

FILED  
APR 17 1998

DEPARTMENT OF REAL ESTATE

*Shelly Ely*

1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
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Telephone: (916) 227-0789

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) No. H-27354 LA  
CAPITAL INVESTMENTS, INC. )  
and ROBERT GARY DEMBROWSKI, ) STIPULATION AND AGREEMENT  
Respondents. )

It is hereby stipulated by and between CAPITAL INVESTMENTS, INC. and ROBERT GARY DEMBROWSKI (hereafter Respondents) and the Complainant, acting by and through Deidre L. Johnson, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on August 27, 1997, in this matter:

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

6           3. On September 15, 1997, Respondents filed their  
7 Notices of Defense pursuant to Section 11505 of the Government  
8 Code for the purpose of requesting a hearing on the allegations in  
9 the Accusation. Respondents hereby freely and voluntarily  
10 withdraw said Notices of Defense. Respondents acknowledge that  
11 they understand that by withdrawing said Notices of Defense they  
12 will thereby waive their right to require the Commissioner to  
13 prove the allegations in the Accusation at a contested hearing  
14 held in accordance with the provisions of the APA, and that they  
15 will waive other rights afforded to them in connection with the  
16 hearing such as the right to present evidence in defense of the  
17 allegations in the Accusation and the right to cross-examine  
18 witnesses.

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

25           5. Without admitting the truth of the allegations  
26 contained in Paragraphs V through XIV of the Accusation,  
27 Respondents stipulate that they will not interpose a defense



1 thereto. Respondents stipulate that the Department may issue  
2 findings and determinations of issues that the acts and/or  
3 omissions of Respondents as stipulated above constitute grounds  
4 for disciplinary action as set forth herein. A true copy of the  
5 Accusation is attached hereto as Annex A and incorporated herein  
6 by reference.

7           6. Respondents enter into this stipulation for purposes  
8 of this Accusation only, and the execution of this stipulation  
9 shall not be construed to be an admission of liability except as  
10 may pertain to the grounds for the stipulation, and shall not be  
11 construed to be an admission for any purpose whatsoever, pursuant  
12 to the provisions of California Evidence Code Section 1152.

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

23           9. The Order or any subsequent Order of the Real Estate  
24 Commissioner made pursuant to this Stipulation and Agreement shall  
25 not constitute an estoppel, merger or bar to any further  
26 administrative or civil proceedings by the Department of Real  
27



1 Estate with respect to any matters which were not specifically  
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and  
5 waivers and for the purpose of settlement of the pending  
6 Accusation as to Respondents without a hearing, it is stipulated  
7 and agreed that the following determination of issues shall be  
8 made:

9 I

10 The acts and/or omissions of Respondents CAPITAL  
11 INVESTMENTS, INC. and ROBERT GARY DEMBROWSKI as stipulated above  
12 violate Section 2746 of Title 10, California Code of Regulations,  
13 and constitute grounds for the suspension or revocation of the  
14 real estate broker licenses and license rights of Respondents  
15 under the provisions of Section 10177(d) of the California  
16 Business and Professions Code (hereafter the Code).

17 II

18 The acts and/or omissions of Respondents CAPITAL  
19 INVESTMENTS, INC. and ROBERT GARY DEMBROWSKI as stipulated above  
20 constitute grounds for the suspension or revocation of the real  
21 estate broker licenses and license rights of Respondents under the  
22 provisions of Sections 10177(a) and 10177(f) of the Code.

23 ORDER

24 I

25 All real estate license(s) and license rights of  
26 Respondent CAPITAL INVESTMENTS, INC. are hereby revoked under  
27 Determination of Issues I and II, jointly and severally.



II

1  
2           A. All real estate licenses and license rights of  
3 Respondent ROBERT GARY DEMBROWSKI are hereby revoked under  
4 Determination of Issues I and II, jointly and severally.

5           B. A restricted real estate salesperson license shall  
6 be issued to Respondent ROBERT GARY DEMBROWSKI pursuant to Section  
7 10156.6 of the Code if he makes application therefor and pays to  
8 the Department of Real Estate the appropriate fee for said license  
9 within ninety (90) days from the effective date of the decision.

10           C. The restricted license issued to Respondent shall be  
11 subject to all of the provisions of Section 10156.7 of the  
12 Business and Professions Code and to the following limitations,  
13 conditions and restrictions imposed under authority of Section  
14 10156.6 of that Code:

15  
16           (1) The restricted license issued to Respondent may be  
17 suspended prior to hearing by Order of the Real  
18 Estate Commissioner in the event of Respondent's  
19 conviction or plea of nolo contendere to a crime  
20 which is substantial related to Respondent's  
21 fitness or capacity as a real estate licensee.

22           (2) The restricted license issued to Respondent may be  
23 suspended prior to hearing by Order of the Real  
24 estate Commissioner on evidence satisfactory to  
25 the Commissioner that Respondent has violated  
26 provisions of the California Real Estate Law, the  
27 Subdivided Lands Law, Regulations of the Real



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Estate Commissioner or conditions attaching to the restricted license.

(3) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions of the restricted license, until two (2) years have elapsed from the effective date of this Decision.

(4) Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

(5) Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3

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of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the Administrative Procedure Act to present such evidence.

(6) Respondent shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent passes the examination.

DATED: March 27, 1998

*Deidre L. Johnson*  
DEIDRE L. JOHNSON  
Counsel for the Complainant

\* \* \*

I have read the Stipulation and Agreement, have discussed it with my counsel or understand that I have the right to consult with counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am

1 waiving rights given to me by the California Administrative  
2 Procedure Act, and I willingly, intelligently and voluntarily  
3 waive those rights, including the right of requiring the  
4 Commissioner to prove the allegations in the Accusation at a  
5 hearing at which I would have the right to cross-examine witnesses  
6 against me and to present evidence in defense and mitigation of  
7 the charges.

8  
9 CAPITAL INVESTMENTS, INC.,  
Respondent by

10 DATED: 3-20-98

Robert G. Dembrowski  
President

11  
12 DATED: 3-20-98

Robert G. Dembrowski  
ROBERT GARY DEMBROWSKI  
Respondent

13  
14 \* \* \*

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16  
17 DECISION AND ORDER

18 The foregoing Stipulation and Agreement is hereby  
19 adopted as my Decision and Order and shall become effective at 12  
20 o'clock noon on May 7, 1998.

21  
22 IT IS SO ORDERED 4/14, 1998.

23 JIM ANTT, JR.  
24 Real Estate Commissioner

25 J. Antt  
26  
27





BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
JAN 21 1998

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CAPITAL INVESTMENTS, INC., and  
ROBERT GARY DEMBROWSKI

}

Case No. H-27354 LA

OAH No. N-1997100013

*Shelly Ely*

Respondent

CONTINUED  
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at \_\_\_\_\_  
Office of Administrative Hearings, 560 J Street, Suite 340/360  
Sacramento, CA 95814

on February 18 -- February 20, 1998, 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: January 21, 1998

By *Deidre L. Johnson*  
DEIDRE L. JOHNSON Counsel

FILED  
OCT 8 1997

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Shelly [Signature]

In the Matter of the Accusation of  
CAPITAL INVESTMENTS, INC. and  
ROBERT GARY DEMBROWSKI  
Respondent

Case No. H-27354 LA  
OAH No. N-1997100013

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at  
Office of Administrative Hearings, 560 J Street, Suite 340/360  
Sacramento, CA 95814

on December 16 - 18th, 1997, 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: October 8, 1997

By [Signature]  
DEIDRE L. JOHNSON Counsel

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FILED  
SEP 29 1997  
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
CAPITAL INVESTMENTS, INC., ) NO. H-27354 LA  
and ROBERT GARY DEMBROWSKI, )  
Respondents. )

ORDER VACATING ORDER OF SUSPENSION

An ORDER SUSPENDING REAL ESTATE LICENSES in Case No. H-7302 SF was filed on September 8, 1997, against Respondents CAPITAL INVESTMENTS, INC. and ROBERT GARY DEMBROWSKI, upon the filing, on August 27, 1997, of the Accusation in the above-captioned case.

Good cause appearing therefore, the ORDER SUSPENDING REAL ESTATE LICENSES is hereby vacated without prejudice to the Complainant with respect to the above-captioned Accusation.

IT IS SO ORDERED this 26 day of September, 1997.

JIM ANTT, JR.  
Real Estate Commissioner

Robin T. Wilson

By: ROBIN T. WILSON  
Chief Legal Officer

1 DEPARTMENT OF REAL ESTATE  
2 P. O., Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0425

FILED  
SEP 8 1997  
DEPARTMENT OF REAL ESTATE

By *Kathleen Conteras*

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 CAPITAL INVESTMENTS, INC., )  
14 and ROBERT GARY DEMBROWSKI, ) NO. H-7302 SF  
15 Respondents. )  
16 \_\_\_\_\_ )

17 ORDER SUSPENDING REAL ESTATE LICENSES

18 TO: CAPITAL INVESTMENTS, INC., and ROBERT GARY DEMBROWSKI  
19

20 On or about July 29, 1996, the Real Estate Commissioner  
21 rendered a Decision in Case No. H-7302 SF, effective September 4,  
22 1996, that ordered the suspension of the real estate broker  
23 corporation license of CAPITAL INVESTMENTS, INC. (hereafter CII)  
24 and the real estate broker license of ROBERT GARY DEMBROWSKI  
25 (hereafter DEMBROWSKI) for sixty (60) days, and stayed said  
26 suspensions for one year on certain terms and conditions set forth  
27 in the Decision, including but not limited to the following:

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B. The first thirty (30) days of said suspension as to each Respondent are stayed for a period of one (1) year on the condition that no cause for disciplinary action against each Respondent occurs within one (1) year from the effective date of the Decision. If the Real Estate Commissioner determines that further cause for disciplinary action against each Respondent's license has occurred within one (1) year from the effective date of the Decision, the stay of suspension hereby granted to that Respondent, or such portion of the stay as the Real Estate Commissioner shall deem appropriate, shall be vacated. If no further cause for disciplinary action occurs within said time period, the stay hereby granted in this subparagraph B to each Respondent shall become permanent.

C. If each Respondent petitions the Department in writing pursuant to Section 10175.2 of the Code, the remaining thirty (30) days of said suspension shall be stayed in whole or in part upon the following conditions:

...

(5) If each Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate licenses of that Respondent occurs within one (1) year from the effective date

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of the Decision, the stay hereby granted in this subparagraph C. to that Respondent shall become permanent. If the Real Estate Commissioner determines that further cause for disciplinary action against each Respondent's license has occurred within one (1) year from the effective date of the Decision, the stay of suspension hereby granted to that Respondent, or such portion of the stay as the Real Estate Commissioner shall deem appropriate, shall be vacated.

On August 27, 1997, in Case No. H-27354 LA, an Accusation by a Deputy Real Estate Commissioner of the State of California was filed charging Respondents CII and DEMBROWSKI with violation of Section 2746 of Title 10, California Code of Regulations in conjunction with Section 10177(d) of the of the California Business and Professions Code (hereafter the Code), and charging CII with violation of Sections 10177(a) and 10177(f) of the Code.

NOW, THEREFORE, IT IS ORDERED, under authority of the Decision rendered in Case No. H-7302 SF, that the real estate licenses heretofore issued to Respondents CII and DEMBROWSKI, and each of them, and the exercise of any privileges thereunder is hereby suspended for sixty (60) days from the effective date of this Order.

IT IS FURTHER ORDERED that all license certificates and identification cards issued by Department which are in the possession of Respondents be immediately surrendered by personal

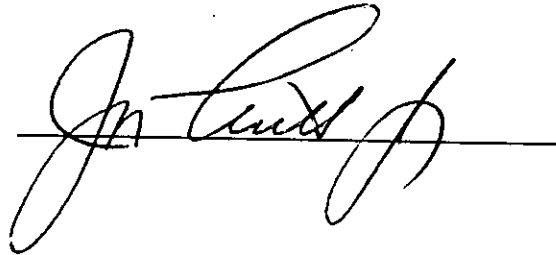
1 delivery or by mailing in the enclosed, self-addressed envelope  
2 to:

3 DEPARTMENT OF REAL ESTATE  
4 Attn: Flag Section  
5 P. O. Box 187000  
6 Sacramento, CA 95818-7000

7 This Order shall become effective at 12 o'clock noon on  
8 September 29, 1997.

9 IT IS SO ORDERED 9/8, 1997.

10 JIM ANTT, JR.  
11 Real Estate Commissioner

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**FILED**  
AUG 27 1997

1 DEIDRE L. JOHNSON, Counsel  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, California 95818-7000

DEPARTMENT OF REAL ESTATE

By Shelley Ely

5 Telephone: (916) 227-0789

6  
7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 CAPITAL INVESTMENTS, INC., )  
13 and ROBERT GARY DEMBROWSKI, )  
14 Respondents. )

NO. H- 27354 LA

ACCUSATION

15 The Complainant, Thomas McCrady, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of action  
17 against CAPITAL INVESTMENTS, INC., and ROBERT GARY DEMBROWSKI  
18 alleges as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Accusation  
22 against Respondents in his official capacity and not otherwise.

23 II

24 Respondents CAPITAL INVESTMENTS, INC., and ROBERT GARY  
25 DEMBROWSKI are presently licensed and/or have license rights under  
26 the Real Estate Law, Part 1 of Division 4 of the California  
27 Business and Professions Code (hereafter the Code).



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III

At all times herein mentioned, Respondent CAPITAL INVESTMENTS, INC. (hereafter CII) was and is licensed by the State of California Department of Real Estate (hereafter Department) as a real estate broker corporation acting by and through Respondent ROBERT GARY DEMBROWSKI (hereafter DEMBROWSKI) as designated broker officer.

IV

At all times herein mentioned, Respondent DEMBROWSKI was and is licensed by the Department as an individual real estate broker and as the designated broker officer of CII.

V

On or about October 19, 1994, Respondent CII applied to the Department for a real estate broker corporation license, by and through proposed designated broker officer DEMBROWSKI. In response to Question No. 3 on the application's Corporation Background Statement, to wit: "List each director, chief executive officer, president, first level vice presidents, secretary, chief financial officer, subordinate officers with responsibility for forming policy of the Corporation, and all natural persons owning or controlling more than ten percent of its shares," CII and DEMBROWSKI expressly or impliedly represented that there were only such two persons; and disclosed that there were two directors of CII, that DEMBROWSKI was the President and owner of 50% (fifty percent) of the stock of CII, and that JOANNE M. DUFF was the Secretary and owner of 50% (fifty percent) of the stock of CII.

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VI

In connection with the application, CII and DEMBROWSKI represented that, in the event of any change or addition to the above listed categories of persons, they understood the obligation to file a background statement of information with the Department for each new or changed person within thirty days of the change or addition.

VII

In reliance on the above representations, the Department issued a real estate broker corporation license to CII on or about December 21, 1994.

VIII

The above representations were false and were known or should have been known by CII and DEMBROWSKI to be false at the time they were made. The true facts then existing were that RAYMOND JOHN DUFF, JR., owned a twenty-five percent share of the stock of the corporation; and/or that RAYMOND JOHN DUFF, JR., performed the functions of a director or officer in forming the company and in forming and/or directing its policies, purposes and business activities.

IX

On or about October 2, 1995, the Board of Directors of CII, including Respondent DEMBROWSKI, appointed and added RAYMOND J. DUFF (hereafter DUFF) to fill a position as a director on the board. Respondents CII and DEMBROWSKI thereafter failed to notify the Department and failed to file a background statement of information on DUFF within thirty days thereafter.



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X

Effective November 3, 1994, in Case No. H-7030 SF, the Real Estate Commissioner revoked the real estate broker license of RAYMOND J. DUFF, also known as RAYMOND JOHN DUFF, JR., for violation of Sections 10145, 10145(d), 10148, 10231, 10232.4, 10233.1, and 10234 of the Code and Sections 2830, 2831.1, and 2832.1 of Title 10, California Code of Regulations (hereafter the Regulations), pursuant to the provisions of Section 10177(d) of the Code; and pursuant to the provisions of Sections 10176(a), 10176(e), 10177(g), and 10177(h) of the Code.

XI

The acts and/or omissions of CII and DEMBROWSKI as alleged in Paragraph VIII above constitute grounds for disciplinary action pursuant to Section 10177(a) of the Code.

XII

The acts and/or omissions of CII and DEMBROWSKI as alleged in Paragraph IX violate Section 2746 of the Regulations and constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code.

XIII

The disciplinary action against DUFF as alleged in Paragraph X above constitutes the revocation of a license for acts which if done by a real estate licensee would be, and were, grounds for the suspension or revocation of a California real estate license, by a person who is a director and/or shareholder owning or controlling ten percent or more of CII's stock. The matters alleged in Paragraphs VIII, IX, and/or X above would have



1 warranted the denial of CII's application for licensure under  
2 Section 10177(f) of the Code. The above disciplinary action of  
3 DUFF constitute grounds for disciplinary action against CII under  
4 Section 10177(f) of the Code.

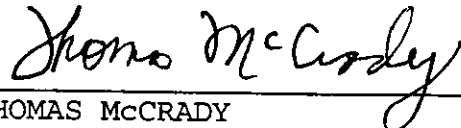
5 XIV

6 PRIOR DISCIPLINARY ACTION

7 Effective September 4, 1996, in Case No. H-7302 SF, the  
8 Real Estate Commissioner suspended the real estate broker  
9 corporation license of Respondent CII and the real estate broker  
10 license of DEMBROWSKI for sixty (60) days on certain terms and  
11 conditions for violation of Sections 10086, 10130, and 10137 of  
12 the Code in conjunction with Section 10177(d) of the Code, and  
13 pursuant to Sections 10177(c) and 10177(f) of the Code.

14 DEMBROWSKI's real estate license was suspended as above alleged  
15 for additional grounds pursuant to the provisions of Sections  
16 10177(g) and 10177(h) of the Code.

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

24 

25 THOMAS MCCRADY  
26 Deputy Real Estate Commissioner

27 Dated at Los Angeles, California  
this 11 day of August, 1997.

