

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789

FILED
FEB 15 2005

DEPARTMENT OF REAL ESTATE

BY *J. Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8923 SF
12)
13 GOLDEN STATE MORTGAGE) STIPULATION AND AGREEMENT
14 CORPORATION, a Corporation, and)
15 CLIFFORD EDWARD STANLEY,)
16 Respondents.)

17 It is hereby stipulated by and between Respondents
18 GOLDEN STATE MORTGAGE CORPORATION. a corporation, and CLIFFORD
19 EDWARD STANLEY (hereinafter "Respondents"), individually and by
20 and through James D. Gunderson, Jr., Esq., attorney of record
21 herein for Respondents, and the Complainant, acting by and
22 through James L. Beaver, Counsel for the Department of Real
23 Estate (herein "the Department"), as follows for the purpose of
24 settling and disposing of the Accusation filed on September 16,
25 2004 in this matter (herein "the Accusation"):

26
27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement.

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department in this proceeding.

11 3. On September 28, 2004, Respondents filed Notices
12 of Defense pursuant to Section 11505 of the Government Code for
13 the purpose of requesting a hearing on the allegations in the
14 Accusation. Respondents each hereby freely and voluntarily
15 withdraw said Notice of Defense. Respondents acknowledge that
16 Respondents understand that by withdrawing said Notice of Defense
17 Respondents will thereby waive Respondents' right to require the
18 Real Estate Commissioner (herein "the Commissioner") to prove the
19 allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that Respondents
21 will waive other rights afforded to Respondents in connection
22 with the hearing such as the right to present evidence in defense
23 of the allegations in the Accusation and the right to cross-
24 examine witnesses.
25

26
27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

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

10 5. It is understood by the parties that the
11 Commissioner may adopt the Stipulation and Agreement as his
12 decision in this matter, thereby imposing the penalty and
13 sanctions on Respondents' real estate license and license rights
14 as set forth in the "Order" below. In the event that the
15 Commissioner in his discretion does not adopt the Stipulation and
16 Agreement, it shall be void and of no effect, and Respondents
17 shall retain the right to a hearing and proceeding on the
18 Accusation under all the provisions of the APA and shall not be
19 bound by any admission or waiver made herein.
20

21 6. This Stipulation and Agreement shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department with
24 respect to any matters which were not specifically alleged to be
25 causes for accusation in this proceeding.
26

27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

DETERMINATION OF ISSUES

1 By reason of the foregoing stipulations, admissions and
2 waivers and solely for the purpose of settlement of the pending
3 Accusation without hearing, it is stipulated and agreed that the
4 following Determination of Issues shall be made:
5

I

6 The acts and omissions of Respondents as described in
7 Paragraphs VII through XIII, above, in the Accusation are grounds
8 for the suspension or revocation of the licenses and license
9 rights of Respondents GOLDEN STATE and STANLEY under Sections
10 10176(a) and 10176(i) of the California Business and Professions
11 Code (herein "the Code").
12

II

13 The acts and omissions of Respondent CLIFFORD EDWARD
14 STANLEY as described in Paragraph XVII of the Accusation are
15 grounds for the suspension or revocation of the licenses and
16 license rights of Respondent CLIFFORD EDWARD STANLEY under
17 Sections 10177(g) and 10177(h) of the Code and Section 10159.2 of
18 the Code in conjunction with Section 10177(d) of the Code.
19
20

ORDER

I

21 All licenses and licensing rights of Respondent GOLDEN
22 STATE MORTGAGE CORPORATION under the Real Estate Law are revoked;
23 provided, however, a restricted corporate real estate broker
24
25

26
27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 license shall be issued to such Respondent pursuant to Section
2 10156.5 of the Code if, within 90 days from the effective date of
3 the Decision entered pursuant to this Order, such Respondent
4 makes application for the restricted license and pays to the
5 Department the appropriate fee therefor.

6 The restricted license issued to Respondent shall be
7 subject to all of the provisions of Section 10156.7 of the Code
8 and to the following limitations, conditions and restrictions
9 imposed under authority of Section 10156.6 of the Code:

10 1. Any restricted license issued to Respondent
11 pursuant to this Decision shall be suspended for fifty (50) days
12 from the date of issuance of said restricted license; provided,
13 however, if Respondent petitions, fifty (50) days of said fifty
14 (50) day suspension (or a portion thereof) shall be stayed upon
15 condition that:

16 (a) Respondent pays a monetary penalty pursuant to
17 Section 10175.2 of the Business and Professions Code at the rate
18 of \$100.00 for each day of the suspension for a total monetary
19 penalty of \$5,000.00.

20 (b) Said payment shall be in the form of a cashier's
21 check or certified check made payable to the Recovery Account of
22 the Real Estate Fund. Said check must be received by the
23 Department prior to the effective date of the Decision in this
24 matter.

25
26
27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 (c) If Respondent fails to pay the monetary penalty in
2 accordance with the terms and conditions of the Decision, the
3 Commissioner may, without a hearing, vacate and set aside the
4 stay order, and order the immediate execution of all or any part
5 of the stayed suspension.

6 (d) No final subsequent determination be made, after
7 hearing or upon stipulation, that cause for disciplinary action
8 against Respondent occurred within two (2) years of the effective
9 date of this Decision. Should such a determination be made, the
10 Commissioner may, in his discretion, vacate and set aside the
11 stay order, and order the execution of all or any part of the
12 stayed suspension, in which event the Respondent shall not be
13 entitled to any repayment nor credit, prorated or otherwise, for
14 money paid to the Department under the terms of this Decision.

15 (e) If Respondent pays the monetary penalty and if no
16 further cause for disciplinary action against the real estate
17 license of Respondent occurs within two (2) years from the
18 effective date of the Decision, then the stay hereby granted
19 shall become permanent.
20

21 2. Any restricted license issued to Respondent
22 pursuant to this Decision may be suspended prior to hearing by
23 Order of the Commissioner in the event of Respondent's conviction
24 or plea of nolo contendere to a crime which is substantially
25 related to Respondent's fitness or capacity as a real estate
26

27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

licensee.

1
2 3. Any restricted license issued to Respondent
3 pursuant to this Decision may be suspended prior to hearing by
4 Order of the Commissioner on evidence satisfactory to the
5 Commissioner that Respondent has violated provisions of the
6 California Real Estate Law, the Subdivided Lands Law, Regulations
7 of the Commissioner or conditions attaching to the restricted
8 license.

9 4. Respondent shall not be eligible to apply for the
10 issuance of an unrestricted real estate license nor for the
11 removal of any of the conditions, limitations or restrictions of
12 a restricted license until two (2) years has elapsed from the
13 effective date of this Decision.

14 II

15 All licenses and licensing rights of Respondent
16 CLIFFORD EDWARD STANLEY under the Real Estate Law are revoked;
17 provided, however, a restricted real estate salesperson license
18 shall be issued to said Respondent pursuant to Section 10156.5 of
19 the Code if, within 90 days from the effective date of the
20 Decision entered pursuant to this Order, such Respondent makes
21 application for the restricted license and pays to the Department
22 the appropriate fee therefor.

23
24 The restricted license issued to Respondent shall be
25 subject to all of the provisions of Section 10156.7 of the Code
26

27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 and to the following limitations, conditions and restrictions
2 imposed under authority of Section 10156.6 of the Code:

3 1. Any restricted license issued to Respondent
4 pursuant to this Decision may be suspended prior to hearing by
5 Order of the Commissioner in the event of Respondent's conviction
6 or plea of nolo contendere to a crime which is substantially
7 related to Respondent's fitness or capacity as a real estate
8 licensee.

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

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

21 4. Respondent shall, within six (6) months from the
22 issuance of the restricted license, take and pass the
23 Professional Responsibility Examination administered by the
24 Department, including the payment of the appropriate examination
25

26
27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 fee. If Respondent fails to satisfy this condition, the
2 Commissioner may order the suspension of the restricted license
3 until Respondent passes the examination.

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

16
17 6. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by
21 the Department of Real Estate which shall certify:

22 a. That the employing broker has read the Decision of
23 the Commissioner which granted the right to a restricted license;
24 and

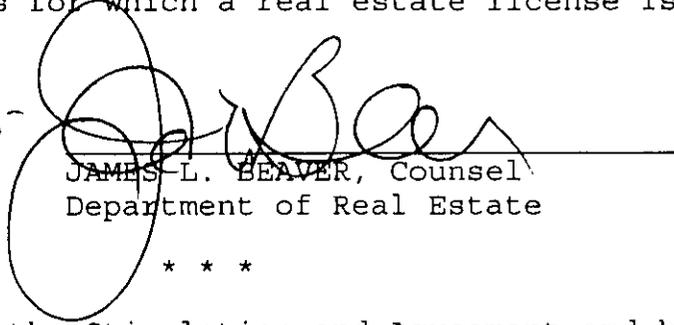
25 b. That the employing broker will exercise close
26

27 DRE No. H-2871 SD

GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1 supervision over the performance by the restricted licensee
2 relating to activities for which a real estate license is
3 required.

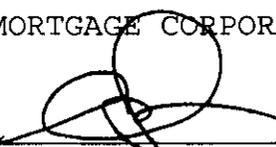
4 January 17, 2005
5 DATED


6 JAMES L. BEAVER, Counsel
7 Department of Real Estate
8 * * *

9 I have read the Stipulation and Agreement and have
10 discussed its terms with my attorney and its terms are understood
11 by me and are agreeable and acceptable to me. I understand that I
12 am waiving rights given to me by the California Administrative
13 Procedure Act (including but not limited to Sections 11506,
14 11508, 11509, and 11513 of the Government Code), and I willingly,
15 intelligently, and voluntarily waive those rights, including the
16 right of requiring the Commissioner to prove the allegations in
17 the Accusation at a hearing at which I would have the right to
18 cross-examine witnesses against me and to present evidence in
19 defense and mitigation of the charges.

20 122904
21 DATED

22 GOLDEN STATE MORTGAGE CORPORATION
23 Respondent

24 By 
25 CLIFFORD EDWARD STANLEY
26 Designated Officer - Broker

27 122904
DATED

CLIFFORD EDWARD STANLEY
Respondent

///
///
///

DRE No. H-2871 SD

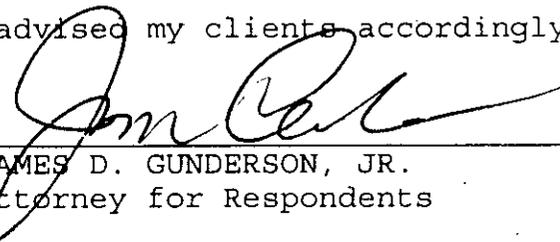
GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

* * *

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

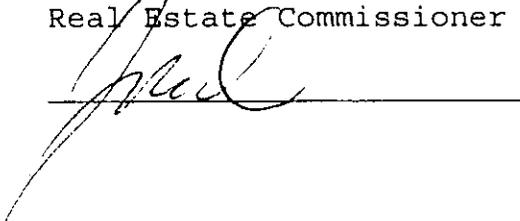
12/27/04
DATED


JAMES D. GUNDERSON, JR.
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on MARCH 8, 2005.

IT IS SO ORDERED 2-2-, 2005.

JEFF DAVI
Real Estate Commissioner


DRE No. H-2871 SD GOLDEN STATE MORTGAGE CORPORATION
and CLIFFORD EDWARD STANLEY

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 22 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Ziri

In the Matter of the Accusation of

GOLDEN STATE MORTGAGE
CORPORATION, a Corporation, and
CLIFFORD EDWARD STANLEY,

}

Case No. H-8923 SF
OAH No. N-2004100176

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 MONDAY, DECEMBER 27, 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: OCTOBER 22, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 (916) 227-0788 (Direct)

FILED

SEP 16 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No.: H-8923 SF
12)
13 GOLDEN STATE MORTGAGE) ACCUSATION
14 CORPORATION, a Corporation, and)
15 CLIFFORD EDWARD STANLEY,)
16 Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against GOLDEN STATE MORTGAGE CORPORATION, a
19 corporation (herein "GOLDEN STATE") and CLIFFORD EDWARD STANLEY
20 (herein "STANLEY"), is 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 II

26 At all times herein mentioned, Respondents GOLDEN
27 STATE and STANLEY (herein "Respondents") were and now are

1 licensed and/or have license rights under the Real Estate Law
2 (Part 1 of Division 4 of the Business and Professions Code)
3 (herein "the Code").
4

5 III

6 At all times herein mentioned, GOLDEN STATE was and
7 now is licensed by the Department of Real Estate of the State of
8 California (herein "the Department") as a corporate real estate
9 broker by and through STANLEY as designated officer-broker of
10 GOLDEN STATE to qualify said corporation and to act for said
11 corporation as a real estate broker. At all times mentioned
12 herein since November 7, 2003, the license of Respondent GOLDEN
13 STATE has been and now is a restricted corporate real estate
14 broker license subject to terms, conditions and restrictions
15 pursuant to Sections 10156.6 and 10156.7 of the Code.

16 IV

17 At all times herein mentioned, STANLEY was and now is
18 licensed by the Department as a real estate broker, individually
19 and as designated officer-broker of GOLDEN STATE. As said
20 designated officer-broker, STANLEY was at all times mentioned
21 herein responsible pursuant to Section 10159.2 of the Code for
22 the supervision of the activities of the officers, agents, real
23 estate licensees and employees of GOLDEN STATE for which a
24 license is required. At all times mentioned herein since
25 November 7, 2003, the licenses of Respondent STANLEY have been
26 and now are restricted real estate broker licenses subject to
27 terms, conditions and restrictions pursuant to Sections 10156.6
and 10156.7 of the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

V

Whenever reference is made in an allegation in this Accusation to an act or omission of GOLDEN STATE, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with GOLDEN STATE committed such act or omission while engaged in the furtherance of the business or operations of such corporate Respondent and while acting within the course and scope of their authority and employment.

VI

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Sections 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed, and consummated such loans.

VII

At all times mentioned herein between on or about July 1, 2001 and on or about October 25, 2001, in course of the activities described in Paragraph VI, above, Respondents solicited and induced New Century Mortgage Corporation (herein "New Century") to make a loan in the amount of \$281,250 to Genaro Espinosa Fernandez (herein "Fernandez" or "borrower") as

1 borrower secured by real property at 660 North Nineteenth
2 Street, San Jose, California, 95112, to finance the purchase of
3 said real property as the borrower's primary residence.
4

5 VIII

6 At all times mentioned herein between on or about July
7 1, 2001 and on or about September 30, 2001, and thereafter
8 between on or about October 1, 2001 and on or about October 25,
9 2001, in order to induce New Century to make the loan described
10 in Paragraph VII, above, Respondents represented to New Century
11 that (herein "the representations"):

12 (a) The funds to be used by the borrower to complete
13 the purchase of said real property included the proceeds of a
14 bona fide gift in the sum of \$70,000.00 or more from some member
15 of the borrower's immediate family; and

16 (b) The funds to be used by the borrower to complete
17 the purchase of said real property did not include the proceeds
18 of any loan secured by said real property other than the loan
19 described in Paragraph VII, above.

20 IX

21 At all times mentioned herein between on or about
22 October 1, 2001 and October 25, 2001, each and every
23 representation described in Paragraph VIII, above, was false
24 when made, as Respondents well and truly knew at the time
25 Respondents made each such representation.

26 X

27 In truth and fact, at all times mentioned herein
between on or about October 1, 2001 and October 25, 2001:

1 (a) The funds to be used by the borrower to complete
2 the purchase of said real property did not include the proceeds
3 of any bona fide gift in the sum of \$70,000.00 or any other sum
4 or at all; and

5 (b) The funds to be used by the borrower to complete
6 the purchase of said real property included the proceeds of a
7 \$106,600.00 loan secured by said real property made and/or
8 arranged by Respondents on or about October 1, 2001.

9 XI

10 At all times mentioned herein between on or about
11 October 1, 2001 and October 25, 2001, Respondents concealed from
12 New Century and failed to disclose to New Century the facts
13 described in Paragraph X, above.

14 XII

15 On or about October 25, 2001, New Century made the
16 loan described in Paragraph VII, above, in reliance on the
17 representations described in Paragraph VIII and in ignorance of
18 the facts described in Paragraphs IX and X, above.

19 XIII

20 The acts and omissions of Respondents described above
21 constitute the substantial misrepresentation of material facts
22 and fraud and dishonest dealing.

23 XIV

24 Respondent STANLEY failed to exercise reasonable
25 supervision over the acts of Respondent GOLDEN STATE in such a
26 manner as to allow the acts and omissions on the part of
27 Respondent GOLDEN STATE, described above, to occur.

1
2 PRIOR DISCIPLINARY PROCEEDINGS

3 XV

4 Effective September 3, 2003, in Case No. H-8179 SF,
5 for violation by Respondents GOLDEN STATE and STANLEY of
6 Sections 10085, 10146, 10177(d), and 10177(e) of the Code and
7 Sections 2831, 2831.1, 2831.2, 2835, 2970, and 2972 of Chapter
8 6, Title 10, California Code of Regulations (herein "the
9 Regulations"), the Real Estate Commissioner revoked the real
10 estate broker licenses of Respondents GOLDEN STATE and STANLEY,
11 but granted each Respondent the right to the issuance of a
12 restricted real estate broker license, subject to terms,
13 conditions and restrictions pursuant to Sections 10156.6 and
14 10156.7 of the Code.

15 XVI

16 The facts alleged in Paragraphs VII through XIII,
17 above, above are grounds for the suspension or revocation of all
18 licenses and license rights of Respondents GOLDEN STATE and
19 STANLEY under Sections 10176(a) and/or 10176(i) of the Code.

20 XVII

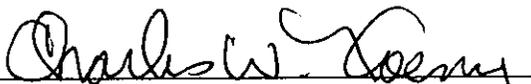
21 The facts alleged in Paragraph XIV, above, are grounds
22 for the suspension or revocation of all licenses and license
23 rights of Respondent STANLEY under Section 10177(g) and/or
24 Section 10177(h) of the Code and Section 10159.2 of the Code in
25 conjunction with Section 10177(d) of the Code.

26 ///

27 ///

///

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

9
10 
11 CHARLES W. KOENIG
12 Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 16th day of September, 2004.
15
16
17
18
19
20
21
22
23
24
25
26
27