issued to Respondent HAWTHORNE
17 pending a hearing held in accordance with Section 11500,
18 et seq., of the Government Code, if payment is not timely
19 made as provided for herein, or as provided for in a
20 subsequent agreement between Respondent HAWTHORNE and
21 the Commissioner. The suspension shall remain in effect
22 until payment is made in full or until Respondent
23 HAWTHORNE enters into an agreement satisfactory to the
24 Commissioner to provide for payment, or until a decision
25 providing otherwise is adopted following a hearing held
26 pursuant to this condition.

27 ///

II

A. All real estate license(s) and license rights of Respondent
ROB CASSIL are revoked.

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

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

1) Respondent CASSIL shall, prior to and as a condition of
the issuance of said restricted license, submit proof
satisfactory to the Commissioner of having taken and
completed the continuing education course on trust fund
accounting and handling specified in paragraph (3) of
subdivision (a) of Section 10170.5 of the Business and
Professions Code from an approved continuing education
course provider. Said course may have been completed
within one hundred and eighty (180) days prior to the
effective date of the Order herein.

2) Respondent CASSIL shall, prior to and as a condition of
the issuance of said restricted license, submit proof
satisfactory to the Commissioner of having cured the
shortage alleged in Paragraph VII of the Accusation.

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

7 4) The restricted license may be suspended prior to hearing
8 by Order of the Real estate Commissioner on evidence
9 satisfactory to the Commissioner that Respondent CASSIL
10 has violated provisions of the California Real Estate
11 Law, the Subdivided Lands Law, Regulations of the Real
12 Estate Commissioner, or conditions attaching to the
13 restricted license.

14 5) Respondent CASSIL shall not be eligible to apply for the
15 issuance of an unrestricted real estate license, nor the
16 removal of any of the conditions of the restricted
17 license, until two (2) years have elapsed from the
18 effective date of this Order.

19 6) Pursuant to Section 10148 of the Business and
20 Professions Code, Respondent CASSIL shall pay the sum of
21 \$5,491.50 for the Commissioner's cost of the audit which
22 led to this disciplinary action. Respondent shall pay
23 such cost within sixty (60) days of receiving an invoice
24 therefor from the Commissioner. The Commissioner may
25 suspend the restricted license issued to Respondent
26 CASSIL pending a hearing held in accordance with Section
27 11500, et seq., of the Government Code, if payment is

1 not timely made as provided for herein, or as provided
2 for in a subsequent agreement between Respondent CASSIL
3 and the Commissioner. The suspension shall remain in
4 effect until payment is made in full or until Respondent
5 CASSIL enters into an agreement satisfactory to the
6 Commissioner to provide for payment, or until a decision
7 providing otherwise is adopted following a hearing held
8 pursuant to this condition.

9 7) Pursuant to Section 10148 of the Business and Professions
10 Code, Respondent CASSIL shall pay the Commissioner's
11 reasonable cost, not to exceed \$5,491.50, for an audit to
12 determine if Respondent CASSIL has corrected the trust
13 fund violation(s) found in Paragraph I of the
14 Determination of Issues. In calculating the amount of
15 the Commissioner's reasonable cost, the Commissioner may
16 use the estimated average hourly salary for all persons
17 performing audits of real estate brokers, and shall
18 include an allocation for travel time to and from the
19 auditor's place of work. Respondent CASSIL shall pay
20 such cost within sixty (60) days of receiving an invoice
21 therefor from the Commissioner detailing the activities
22 performed during the audit and the amount of time spent
23 performing those activities. The Commissioner may
24 suspend the restricted license issued to Respondent
25 pending a hearing held in accordance with Section 11500;
26 et seq., of the Government Code, if payment is not timely
27 made as provided for herein, or as provided for in a

1 subsequent agreement between the Respondent CASSIL and
2 the Commissioner. The suspension shall remain in effect
3 until payment is made in full or until Respondent CASSIL
4 enters into an agreement satisfactory to the Commissioner
5 to provide for payment, or until a decision providing
6 otherwise is adopted following a hearing held pursuant to
7 this condition.

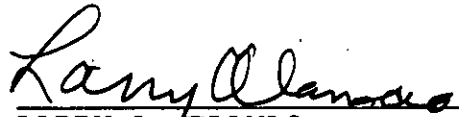
8 8) Respondent CASSIL shall, within nine (9) months from the
9 effective date of this Order, present evidence
10 satisfactory to the Real Estate Commissioner that
11 Respondent CASSIL has, since the most recent issuance of
12 an original or renewal real estate license, taken and
13 successfully completed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

22 9) Respondent CASSIL shall, within six (6) months from the
23 effective date of this Decision, take and pass the
24 Professional Responsibility Examination administered by
25 the Department including the payment of the appropriate
26 examination fee. If Respondent CASSIL fails to satisfy
27 this condition, the Commissioner may order suspension of

1 the restricted license until Respondent CASSIL passes the
2 examination.

3 5/3/04

4 DATED

5 
6 LARRY A. ALAMAO
7 Counsel for Complainant

8 * * *

9 I have read the Stipulation and Agreement, have
10 discussed it with my counsel, and its terms are understood by me
11 and are agreeable and acceptable to me. I understand that I am
12 waiving rights given to me by the California Administrative
13 Procedure Act, and I willingly, intelligently, and voluntarily
14 waive those rights, including the right of requiring the
15 Commissioner to prove the allegations in the Accusation at a
16 hearing at which I would have the right to cross-examine
17 witnesses against me and to present evidence in defense and
18 mitigation of the charges. Subject to my letter of
19 Clarification dated May 11, 2004.

20 HAWTHORNE STONE R. E.
21 INVESTMENTS INC., Respondent

22 5-11-04

23 DATED

24 By: 

25 5-11-04

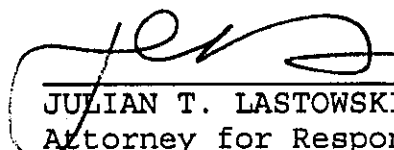
26 DATED

27 
ROB CASSIL, Respondent

28 I have reviewed the Stipulation and Agreement as to
29 form and content and have advised my clients accordingly.

30 11 May 2004

31 DATED

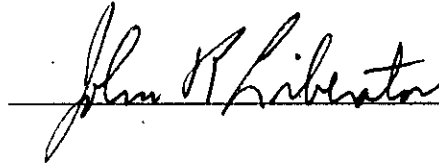
32 
33 JULIAN T. LASTOWSKI
34 Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on July 23, 2004.

IT IS SO ORDERED May 21, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



FILED

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

FEB - 6 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

HAWTHORNE STONE
R. E. INVESTMENTS, INC., and
ROB CASSIL,

} Case No. H-8575 SF

} OAH No. N-2003120497

Respondents

**FIRST CONTINUED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

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, CA 94612**

on **MAY 12, 2004**, 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 6, 2004

By

Larry A. Alamao
LARRY A. ALAMAQ, Counsel

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

FILED
JAN - 8 2004

DEPARTMENT OF REAL ESTATE

Laurie L. Zin

In the Matter of the Accusation of

HAWTHORNE STONE R.E.
INVESTMENTS INC., AND
ROB CASSIL,

} Case No. H-8575 SF

} OAH No. N-2003120497

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

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 **TUESDAY, MARCH 9, 2004**, at the hour of **9:00 A.M.**, 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: JANUARY 8, 2004

By

David B. Seals
DAVID B. SEALS, 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
NOV - 7 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 HAWTHORNE STONE R. E.)
13 INVESTMENTS INC., AND)
14 ROB CASSIL)
15 Respondents.)

No. H-8575 SF

ACCUSATION

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 accusation against HAWTHORNE STONE R. E. INVESTMENTS INC.
19 (hereinafter "Respondent HAWTHORNE") and ROB CASSIL aka Robert
20 Brayshaw Cassil (hereinafter "Respondent CASSIL") is informed
21 and alleges as follows:

22 I

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

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1 II

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

5 HAWTHORNE STONE R. E. INVESTMENTS INC. - as a real
6 estate broker corporation.

7 BOB CASSIL - as a real estate broker and as designated
8 broker-officer for Respondent HAWTHORNE.

9 III

10 Whenever reference is made in an allegation in this
11 Accusation to an act or omission of "Respondents", such
12 allegation shall be deemed to mean the act or omission of each
13 of the Respondents named in the caption hereof, acting
14 individually, jointly, and severally.

15 IV

16 At all times herein mentioned, Respondents engaged in
17 the business of, acted in the capacity of, advertised or assumed
18 to act as a real estate broker in the State of California,
19 within the meaning of Section 10131(b) of the Code, wherein
20 Respondents for or in expectation of a compensation solicited
21 prospective tenants for, negotiated rental agreements for and
22 collected rents from real properties owned by another or others
23 and otherwise managed real properties located in or near San
24 Francisco, California.

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1 V

2 Beginning on or about April 21, 2003, the Department
3 conducted an audit of Respondents' property management
4 activities for the time period April 1, 2002 to March 31, 2003
5 as set forth in Audit No. OK020100 dated July 3, 2003. During
6 the course of the property management activities described in
7 Paragraph IV above, Respondents received and disbursed funds
8 held in trust on behalf of another or others.

9 VI

10 Beginning on or before April 1, 2002 through on or
11 after March 31, 2003, Respondents maintained the following trust
12 fund accounts:

13 <u>TITLE AND ACCOUNT NUMBER</u>	<u>BANK</u>
14 Hawthorne/Stone Properties Management 15 Division Trust Account Investment Inc 16 Account No. 1891532127 (hereinafter "Trust Account #1")	Comerica Bank San Francisco, Calif.

17 VII

18 In connection with the receipt and disbursement of
19 trust funds described in Paragraph V above, Respondents failed
20 to deposit and maintain trust funds in Trust Account #1 in such
21 manner that as of March 31, 2003, there was a shortage of
22 \$73,631.64 of trust funds.

23 VIII

24 Respondents failed to obtain prior written consent
25 from each of the 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 "the Regulations").

3 IX

4 Within the three-year period immediately preceding the
5 filing of this Accusation, in connection with Trust Account #1,
6 Respondents commingled with their own money or property the
7 money or property of others which had been received and held by
8 them in violation of Section 10176(e) of the Code.

9 X

10 In connection with the receipt and disbursement of
11 trust funds described in Paragraph V above, Respondents
12 permitted withdrawals to be made from Trust Account #1 by
13 someone other than a corporate officer, or a salesperson
14 licensed to Respondents and authorized in writing by Respondents
15 to withdraw said funds, or an authorized unlicensed employee
16 covered by a fidelity bond indemnifying Respondents against loss
17 in an amount sufficient to cover the maximum amount of funds to
18 which the employee had access at any time, as required by
19 Section 2834 of the Regulations.

20 XI

21 In connection with the receipt and disbursement of
22 trust funds in Trust Account #1, Respondents failed to
23 adequately maintain and perform a reconciliation with records of
24 all trust funds received and disbursed, at least once per month,
25 as required by Section 2831.2 of the Regulations.

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27 ///

1 XII

2 Within the three-year period immediately preceding the
3 filing of this Accusation, Respondents failed to notify the
4 Commissioner in writing within five (5) days of the employment
5 of Respondents by Respondents of real estate salesperson Andrew
6 Nicholas Mehiel as required by Section 10161.8 of the Code and
7 Section 2752 of the Regulations.

8 XIII

9 Within the three-year period immediately preceding the
10 filing of this Accusation, Respondents failed to retain at
11 Respondents main business office the real estate license
12 certificates of real estate salespersons employed by Respondents
13 as required by Section 2753 of the Regulations.

14 XIV

15 The facts alleged above, are grounds for the
16 suspension or revocation of Respondents' licenses and/or license
17 rights under the following sections of the Code and Regulations:

18 (1) As to Paragraph VII, under Section 10177(d) of
19 the Code in conjunction with Section 10145 of the Code;

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

22 (3) As to Paragraph IX, under Section 10176(e) of he
23 Code;

24 (4) As to Paragraph X, under Section 10177(d) of the
25 Code in conjunction with Section 2834 of the Regulations;

26 (5) As to Paragraph XI, under Section 10177(d) of the
27 Code in conjunction with Section 2831.2 of the Regulations;

1 (6) As to Paragraph XII, under Section 10177(d) of
2 the Code in conjunction with Section 10161.8 of the Code and
3 Section 2752 of the Regulations; and

4 (7) As to Paragraph XIII, under Section 10177(d) of
5 the Code in conjunction with Section 2753 of the Regulations.

6 In the alternative, the acts and/or omissions of
7 Respondent CASSIL described above, constitute failure on the
8 part of Respondent CASSIL, as designated broker-officer for
9 Respondent HAWTHORNE, to exercise reasonable supervision and
10 control over the licensed activities of Respondent HAWTHORNE
11 required by Section 10159.2 of the Code, and is cause for the
12 suspension or revocation of Respondent CASSIL's license and or
13 license rights under Section 10177(h) of the Code.

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

21
22 
23 LES R. BETTENCOURT
Deputy Real Estate Commissioner

24 Dated at Oakland, California,
25 this 5th day of November, 2003.