

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

5 -or- (916) 227-0780 (Direct)

FILED  
OCT 11 2007

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 \* \* \*

12 In the Matter of the Accusation of ) DRE NO. H-9991 SF  
13 CLEMENT JOSEPH STEIN, JR., )  
14 Respondent: ) OAH NO. N-2007060905  
15 ) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondent  
17 CLEMENT JOSEPH STEIN, JR. (herein "Respondent"), and the  
18 Complainant, acting by and through Mary F. Clarke, Counsel for  
19 the Department of Real Estate (herein "the Department"), as  
20 follows for the purpose of settling and disposing of the First  
21 Amended Accusation filed on July 16, 2007, in this matter  
22 (herein "the Accusation"):

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

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

6           3. On May 2, 2007, Respondent filed a Notice of  
7 Defense pursuant to Section 1605 of the Government Code for the  
8 purpose of requesting a hearing on the allegations in the  
9 Accusation. Respondent hereby freely and voluntarily withdraws  
10 said Notice of Defense. Respondent acknowledges that Respondent  
11 understands that by withdrawing said Notice of Defense Respondent  
12 will thereby waive Respondent's right to require the Real Estate  
13 Commissioner (herein "the Commissioner") to prove the allegations  
14 in the Accusation at a contested hearing held in accordance with  
15 the provisions of the APA and that Respondent will waive other  
16 rights afforded to Respondent in connection with the hearing  
17 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. Respondent, pursuant to the limitations set forth  
21 below, hereby admits that the factual allegations in the  
22 Accusation are true and correct and the Commissioner shall not  
23 be required to provide further evidence of such allegations.

24           5. It is understood by the parties that the  
25 Commissioner may adopt the Stipulation and Agreement as his  
26 decision in this matter, thereby imposing the penalty and  
27 sanctions on Respondent's real estate license and license rights

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

7 6. This Stipulation and Agreement shall not constitute  
8 an estoppel, merger or bar to any further administrative or civil  
9 proceedings by the Department with respect to any matters which  
10 were not specifically alleged to be causes for accusation in this  
11 proceeding.

12 7. Respondent understands that by agreeing to this  
13 Stipulation and Agreement, Respondent agrees to pay, pursuant to  
14 Section 10148 of the California Business and Professions Code,  
15 the cost of the audit which resulted in the determination that  
16 Respondent committed the trust fund violation(s) found in  
17 paragraph I, below, of the Determination of Issues. The amount  
18 of said costs is \$4,638.55.

19 8. Respondent further understands that by agreeing to  
20 this Stipulation and Agreement, the findings set forth below in  
21 the Determination Of Issues become final, and that the  
22 Commissioner may charge said Respondent for the costs of any  
23 audit conducted pursuant to Section 10148 of the California  
24 Business and Professions Code to determine if the trust fund  
25 violation(s) found in paragraph I, below, of the Determination  
26 of Issues have been corrected. The maximum costs of said audit  
27 shall not exceed \$4,638.55.



ORDER

- 1
- 2 A. All licenses and licensing rights of Respondent under the  
3 Real Estate Law are indefinitely suspended until Respondent  
4 submits proof satisfactory to the Commissioner that  
5 Respondent has taken and completed at an accredited  
6 institution the continuing education course on trust fund  
7 accounting and handling specified in paragraph (3) of  
8 subdivision (a) of Section 10170.5 of the Code. Said course  
9 must have been completed not earlier than 120 days prior to  
10 the effective date of the Decision herein.
- 11 B. All licenses and licensing rights of Respondent under the Real  
12 Estate Law are suspended for a period of thirty (30) days from  
13 the effective date of the Decision herein; provided, however:  
14 1. The thirty (30) day suspension shall be stayed upon  
15 condition that:
- 16 (a) No final subsequent determination be made, after  
17 hearing or upon stipulation, that cause for  
18 disciplinary action against Respondent occurred  
19 within two (2) years of the effective date of the  
20 Decision herein.
- 21 (b) Should such a determination be made, the  
22 Commissioner may, in his or her discretion, vacate  
23 and set aside the stay order, and order the  
24 execution of all or any part of the stayed  
25 suspension.
- 26 (c) If no order vacating the stay is issued, and if no  
27 further cause for disciplinary action against the

1 real estate license of Respondent occurs within  
2 two (2) years from the effective date of the  
3 Decision, then the stay hereby granted shall become  
4 permanent.

5 C. Respondent shall, within 60 days of receiving an invoice  
6 therefor from the Commissioner, pay the Commissioner's costs  
7 in the amount of \$4,638.55 of the audit conducted pursuant to  
8 Section 10148 of the Code that resulted in the determination  
9 that Respondent committed the violations described in  
10 Paragraph I of the Determination of Issues, above. If  
11 Respondent fails to pay such cost within the 60 days, the  
12 Commissioner may in his discretion indefinitely suspend all  
13 licenses and licensing rights of Respondent under the Real  
14 Estate Law until payment is made in full or until Respondent  
15 enters into an agreement satisfactory to the Commissioner to  
16 provide for payment.

17 D. Respondent shall pay the Commissioner's costs, not to exceed  
18 \$4,638.55, of any audit conducted pursuant to Section 10148  
19 of the Code to determine if Respondent has corrected the  
20 violations described in Paragraph I of the Determination of  
21 Issues, above. In calculating the amount of the  
22 Commissioner's reasonable cost, the Commissioner may use the  
23 estimated average hourly salary for all persons performing  
24 audits of real estate brokers, and shall include an  
25 allocation for travel time to and from the auditor's place  
26 of work. Respondent shall pay such cost within 60 days of  
27 receiving an invoice therefor from the Commissioner detailing

1 the activities performed during the audit and the amount of  
2 time spent performing those activities. If Respondent fails  
3 to pay such cost within the 60 days, the Commissioner may in  
4 his or her discretion indefinitely suspend all license and  
5 licensing rights of Respondent under the Real Estate Law  
6 until payment is made in full or until Respondent enters into  
7 an agreement satisfactory to the Commissioner to provide for  
8 payment. Upon payment in full, the indefinite suspension  
9 provided in this paragraph shall be stayed.

10  
11 8-6-07

12 DATED

11   
12 MARY F. CLARKE, Counsel  
13 Department of Real Estate

14 \* \* \*

15 I have read the Stipulation and Agreement and its terms  
16 are understood by me and are agreeable and acceptable to me. I  
17 understand that I am waiving rights given to me by the California  
18 APA (including but not limited to Sections 1606, 1608, 1609, and  
19 11513 of the Government Code), and I willingly, intelligently,  
20 and voluntarily waive those rights, including the right of  
21 requiring the Commissioner to prove the allegations in the  
22 Accusation at a hearing at which I would have the right to cross-  
23 examine witnesses against me and to present evidence in defense  
24 and mitigation of the charges.

25 8/7/07

26 DATED

25   
26 CLEMENT JOSEPH STEIN, JR.  
27 Respondent

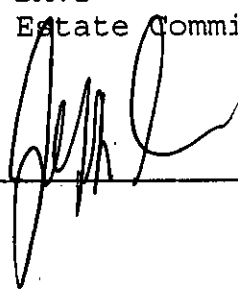
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent  
CLEMENT JOSEPH STEIN, JR., and shall become effective at 12  
o'clock noon on October 31, 2007.

IT IS SO ORDERED 9-28, 2007.

JEFF DAVI  
Real Estate Commissioner



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1 MARY F. CLARKE, Real Estate Counsel (SBN 186744)  
Department of Real Estate  
2 P. O. Box 187007  
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FILED  
JUL 16 2007

DEPARTMENT OF REAL ESTATE

By B. Contreras

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 CLEMENT JOSEPH STEIN, JR., ) NO. H-9991 SF  
14 Respondent. ) FIRST AMENDED  
15 ) ACCUSATION

16 The Complainant, CHARLES W. KOENIG, a Deputy Real  
17 Estate Commissioner of the State of California, for cause of  
18 Amended Accusation against CLEMENT JOSEPH STEIN, JR. (herein  
19 "Respondent"), is informed and alleges as follows:

20 I

21 The Complainant, CHARLES W. KOENIG, a Deputy Real  
22 Estate Commissioner of the State of California, makes this  
23 Amended Accusation in his official capacity.

24 II

25 At all times herein mentioned Respondent was and now  
26 is licensed by the Department of Real Estate of the State of  
27 California (herein "the Department") as a real estate broker.

1 III

2 At all times herein mentioned Respondent engaged in the  
3 business of, acted in the capacity of, advertised, or assumed to  
4 act as a real estate broker within the State of California within  
5 the meaning of Sections:

6 (a) 10131(a) of the California Business and  
7 Professions Code (herein "the Code"), including  
8 the operation and conduct of a real estate  
9 brokerage that included the sale or offer of sale,  
10 purchase or offer of purchase, solicitation of  
11 prospective sellers and purchasers of,  
12 solicitation or obtaining listings of, or  
13 negotiations of the purchase, sale or exchange of  
14 real property or a business opportunity; and

15 (b) 10131(b) of the Code, including the operation and  
16 conduct of a property management business with  
17 the public wherein, on behalf of others, for  
18 compensation or in expectation of compensation,  
19 Respondent leased or rented and offered to lease  
20 or rent, and placed for rent, and solicited  
21 listings of places for rent, and solicited for  
22 prospective tenants of real property or  
23 improvements thereon, and collected rents from  
24 real property or improvements thereon.

25 IV

26 In so acting as a real estate broker, as described in  
27 Paragraph III, above, Respondent accepted or received funds in

1 trust (herein "trust funds") from or on behalf of buyers,  
2 sellers owners, tenants, and others in connection with the  
3 leasing, renting, and collection of rents on real property or  
4 improvements thereon, as alleged herein, and thereafter from time  
5 to time made, or caused to be made, disbursements of said funds.

6 V

7 The aforesaid trust funds accepted or received by  
8 Respondent were deposited or caused to be deposited by Respondent  
9 into one or more bank accounts (herein "trust fund accounts")  
10 maintained by Respondent for the handling of trust funds at the  
11 Emeryville, California, branch of the Bank of Alameda, including  
12 but not necessarily limited to the following accounts:

13 (a) the "Stein, Clement J. dba Watergate Management  
14 Co. Security Trust", account number 4500690  
15 (herein "Trust #1"); and

16 (b) the "Stein, Clement J. dba Woodlake Anchor  
17 Management Co. Security Trust Account", account  
18 number 4500724 (herein "Trust #2").

19 VI

20 Between January 1, 2005 and October 30, 2005, in course  
21 of the property management and trust fund activities described  
22 above, Respondent:

23 (a) failed, with respect to Trust #1 and Trust #2 to  
24 reconcile, at least once a month, the balance of  
25 all separate beneficiary or transaction records  
26 with the record of trust funds received and  
27 disbursed from such accounts;

1 (b) caused, suffered or permitted the balance of  
2 funds in Trust #1 and Trust #2 to be reduced to  
3 amounts, as tabulated below, less than the  
4 liability of Respondent to all owners of such  
5 funds without first obtaining the written  
6 consent of each and every owner of such funds:

7	<u>ITEM</u>	<u>DATE</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
8	(1)	10/20/05	Trust #1	\$2,701.56; and
9	(2)	10/20/05	Trust #2	\$3,743.42;

10 (c) failed to retain for three years a copies of  
11 cancelled checks issued on Trust #1 in connection  
12 with transactions for which a real estate license  
13 is required.; and,

14 (d) failed to keep a columnar record in chronological  
15 sequence of all trust funds and not placed in a  
16 trust account, received for activities referenced  
17 in Paragraph III(a), as required by Section 2831  
18 of the Regulations.

19 VII

20 Within the three-year period immediately preceding the  
21 filing of this Amended Accusation, in the course of the property  
22 management and trust fund activities described above, Respondent  
23 conducted activities for which a license was required under the  
24 name "Anchor Management" without first obtaining a license  
25 bearing said fictitious business name.

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27 \\\

VIII

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the Regulations:

- (a) as to subparagraph (a) of Paragraph VI under Section 10145 of the Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to subparagraph (b) of Paragraph VI under Section 10145 of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) as to subparagraph (c) of Paragraph VI under Section 10148(a) of the Code in conjunction with Section 10177(d) of the Code;
- (d) as to subparagraph (d) of Paragraph VI under Section 10145 of the Code and Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code; and
- (e) as to Paragraph VII under Section 10159.5 of the Code and Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code.

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1 MARY F. CLARKE, Real Estate Counsel (SBN 186744)  
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APR 24 2007

DEPARTMENT OF REAL ESTATE

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 CLEMENT JOSEPH STEIN, JR., ) NO. H-9991 SF  
14 Respondent. ) ACCUSATION  
15 )

16 The Complainant, E. J. HABERER II, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against CLEMENT JOSEPH STEIN, JR. (herein "Respondent"), is  
19 informed and alleges as follows:

20 I

21 The Complainant, E. J. HABERER II, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation in  
23 his official capacity.

24 II

25 At all times herein mentioned Respondent was and now  
26 is licensed by the Department of Real Estate of the State of  
27 California (herein "the Department") as a real estate broker.

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III

At all times herein mentioned Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections:

(a) 10131(a) of the California Business and Professions Code (herein "the Code"), including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity; and

(b) 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

IV

In so acting as a real estate broker, as described in Paragraph III, above, Respondent accepted or received funds in



1 trust (herein "trust funds") from or on behalf of buyers,  
2 sellers owners, tenants, and others in connection with the  
3 leasing, renting, and collection of rents on real property or  
4 improvements thereon, as alleged herein, and thereafter from  
5 time to time made, or caused to be made, disbursements of said  
6 funds.

7 V

8 The aforesaid trust funds accepted or received by  
9 Respondent were deposited or caused to be deposited by Respondent  
10 into one or more bank accounts (herein "trust fund accounts")  
11 maintained by Respondent for the handling of trust funds at the  
12 Emeryville, California, branch of the Bank of Alameda, including  
13 but not necessarily limited to the following accounts:

14 (a) the "Stein, Clement J. dba Watergate Management  
15 Co. Security Trust", account number 4500690  
16 (herein "Trust #1"); and

17 (b) the "Stein, Clement J. dba Woodlake Anchor  
18 Management Co. Security Trust Account", account  
19 number 4500724 (herein "Trust #2").

20 VI

21 Between January 1, 2005 and October 30, 2005, in course  
22 of the property management and trust fund activities described  
23 above, Respondent:

24 (a) failed to keep a columnar record in chronological  
25 sequence of all trust funds received and disbursed  
26 from Trust #1 and Trust #2 containing all the  
27 information required by Section 2831 of Chapter 6,

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Title 10, California Code of Regulations (herein "the Regulations");

(b) failed to keep a separate record for each beneficiary or transaction for Trust #1 and Trust #2 containing all the information required by Section 2831.1 of the Regulations;

(c) failed, with respect to Trust #1 and Trust #2 to reconcile, at least once a month, the balance of all separate beneficiary or transaction records with the record of trust funds received and disbursed from such accounts;

(d) caused, suffered or permitted the balance of funds in Trust #1 and Trust #2 to be reduced to amounts, as tabulated below, less than the liability of Respondent to all owners of such funds without first obtaining the written consent of each and every owner of such funds:

<u>ITEM</u>	<u>DATE</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
(1)	10/20/05	Trust #1	\$2,701.56; and
(2)	10/20/05	Trust #2	\$3,743.42;

(e) failed to retain for three years a copies of cancelled checks issued on Trust #1 in connection with transactions for which a real estate license is required.;

(f) failed to keep a columnar record in chronological sequence of all trust funds and not placed in a trust account, received for activities referenced

1 in Paragraph III(a), as required by Section 2831  
2 of the Regulations; and  
3 (g) failed to obtain a real estate license bearing the  
4 the fictitious business names "Watergate Property  
5 Management Company" and "Anchor Management," while  
6 conducting activities for which a license was  
7 required.

8 VII


9 The facts alleged above are grounds for the suspension  
10 or revocation of the licenses and license rights of Respondent  
11 under the following provisions of the Code and/or the Regulations:

- 12 (a) as to subparagraph (a) of Paragraph VI under  
13 Section 10145 of the Code and Section 2831 of the  
14 Regulations in conjunction with Section 10177(d)  
15 of the Code;
- 16 (b) as to subparagraph (b) of Paragraph VI under  
17 Section 10145 of the Code and Section 2831.1 of  
18 the Regulations in conjunction with Section  
19 10177(d) of the Code;
- 20 (c) as to subparagraph (c) of Paragraph VI under  
21 Section 10145 of the Code and Section 2831.2 of  
22 the Regulations in conjunction with Section  
23 10177(d) of the Code;
- 24 (d) as to subparagraph (d) of Paragraph VI under  
25 Section 10145 of the Code and Section 2832.1 of  
26 the Regulations in conjunction with Section  
27 10177(d) of the Code;

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- (e) as to subparagraph (e) of Paragraph VI under Section 10148(a) of the Code in conjunction with Section 10177(d) of the Code;
- (f) as to subparagraph (f) of Paragraph VI under Section 10145 of the Code and Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code; and
- (g) as to subparagraph (g) of Paragraph VI under Section 10159.5 of the Code and Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code.

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

  
\_\_\_\_\_  
E. J. HABERER II  
Deputy Real Estate Commissioner

Dated at Oakland, California  
this 23<sup>rd</sup> day of January, 2007.