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Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
MAR 17 1998
DEPARTMENT OF REAL ESTATE
By [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27296 LA
FRANK VIOLI,)
Respondent.) STIPULATION AND AGREEMENT

It is hereby stipulated by and between FRANK VIOLI, (sometimes referred to as Respondent) and his attorney of record, DAVID S. BRIGHT, and the Complainant, acting by and through James R. Peel, Counsel for the Department of Real Estate as follows for the purpose of settling and disposing of the Accusation filed on July 16, 1997, in this matter.

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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 submitted solely on the basis of the provisions of this Stipulation and Agreement.

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

5 3. On September 9, 1997, Respondent filed a Notice
6 of Defense pursuant to Section 11506 of the Government Code for
7 the purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that he will waive
14 other rights afforded to him in connection with the hearing,
15 such as the right to present evidence in defense of the
16 allegations in the Accusation and the right to cross-examine
17 witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, although not admitting or denying the truth of the
20 allegations, will not contest the factual allegations contained
21 in the Accusation filed in this proceeding and the Real Estate
22 Commissioner shall not be required to provide further evidence
23 of such allegations.

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



1 as set forth below in the "Order". 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 the provisions of the APA and shall not be
6 bound by any stipulation or waiver made herein.

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

14 7. This Stipulation is entered into by each party
15 with the express understanding and agreement that it is to be
16 used for the purposes of settling these proceedings only and
17 that this Stipulation shall not be deemed, used, or accepted as
18 an acknowledgment or stipulation in any other civil or
19 administrative proceeding to which this Department is not a
20 party.

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations and waivers
23 and solely for the purpose of settlement of the pending
24 Accusation without a hearing, it is stipulated and agreed that
25 the following determination of issues shall be made:

26 The conduct of Respondent, FRANK VIOLI, as alleged in
27 the Accusation, is grounds for the suspension or revocation of

1 all of the real estate licenses and license rights of Respondent
2 under the provisions of Regulations 2831.1, 2831.2, 2731, and
3 Sections 10145, 10137, and 10177(g) of the Business and
4 Professions Code.

5 ORDER

6 All licenses and license rights of Respondent FRANK
7 VIOLI, under the Real Estate Law are suspended for a period of
8 90 days from the effective date of this Order, provided as
9 follows:

10 1. Sixty (60) days of said suspension shall be stayed
11 for two (2) years on condition of the following:

12 (a) That Respondent shall obey all laws, rules and regulations
13 governing the rights, duties and responsibilities of a real
14 estate licensee in the State of California.

15 (b) That no final subsequent determination be made by the Real
16 Estate Commissioner after hearing or upon stipulation that cause
17 for disciplinary action against the real estate license of
18 Respondent has occurred within two (2) years of the effective
19 date of this Order. Should such a determination be made, the
20 Commissioner may, in his discretion, vacate and set aside the
21 stay order and reimpose all or a portion of the stayed
22 suspension. Should no such determination be made, the stay
23 imposed herein shall become permanent.

24 (c) That pursuant to Section 10148 of the business and
25 Professions Code, respondent FRANK VIOLI, shall pay the
26 Commissioner's reasonable cost for an audit to determine if
27 Respondent has corrected the trust fund violations alleged in



1 the Accusation. In calculating the amount of the
2 Commissioner's reasonable costs, the Commissioner may use the
3 estimated average hourly salary for all Department Audit Section
4 personnel performing audits of real estate brokers, and shall
5 include an allocation for travel costs, including mileage, time
6 to and from the auditor's place of work, and per diem. The
7 Commissioner's reasonable cost shall in no event exceed \$1,800.
8 Payment shall be made within 45 days from receipt of an invoice
9 from the Commissioner.

10 (d) That if, after two years from the effective date of this
11 Order, each of the conditions referred to in this paragraph "1"
12 are complied with, the stay granted pursuant to this paragraph
13 shall become permanent. It shall be deemed cause to vacate the
14 stay if Respondent does not pay within 45 days from receipt of
15 an invoice from the Commissioner the Commissioner's reasonable
16 costs for an audit as provided in subparagraph (c).

17 (e) Notwithstanding any of the above provisions of this
18 paragraph "1", if Respondent FRANK VIOLI, fails to pay, within
19 45 days from receipt of the invoice specified above, the cost of
20 the audit, the Commissioner may order the indefinite suspension
21 of Respondent's real estate licenses and license rights. The
22 suspension shall remain in effect until payment is made in full,
23 or until respondent enters into an agreement satisfactory to the
24 Commissioner to provide for such payment. The Commissioner may
25 impose further reasonable disciplinary terms and conditions upon
26 Respondent's real estate licenses and license rights as part of
27 any such agreement.



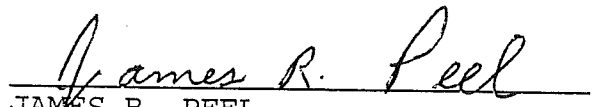
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2. Provided further, that the remaining thirty (30) days of said 90 day suspension shall be stayed on condition of the following:

(a) That Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code in the amount of \$100 per day for a total of \$3,000 if the entire suspension is bought out.

(b) That said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Order in this matter.

DATED: FEB. 10, 1998


JAMES R. PEEL
Counsel for Complainant

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

14 DATED: 2-05-98

Frank Violi
FRANK VIOLI, Respondent

16 DATED: 2-6-98

David S. Bright
DAVID S. BRIGHT,
Counsel for Respondent

18
19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision in this matter and shall become effective
21 at 12 o'clock noon on April 2, 1998

22 IT IS SO ORDERED 2/25/98

23
24 JIM ANTT, JR.
Real Estate Commissioner

Jim Antt, Jr.

25
26 cc: Frank Violi
27 Sacto.
PI



SACTU

JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 897-3937

FILED
JUL 16 1997

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
FRANK VIOLI,)	H-27296 LA
Respondent.)	<u>A C C U S A T I O N</u>

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against FRANK VIOLI, alleges as follows:

I.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation, in his official capacity.

II.

FRANK VIOLI, (hereinafter "Respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

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III.

At all times herein mentioned, respondent was licensed by the Department of Real Estate (hereafter "Department") as a real estate broker.

IV.

At all times herein mentioned, respondent, on behalf of others in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(b) of the Code, including soliciting renters and owners and collecting rents from real properties.

V.

During 1996, in connection with the aforesaid real estate brokerage activities, respondent accepted or received funds from renters and owners and thereafter made disbursements of such funds.

VI.

In connection with respondent's activities as a real estate broker as described above, respondent acted in violation of the Real Estate Law, Business and Professions Code, and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

1. Violated Section 10145(a) of the Code by maintaining a shortage in the trust account as of October 31, 1996, in the amount of \$320.93.
2. Violated Section 10137 of the Code by employing and compensating Robert K. Cooper who is not licensed as a real

1 estate broker or salesperson to solicit renters and owners at the
2 La Costa Hills condominium project in San Diego County as well as
3 to collect rents on behalf of the owners of units in the project.
4 The activities of Cooper require a real estate license under
5 Section 10131(b) of the Code.

6 3. Violated Regulation 2831.1 by maintaining
7 separate records which were missing the daily balance, check
8 numbers, record of cash transactions, and a record of transactions
9 in chronological sequence.

10 4. Violated Regulation 2731.2 by failing to
11 maintain a monthly record of trust fund account reconciliation.
12 The columnar record was not reconciled to the separate records on
13 a monthly basis.

14 5. Violated Regulation 2731 by conducting his real
15 property management business under the unlicensed fictitious
16 business name "La Costa Hills Management Company".

17 VII

18 The conduct of respondent, as alleged above, subjects
19 respondent's real estate licenses and license rights to suspension
20 or revocation pursuant to Section 10177(d) and 10177(g) of the
21 Code.

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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, FRANK VIOLI 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.

Dated at Los Angeles, California, this 16th day of July 1997.

THOMAS MC GRADY

Thomas McCrady,
Deputy Real Estate Commissioner

cc: FRANK VIOLI
Sacto
PI

JRP/rd