

FILED

MAY 16 2008

DEPARTMENT OF REAL ESTATE

By K. Contreras

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-10068 SF
ALTON MANAGEMENT CORPORATION,)	
a Corporation, and)	<u>STIPULATION AND AGREEMENT</u>
ALEXIS MAE VALDIVIA)	<u>IN SETTLEMENT</u>
Respondents.)	<u>AND ORDER</u>

It is hereby stipulated by and between Respondents ALTON MANAGEMENT CORPORATION (herein "AMC"), and ALEXIS MAE VALDIVIA (herein "VALDIVIA") (herein jointly "Respondents"), by and through Pete Ryan, attorney of record herein for Respondents, and the Complainant, acting by and through Mary F. Clarke, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on July 9, 2007 in this matter (herein "the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

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

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

7 3. A Notice of Defense was filed on July 16, 2007 by
8 Respondents, 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 right 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 the Accusation filed in this proceeding are true and
23 correct and the Real Estate Commissioner shall not be required to
24 provide further evidence of such allegations.

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

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

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

16 7. Respondents understand that by agreeing to this
17 Stipulation and Agreement, Respondents jointly and severally
18 agree to pay, pursuant to Section 10148 of the California
19 Business and Professions Code (herein "Code"), the cost of the
20 audit which resulted in the determination that Respondents
21 committed the trust fund violation(s) found in paragraph I,
22 below, of the Determination of Issues. The amount of said costs
23 is \$3,000.00. Respondents shall pay such cost within 60 days of
24 receiving an invoice from the Commissioner detailing the
25 activities performed during the audit and the amount of time
26 spent performing those activities.

1 8. Respondents further understand that by agreeing to
2 this Stipulation and Agreement in Settlement, the findings set
3 forth below in the Determination Of Issues become final, and
4 that the Commissioner may charge said Respondents, jointly and
5 severally, for the costs of any audit conducted pursuant to
6 Section 10148 of the Code to determine if the trust fund
7 violation(s) found in Paragraph I, below, of the Determination
8 of Issues have been corrected. The maximum costs of said audit
9 shall not exceed \$4,380.00. Respondents shall pay such cost
10 within 60 days of receiving an invoice from the Commissioner
11 detailing the activities performed during the audit and the
12 amount of time spent performing those activities.

13 DETERMINATION OF ISSUES

14 I

15 The acts and omissions of Respondents as described in
16 the Accusation are grounds for the suspension or revocation of
17 the licenses and license rights of Respondents under the
18 following provisions of the California Business and Professions
19 Code (herein "the Code") and/or Chapter 6, Title 10, California
20 Code of Regulations (herein "the Regulations"):

21 (a) As to Paragraph IX(a) and AMC under Section 10145
22 of the Code and Section 2831 of the Regulations in conjunction
23 with Section 10177(d) of the Code;

24 (b) As to Paragraph IX(b) and AMC under Section 10145
25 of the Code and Section 2832 of the Regulations in conjunction
26 with Section 10177(d) of the Code;

27 (c) As to Paragraphs IX(c) and AMC under Section 10145

1 of the Code and Section 2834 of the Regulations in conjunction
2 with Section 10177(d) of the Code;

3 (d) As to Paragraph X and AMC under Sections 10130 and
4 10137 of the Code in conjunction with Section 10177(d) of the
5 Code; and

6 (e) As to Paragraph XI and VALDIVIA under Sections
7 10177(g), 10177(h), and 10159.2 of the Code in conjunction with
8 Section 10177(d) of the Code.

9 ORDER

10 I

11 All licenses and licensing rights of Respondent AMC
12 under the Real Estate Law are suspended for a period of sixty
13 (60) days from the effective date of this Order; provided,
14 however, that:

15 1. Said 60-day suspension shall be stayed for two (2)
16 years upon the following terms and conditions:

17 (a) Respondent shall obey all laws, rules and
18 regulations governing the rights, duties and responsibilities of
19 a real estate licensee in the State of California; and

20 (b) That no final subsequent determination be made,
21 after hearing or upon stipulation, that cause for disciplinary
22 action occurred within two (2) years from the effective date of
23 this Order. Should such a determination be made, the
24 Commissioner may, in his discretion, vacate and set aside the
25 stay order and reimpose all or a portion of the stayed
26 suspension. Should no such determination be made, the stay
27 imposed herein shall become permanent.

1 2. Respondents understand that by agreeing to this
2 Stipulation and Agreement, Respondents jointly and severally
3 agree to pay, pursuant to Section 10148 of the California
4 Business and Professions Code (herein the "Code"), the cost of
5 the audit which resulted in the determination that Respondents
6 committed the trust fund violation(s) found in Paragraph I,
7 above, of the Determination of Issues. The amount of said costs
8 is \$3,000.00. Respondents AMC and VALDIVIA shall pay such cost
9 within 60 days of receiving an invoice from the Commissioner.
10 If Respondents fail to pay for the cost of the audit within 60
11 days of mailing a notice of billing, the Commissioner may
12 suspend or revoke the broker's license or deny renewal of the
13 broker's license. The suspension or denial shall remain in
14 effect until the cost is paid or until the broker's right to
15 renew a license had expired.

16 3. Respondents further understand that by agreeing to
17 this Stipulation and Agreement in Settlement, the findings set
18 forth above in the Determination Of Issues become final, and
19 that the Commissioner may charge said Respondents, jointly and
20 severally, for the costs of any audit conducted pursuant to
21 Section 10148 of the Code to determine if the trust fund
22 violation(s) found in Paragraph I, above, of the Determination
23 of Issues have been corrected. The maximum costs of said audit
24 shall not exceed \$4,380.00. Respondents AMC and VALDIVIA shall
25 pay such cost within 60 days of receiving an invoice from the
26 Commissioner. If Respondents fail to pay for the cost of the
27 audit within 60 days of mailing a notice of billing, the

1 Commissioner may suspend or revoke the broker's license or deny
2 renewal of the broker's license. The suspension or denial shall
3 remain in effect until the cost is paid or until the broker's
4 right to renew a license had expired.

5 II

6 A. All licenses and licensing rights of Respondent
7 VALDIVIA under the Real Estate Law are suspended until such time
8 as Respondent provides proof satisfactory to the Commissioner
9 that Respondent has, within one hundred twenty (120) days prior
10 to the effective date of the Decision herein completed the
11 continuing education course on trust fund accounting and handling
12 specified in subdivision (a) of Section 10170.5 of the Business
13 and Professions Code.

14 B. All licenses and licensing rights of Respondent
15 VALDIVIA under the Real Estate Law are suspended for a period of
16 sixty (60) days from the effective date of this Order; provided,
17 however, that:

18 1. Said 60-day suspension shall be stayed for two (2)
19 years upon the following terms and conditions:

20 (a) Respondent shall obey all laws, rules and
21 regulations governing the rights, duties and responsibilities of
22 a real estate licensee in the State of California; and

23 (b) That no final subsequent determination be made,
24 after hearing or upon stipulation, that cause for disciplinary
25 action occurred within two (2) years from the effective date of
26 this Order. Should such a determination be made, the
27 Commissioner may, in his discretion, vacate and set aside the

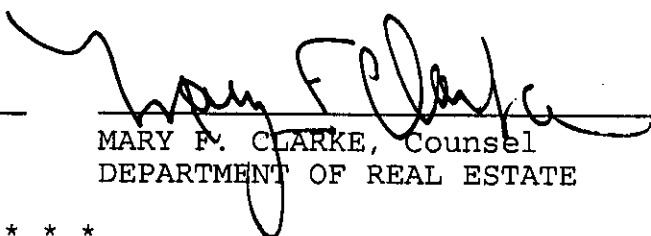
1 stay order and reimpose all or a portion of the stayed
2 suspension. Should no such determination be made, the stay
3 imposed herein shall become permanent.

4 2. Respondents understand that by agreeing to this
5 Stipulation and Agreement, Respondents jointly and severally
6 agree to pay, pursuant to Section 10148 of the California
7 Business and Professions Code (herein "Code"), the cost of the
8 audit which resulted in the determination that Respondents
9 committed the trust fund violation(s) found in Paragraph I,
10 above, of the Determination of Issues. The amount of said costs
11 is \$3,000.00. Respondents AMC and VALDIVIA shall pay such cost
12 within 60 days of receiving an invoice from the Commissioner.
13 If Respondents fail to pay for the cost of the audit within 60
14 days of mailing a notice of billing, the Commissioner may
15 suspend or revoke the broker's license or deny renewal of the
16 broker's license. The suspension or denial shall remain in
17 effect until the cost is paid or until the broker's right to
18 renew a license had expired.

19 3. Respondents further understand that by agreeing to
20 this Stipulation and Agreement in Settlement, the findings set
21 forth above in the Determination Of Issues become final, and
22 that the Commissioner may charge said Respondents, jointly and
23 severally, for the costs of any audit conducted pursuant to
24 Section 10148 of the Code to determine if the trust fund
25 violation(s) found in Paragraph I, above, of the Determination
26 of Issues have been corrected. The maximum costs of said audit
27 shall not exceed \$4,380.00. Respondents AMC and VALDIVIA shall

1 pay such cost within 60 days of receiving an invoice from the
2 Commissioner. If Respondents fail to pay for the cost of the
3 audit within 60 days of mailing a notice of billing, the
4 Commissioner may suspend or revoke the broker's license or deny
5 renewal of the broker's license. The suspension or denial shall
6 remain in effect until the cost is paid or until the broker's
7 right to renew a license had expired.

8
9
10 DATED: 11-27-07


MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE

12 * * *

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

24
25 2/18/08
26 DATED

ALTON MANAGEMENT COMPANY
Respondent

27 By Alexis Mae Valdivia
ALEXIS MAE VALDIVIA

H-10068 SF

- 9 -

ALTON MANAGEMENT CORPORATION
AND ALEXIS MAE VALDIVIA

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Designated Officer - Broker

2/19/08

DATED

Alexis Mae Valdivia

ALEXIS MAE VALDIVIA

Respondent

* * *

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

2/13/08

DATED

Pete Ryan

Attorney for Respondent

* * *

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 June 5, 2008.

IT IS SO ORDERED 5-8, 2008.

JEFF DAVI
Real Estate Commissioner

[Signature]

Telephone: (916) 227-0789
-or- (916) 227-0780

FILED
JUL -9 2007

By K. Contreras

* * *

The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ALTON MANAGEMENT CORPORATION, a California corporation (herein "ALTON") and ALEXIS MAE VALDIVIA (herein "VALDIVIA") is informed and alleges as follows:

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II

- 1 -

1 under the Real Estate Law (Part 1 of Division 4 of the Business
2 and Professions Code) (herein "the Code").

3 III

4 At all times herein mentioned, Respondent ALTON was
5 and now is licensed by the Department of Real Estate of the
6 State of California (herein "the Department") as a corporate real
7 estate broker by and through Respondent VALDIVIA as designated
8 officer-broker of Respondent ALTON to qualify said corporation
9 and to act for said corporation as a real estate broker. At all
10 times mentioned herein since August 10, 2004, the corporate
11 broker license of Respondent ALTON has been and now is a
12 restricted corporate broker license which is subject to the
13 provisions of Section 10156.7 of the Code and to additional
14 terms, conditions, restrictions, and limitations imposed under
15 authority of Section 10156.6 of the Code.

16 IV

17 At all times herein mentioned, Respondent VALDIVIA was
18 and now is licensed by the Department as designated officer -
19 broker of Respondent ALTON. At all times mentioned herein
20 since August 10, 2004, the individual and officer licenses of
21 Respondent VALDIVIA have been and now are a restricted broker
22 licenses which are subject to the provisions of Section 10156.7
23 of the Code and to additional terms, conditions, restrictions,
24 and limitations imposed under authority of Section 10156.6 of
25 the Code. As said designated officer-broker, Respondent VALDIVIA
26 was at all times mentioned herein responsible pursuant to
27 Section 10159.2 of the Code for the supervision of the

1 activities of the officers, agents, real estate licensees and
2 employees of Respondent ALTON for which a license is required.

3 V

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

12 VI

13 At all times herein mentioned, Respondents ALTON and
14 VALDIVIA engaged in the business of, acted in the capacity of,
15 advertised, or assumed to act as real estate brokers within the
16 State of California within the meaning of Sections 10131(b) of
17 the Code, including the operation and conduct of a property
18 management business with the public wherein, on behalf of others,
19 for compensation or in expectation of compensation, Respondents
20 leased or rented and offered to lease or rent, and placed for
21 rent, and solicited listings of places for rent, and solicited
22 for prospective tenants of real property or improvements thereon,
23 and collected rents from real property or improvements thereon.

24 VII

25 In so acting as real estate brokers, as described in
26 Paragraph VI above, Respondents accepted or received funds in
27 trust (herein "trust funds") from or on behalf of owners and

1 tenants in connection with the leasing, renting, and collection
2 of rents on real property or improvements thereon, as alleged
3 herein, and thereafter from time to time made disbursements of
4 said funds.

5 VIII

6 The aforesaid trust funds accepted or received by
7 Respondents were deposited or caused to be deposited by
8 Respondents into fifty-three or more bank accounts (herein
9 "trust fund accounts") maintained by Respondent ALTON for the
10 handling of funds entrusted to Respondent ALTON, including but
11 not necessarily limited to the following seven sample accounts
12 maintained by Respondent ALTON at Berkeley and San Francisco,
13 California, branches of Wells Fargo Bank:

14 (a) the Thomas Paine Square account, account
15 number 089-2070988 (herein "Bank #1");

16 (b) the Thomas Paine Square account, account
17 number 011-7637520 (herein "Bank #2");

18 (c) the Thomas Paine Square Utility Allowance
19 account, account number 732-3987748 (herein "Bank #3");

20 (d) the Thomas Paine Square account, account
21 number 986-5231667 (herein "Bank #4");

22 (d) the Thomas Paine Square account, account
23 number 886-2718577 (herein "Bank #5");

24 (e) the Benneker Homes Operating account, account
25 number 004-3109479 (herein "Bank #6"); and

26 (f) the Benneker Homes Security Deposit account,
27 account number 604-3122225 (herein "Bank #7").

IX

Between on or about January 1, 2005 and on or about June 30, 2005, in connection with the collection and disbursement of said trust funds, Respondents ALTON and VALDIVIA:

(a) failed to keep a columnar record in chronological sequence of all trust funds received and disbursed from Bank #1 and Bank #6, containing all the information required by Section 2831 of Title 10, California Code of Regulations (herein "the Regulations");

(b) failed to place trust funds entrusted to Respondent ALTON into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Respondent ALTON as trustee at a bank or other financial institution, in conformance with the requirements of Section 10145 of the Code and Section 2832(a) of the Regulations, in that Respondent placed such funds in Bank #1, Bank #2, Bank #3, Bank #4, Bank #5, Bank #6, and Bank #7, accounts that were not in the name of Respondent ALTON as trustee; and

(c) authorized William Hutton and Alfred Reynolds, then unlicensed persons without fidelity bond coverage at least equal to the maximum amount of the trust funds to which the person had access at any time, to make disbursements from Bank #1, Bank #2, Bank #3, Bank #4, Bank #5, Bank #6, and Bank #7, and authorized persons to make disbursements from Bank #1, Bank #2, Bank #3, Bank #4, Bank #5, Bank #6, and Bank #7 when no officer through whom ALTON is licensed was an

1 authorized signatory, all in violation of Section 2834(b) of
2 the Regulations.

3 X

4 Between on or about January 1, 2005 and on or about
5 June 30, 2005, Respondents ALTON and VALDIVIA violated Section
6 10137 of the Code and willfully disregarded Section 10130 of the
7 Code by employing and compensating Shavonia Rogers, a person who
8 was not at that time or any other time licensed by the Department
9 as a real estate broker or real estate salesperson, to conduct the
10 property management activities described in Paragraph VI, above,
11 including but not limited to (a) leasing and negotiating and
12 arranging the lease of residential real property at 874 Nineteenth
13 Street, Oakland, California, to Kathleen Brown, and (b) leasing,
14 negotiating and arranging the lease of residential real property
15 at 848 Nineteenth Street, Oakland, California, to Nakia Gage.

16 XI

17 Respondent VALDIVIA failed to exercise reasonable
18 supervision over the acts of Respondent ALTON in such a manner
19 as to allow the acts and events described above to occur.

20 XII

21 The facts described above constitute cause for the
22 suspension or revocation of the licenses and license rights of
23 Respondents ALTON and VALDIVIA under the following provisions of
24 the Code and/or the Regulations:

25 (a) as to Paragraph IX(a) under Section 10145 of
26 the Code and Section 2831 of the Regulations in conjunction
27 with Section 10177(d) of the Code;

1 (b) as to Paragraph IX(b) under Section 10145 of
2 the Code and Section 2832 of the Regulations in conjunction
3 with Section 10177(d) of the Code;

4 (c) as to Paragraphs IX(c) under Section 10145 of
5 the Code and Section 2834 of the Regulations in conjunction
6 with Section 10177(d) of the Code; and,

7 (d) as to Paragraph X under Sections 10130 and
8 10137 of the Code in conjunction with Section 10177(d) of
9 the Code.

10 XIII

11 The facts described in Paragraph XI, above, constitute
12 cause for the suspension or revocation of the licenses and
13 license rights of Respondent VALDIVIA under Section 10177(g)
14 and/or Section 10177(h) of the Code and Section 10159.2 of the
15 Code in conjunction with Section 10177(d) of the Code.

16 PRIOR DISCIPLINE

17 XIV

18 Effective August 10, 2004, in Case No. H-8539 SF, the
19 Real Estate Commissioner revoked the corporate real estate broker
20 licenses and license rights of Respondent ALTON pursuant to the
21 provisions of Sections 10137, 10145, and 10161.8 of the Code and
22 Sections 2726 and 2834 of the Regulations in conjunction with
23 Section 10177(d) of the Code, and the Real Estate Commissioner
24 revoked the real estate broker licenses and license rights of
25 Respondent VALDIVIA pursuant to the provisions of Sections
26 10177(h) of the Code and Section 2725 of the Regulations in
27 conjunction with Section 10177(d) of the Code, but granted each

1 Respondent the right to the issuance of a restricted real estate
2 broker license, subject to terms, conditions, and restrictions
3 pursuant to Sections 10156.6 and 10156.7 of the Code.

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

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15 E. J. HABERER, II
16 Deputy Real Estate Commissioner

17 Dated at Oakland, California

18 this 3rd day of July, 2007
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