

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012

4 (213) 897-3937

FILED
JUN 18 1998
DEPARTMENT OF REAL ESTATE

By Laura B. Anna

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12 VIOREL ALEXANDRU PETRUSAN,)
13 Respondent.)

NO. H-27638 LA

STIPULATION AND AGREEMENT

14 It is hereby stipulated by and between VIOREL ALEXANDRU
15 PETRUSAN, (sometimes referred to as Respondent), and the
16 Complainant, acting by and through Elliott Mac Lennan, Counsel for
17 the Department of Real Estate, as follows for the purpose of
18 settling and disposing of the Accusation filed on April 9, 1998,
19 in this matter:

20 1. All issues which were to be contested and all
21 evidence which was to be presented by Complainant and Respondent
22 at a formal hearing on the Accusation, which hearing was to be
23 held in accordance with the provisions of the Administrative
24 Procedure Act (APA), shall instead and in place thereof be
25 submitted solely on the basis of the provisions of this
26 Stipulation and Agreement (Stipulation).
27



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. Respondent filed a Notice of Defense pursuant to
6 Section 11506 of the Government Code for the purpose of requesting
7 a hearing on the allegations in the Accusation. Respondent hereby
8 freely and voluntarily withdraws said Notice of Defense.

9 Respondent acknowledges that he understands that by withdrawing
10 said Notice of Defense he thereby waives his right to require the
11 Commissioner to prove the allegations in the Accusation at a
12 contested hearing held in accordance with the provisions of the
13 APA and that he will waive other rights afforded to him in
14 connection with the hearing such as the right to present evidence
15 in his defense and the right to cross-examine witnesses.

16 4. This Stipulation is based on the factual allegations
17 contained in the Accusation. In the interest of expedience and
18 economy, Respondent chooses not to contest these allegations, but
19 to remain silent and understands that, as a result thereof, these
20 factual allegations, without being admitted or denied, will serve
21 as a prima facie basis for the disciplinary action stipulated to
22 herein. The Real Estate Commissioner shall not be required to
23 provide further evidence to prove said factual allegations.

24 5. This Stipulation is based on Respondent's decision
25 not to contest the allegations set forth in the Accusation as a
26 result of the agreement negotiated between the parties. This
27 Stipulation is expressly limited to this proceeding and any



1 further proceeding initiated by or brought before the Department
2 of Real Estate based upon the facts and circumstances alleged in
3 the Accusation for the sole purpose of reaching an agreed
4 disposition of this proceeding without a hearing. The decision of
5 Respondent not to contest the allegations is made solely for the
6 purpose of effectuating this Stipulation. It is the intent and
7 understanding of the parties that this Stipulation shall not be
8 binding or admissible against Respondent in any actions against
9 Respondents by third parties.

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

19 7. The Order or any subsequent Order of the Real Estate
20 Commissioner made pursuant to this Stipulation shall not
21 constitute an estoppel, merger or bar to any further
22 administrative or civil proceedings by the Department of Real
23 Estate with respect to any matters which were not specifically
24 alleged to be causes for accusation in this proceeding.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, it is
3 stipulated and agreed that the following determination of issues
4 shall be made:

5 I

6 The conduct of Respondent VIOREL ALEXANDRU PETRUSAN, as
7 described in Paragraph 4, is in violation of Sections 10145 and
8 10161.8 of the Business and Professions Code (Code) and Sections
9 2752, 2832.1, 2831, 2831.1, 2831.2 and 2832 of Title 10, Chapter 6
10 of the California Code of Regulations (Regulations) and is a basis
11 for the suspension or revocation of Respondent's license and
12 license rights pursuant to Section 10177(d) of the Code.

13 ORDER

14 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
15 TO THE WRITTEN STIPULATION OF THE PARTIES:

16 I

17 All license and license rights of Respondent VIOREL
18 ALEXANDRU PETRUSAN under the Real Estate Law are suspended for a
19 period of ninety (90) days from the effective date of this
20 Decision; provided, however, that if Respondent petitions, thirty
21 (30) days of said suspension shall be stayed on the condition
22 that:

23
24 1. Respondent pays a monetary penalty pursuant to
25 Section 10175.2 of the Code at the rate of \$100.00
26 for each day of said suspension stayed, for a total
27 monetary penalty of \$3,000.



1 2. Said payment shall be in the form of a cashier's
2 check or certified check and payable to the Recovery
3 Account of the Real Estate Fund. Said check must be
4 delivered to the Department prior to the effective date
5 of the Decision in this matter.

6 3. No further cause for disciplinary action
7 against the real estate license of Respondent occurs
8 within two years of the effective date of the Decision
9 in this matter.

10 4. If Respondent fails to pay the monetary penalty in
11 accordance with the terms of the Decision, the
12 Commissioner, may, without a hearing, order the
13 immediate execution of all or any part of the 30 day
14 stayed suspension, in which event the Respondent shall
15 not be entitled to any repayment nor credit,
16 prorated or otherwise, for money paid to the Department
17 under the terms of this Decision.

18 5. If Respondent pays the monetary penalty and if no
19 further cause for disciplinary action against the real
20 estate license of Respondent occurs within two (2) years
21 from the effective date of this Decision, the thirty
22 (30) day stay granted pursuant to this paragraph shall
23 become permanent.
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1 6. The remaining sixty (60) days of the ninety (90) day
2 suspension shall be stayed for two (2) years upon the
3 following terms and conditions:

4 (a) Respondent shall obey all laws, rules and
5 regulations governing the rights, duties and
6 responsibilities of a real estate licensee in the State
7 of California; and

8 (b) That no final subsequent determination be made after
9 hearing or upon stipulation, that cause for disciplinary
10 action occurred within two (2) years of the effective
11 date of this Decision. Should such a determination be
12 made, the Commissioner may, in his discretion, vacate and
13 set aside the stay order and reimpose all or a portion of
14 the stayed suspension. Should no such determination be
15 made, the stay imposed herein shall become permanent.

16 7. As a further condition of staying any part of the
17 sixty (60) day suspension, VIOREL ALEXANDRU PETRUSAN
18 shall first provide evidence satisfactory to the
19 Commissioner prior to the effective of the Decision that
20 the deficit set forth in Audit Report LA 970177 dated
21 March 12, 1998, in the amount of \$1,213.18 has been
22 cured including the source of funds used to cure it.

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II

Pursuant to Section 10148 of the Code, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violations found in paragraph I of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost, not to exceed \$3,600, within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, vacate and set aside the stay orders if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The vacation and the set aside of the stay shall remain in effect until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment. Should no order vacating the stay be issued either in accordance with this condition or conditions 5 and 6, the stay imposed herein shall become permanent.

DATED: 5-5-98

ELLIOTT MAC LENNAN
Counsel for Complainant



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

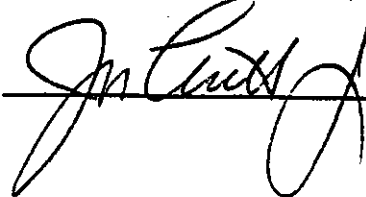
DATED: 5/21/98


VIOREL ALEXANDRU PETRUSAN
Respondent,

The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order and shall become effective at 12 o' clock noon on July 8, 1998.

IT IS SO ORDERED 6/11, 1998.

JIM ANTT JR.
Real Estate Commissioner



Sacto May

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
MAY 12 1998

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-27638 LA
) OAH No. L- 1998050061
VIOREL ALEXANDRU PETRUSAN,)
)
Respondent.)

By Laura B. Cune

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on MAY 26, 1998, 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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.

Dated: MAY 12 1998

DEPARTMENT OF REAL ESTATE

By: Elliott MacLennan
ELLIOTT MAC LENNAN, Counsel

cc: Viorel Alexandru Petrusan
Sacto.
OAH

RE 501 (Rev. 8/97)

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
APR - 9 1998
DEPARTMENT OF REAL ESTATE

By Laura B. Chua

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

VIOREL ALEXANDRU PETRUSAN,)

No. H- 27638 LA

A C C U S A T I O N

Respondent.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity, filed this accusation against VIOREL ALEXANDRU PETRUSAN operating under the fictitious business names of Century 21 A-Team, A-P International Mortgage and Cal/Net Mortgagee Company, is informed and alleges as follows:

I

VIOREL ALEXANDRU PETRUSAN (PETRUSAN), sometimes referred to as Respondent, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California

1 Business and Professions Code).

2 II

3 All references to the "Code" are to the California
4 Business and Professions Code and all references to "Regulations"
5 are to Chapter 6, Title 10, California Code of Regulations.

6 III

7 At all times mentioned, PETRUSAN was licensed or had
8 license rights issued by the Department of Real Estate
9 (Department). PETRUSAN was initially licensed by the Department
10 as a real estate broker on June 27, 1996.

11 IV

12 At all times mentioned, in the City of Bellflower, Los
13 Angeles County, Respondent PETRUSAN acted as a real estate broker
14 in the State of California within this meaning of:

15 A. Section 10131(a) of the Code, including the
16 operation and conduct of a real estate sales brokerage with the
17 public wherein Respondent, on behalf of others, solicited
18 prospective sellers and purchasers and negotiated the purchase and
19 sale of real property, for and in expectation of compensation;

20 B. Section 10131(d) of the Code, including the
21 operation of a mortgage and loan brokerage business with the
22 public wherein lenders and borrowers were solicited for loans
23 secured directly or collaterally by liens on real property,
24 wherein such loans were arranged, negotiated, processed, and
25 consummated on behalf of others for compensation or in expectation
26 of compensation and for fees often collected in advance; and

27 /



1 C. In addition, Respondent conducted broker controlled
2 escrows under the exemption set forth in Section 17006(a)(4) of
3 the California Financial Code.

4 V

5 Audit Report LA 970366

6 On March 5, 1998, the Department completed a field audit
7 examination of the books and records of PETRUSAN pertaining to his
8 mortgage and loan activities requiring a real estate license
9 described in Paragraph IV(B). The audit examination covered a
10 period of time beginning on October 26, 1996 and ending on
11 December 16, 1997. The audit examination revealed a violation of
12 Regulations 2731 as set forth in the following paragraph.

13 VI

14 The audit examination revealed that PETRUSAN used the
15 fictitious name of "Cal/Net Mortgage Company" to conduct licensed
16 activities without holding a license bearing said fictitious
17 business name. The conduct of Respondent PETRUSAN, in failing to
18 obtain a license for use of the aforesaid name, is in violation of
19 Regulation 2731 and is cause to suspend or revoke Respondent's
20 real estate license and license rights under Section 10177(d) of
21 the Code.

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VII

Audit Report LA 970177

On March 12, 1998, the Department completed a field audit examination of the books and records of PETRUSAN pertaining to his residential resale and escrow activities requiring a real estate license described in Paragraph IV(A) and (C). The audit examination covered a period of time beginning on October 20, 1996 and ending on December 16, 1997. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

VIII

At all times mentioned, in connection with the activities described in Paragraph VII, above, PETRUSAN accepted or received funds in trust (trust funds) from or on behalf of actual or prospective buyers and sellers and thereafter made disposition of such funds. Respondent maintained an escrow trust account during the audit period into which he deposited certain of these funds:

Cal-Net Mortgage Company Escrow Client Trust Account
Account Number 0290-753482
Wells Fargo Bank
17037 Bellflower Blvd.
Bellflower, CA 90706

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IX

With respect to the trust funds referred to in Paragraph VIII, it is alleged that PETRUSAN:

(a) Permitted, allowed, or caused a deficit to accumulate in the escrow trust account, which on December 16, 1997, was in the amount of \$1,213.18, in violation of Section 10145 of the Code and Regulation 2832.1;

(b) Failed to maintain an adequate columnar record in chronological order of all trust funds received, as required by Regulation 2831;

(c) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited into, and disbursed from the trust account, as required by Section 2831.1 of the Regulations;

(d) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed from the trust account, as required by Regulation 2831.2; and

(e) Failed to place funds, in the name of the broker as trustee, as required by Section 2832 of the Regulations.

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X

The conduct of Respondent PETRUSAN, described in Paragraph IX, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

IX(a)	Section 10145 of the Code, and Section 2832.1 of the Regulations
IX(b)	Section 10145 of the Code Section 2831 of the Regulations
IX(c)	Section 10145 of the Code Section 2831.1 of the Regulations
IX(d)	Section 10145 of the Code Section 2831.2 of the Regulations
IX(e)	Section 10145 of the Code Section 2832 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent PETRUSAN under the provisions of Section 10177(d) of the Code.

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XI

The overall conduct of Respondent constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent PETRUSAN under the provisions of Section 10177(g) of the Code.

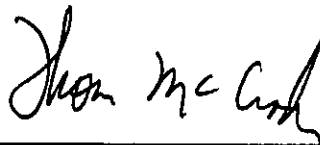
XII

The audit examination also revealed that PETRUSAN failed to notify the Department of the employment of fourteen licensees, as required by Section 10161.8 of the Code and Section 2752 of the Regulations. This conduct is cause to suspend or revoke the license and license rights of the Respondent PETRUSAN under the provisions of Section 10177(d) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of VIOREL ALEXANDRU PETRUSAN 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 9th day of April, 1998.



Deputy Real Estate Commissioner

cc: Viorel Alexandru Petrusan
Sacto.
RW

