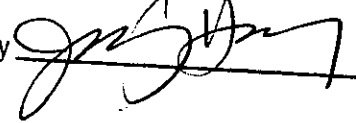


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FILED
FEB 20 2002

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27688 LA
)
CRAIG STEVEN O'ROURKE,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 2, 1998, a Decision was rendered herein
revoking the real estate salesperson license of Respondent,
but granting Respondent the right to apply for and be issued
a restricted real estate salesperson license. A restricted
real estate salesperson license was issued to Respondent on
January 16, 1999.

On August 27, 2001, Respondent petitioned for
reinstatement of said real estate salesperson license and
the Attorney General of the State of California has been
given notice of the filing of said petition.

///

///

1 I have considered the petition of Respondent and
2 the evidence and arguments in support thereof. Respondent
3 has demonstrated to my satisfaction that Respondent meets
4 the requirements of law for the issuance to Respondent of an
5 unrestricted real estate salesperson license and that it would
6 not be against the public interest to issue said license to
7 Respondent CRAIG STEVEN O'ROURKE.
8

9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 salesperson license be issued to Respondent, if Respondent
12 satisfies the following conditions within nine (9) months from
13 the date of this Order:

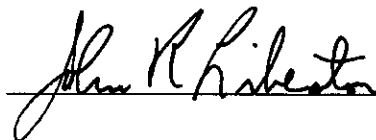
14 1. Submittal of a completed application and payment
15 of the fee for a real estate salesperson license.

16 2. Submittal of evidence satisfactory to the Real
17 Estate Commissioner that Respondent has since the most recent
18 issuance of an original or renewal real estate license, taken
19 and successfully completed the continuing education
20 requirements of Article 2.5 of Chapter 3 of the Real Estate
21 Law for renewal of a real estate license.

22 This Order shall be effective immediately.

23 Dated: February 13, 2002

24 PAULA REDDISH ZINNEMANN
25 Real Estate Commissioner

26 

27 cc: Craig Steven O'Rourke
446 Monterey Blvd., B-3
Hermosa Beach, CA 90254

BY: John R. Liberator
Chief Deputy Commissioner

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California 90012
3 (213) 897-3937
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FILED
DEC 11 1998
DEPARTMENT OF REAL ESTATE
By K. M. M. M. M.

10 DEPARTMENT OF REAL ESTATE

11 STATE OF CALIFORNIA

12 * * * *

13 In the Matter of the Accusation of) NO. H-27688 LA
14 MICHAEL JACQUE O'ROURKE)
and CRAIG STEVEN O'ROURKE,) STIPULATION AND AGREEMENT
15 Respondents.)
16

17 It is hereby stipulated by and between and Eric Meller,
18 Esq. of the Law Offices of Meller & Floyd, Counsel for MICHAEL
19 JACQUE O'ROURKE and CRAIG STEVEN O'ROURKE (sometimes referred to
20 as Respondents), and the Complainant, acting by and through
21 Elliott Mac Lennan, Counsel for the Department of Real Estate, as
22 follows for the purpose of settling and disposing of the
23 Accusation filed on May 27, 1998, in this matter:

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



1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement (Stipulation).

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

8 3. Respondents timely filed a Notice of Defense
9 pursuant to Section 11506 of the Government Code for the purpose
10 of requesting a hearing on the allegations in the Accusation.
11 Respondents hereby freely and voluntarily withdraw said Notice of
12 Defense. Respondents acknowledge that they understand that by
13 withdrawing said Notice of Defense they thereby waive their right
14 to require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that they will waive other rights
17 afforded to them in connection with the hearing such as the right
18 to present evidence in their defense and the right to cross-
19 examine witnesses.

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



1 5. This Stipulation is based on Respondents' decision
2 not to contest the allegations set forth in the Accusation as a
3 result of the agreement negotiated between the parties. This
4 Stipulation is expressly limited to this proceeding and any
5 further proceeding initiated by or brought before the Department
6 of Real Estate based upon the facts and circumstances alleged in
7 the Accusation for the sole purpose of reaching an agreed
8 disposition of this proceeding. The decision of Respondents not
9 to contest the allegations contained in the "Order" herein below,
10 is made solely for the purpose of effectuating this Stipulation.
11 It is the intent and understanding of the parties that this
12 Stipulation shall not be binding or admissible against Respondents
13 in any actions against Respondents by third parties.

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

23 7. The Order or any subsequent Order of the Real Estate
24 Commissioner made pursuant to this Stipulation shall not
25 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 and solely for
5 the purpose of settlement of the Accusation without a hearing, it
6 is stipulated and agreed that the following determination of
7 issues shall be made:

8 I

9 The conduct of MICHAEL JACQUE O'ROURKE, as described in
10 Paragraph 4, above, is in violation of Section 10137 of the
11 Business and Professions Code (Code) and is a basis for the
12 suspension or revocation of Respondent's license and license
13 rights pursuant to said Section.

14 II

15 The conduct of CRAIG STEVEN O'ROURKE, as described in
16 Paragraph 4, above, is in violation of Section 10130 of the Code
17 and is a basis for the suspension or revocation of Respondent's
18 license and license rights pursuant to Section 10177(d) of the
19 Code. Jurisdiction over the license rights of this Respondent is
20 maintained pursuant to Section 10103 of the Code.

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1 /
2 ORDER

3 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
4 TO THE WRITTEN STIPULATION OF THE PARTIES:

5 I

6 All licenses and licensed rights of Respondent MICHAEL
7 JACQUE O'ROURKE under the Real Estate Law are revoked; provided,
8 however, a restricted real estate broker license shall be issued
9 to Respondent pursuant to Section 10156.5 of the Business and
10 Professions Code if Respondent makes application therefor and
11 pays to the Department of Real Estate the appropriate fee for the
12 restricted license within 90 days from the effective date of this
13 Decision. The restricted license issued to Respondent shall be
14 subject to all of the provisions of Section 10156.7 of the
15 Business and Professions Code and to the following limitations,
16 conditions and restrictions imposed under authority of Section
17 10156.6 of that Code:

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

25 2. The restricted license issued to Respondent may be
26 suspended prior to hearing by Order of the Real Estate
27



1 Commissioner on evidence satisfactory to the
2 Commissioner that Respondent has violated provisions of
3 the California Real Estate Law, the Subdivided Lands
4 Law, Regulations of the Real Estate Commissioner or
5 conditions attaching to the restricted license.

6
7 3. Respondent shall not be eligible to apply for the
8 issuance of an unrestricted real estate license nor for
9 the removal of any of the conditions, limitations or
10 restrictions of a restricted license until one year
11 has elapsed from the effective date of this Decision.

12 4. Respondent shall, within six months from the
13 effective date of this Decision, present evidence
14 satisfactory to the Real Estate Commissioner that
15 Respondent has, since the most recent issuance of an
16 original or renewal real estate license, taken and
17 successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real
19 Estate Law for renewal of a real estate license. If
20 Respondent fails to satisfy this condition, the
21 Commissioner may order the suspension of the restricted
22 license until the Respondent presents such
23 evidence. The Commissioner shall afford Respondent the
24 opportunity for a hearing pursuant to the Administrative
25 Procedure Act to present such evidence.
26
27



5. Respondent shall within six 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
Respondent's license until Respondent passes the
examination.

II

Respondent CRAIG STEVEN O'ROURKE shall be entitled to
apply for and be issued a restricted real estate salesperson
license if Respondent successfully passes the real estate
salesperson examination and pays to the Department of Real Estate
the appropriate fee for said license within ninety (90) days of
the effective date of the Order herein.

The restricted license issued to Respondent shall be
subject to all of the provisions of Section 10156.7 of the Code
and the following limitations, conditions and restrictions imposed
under authority of Section 10156.6 of the Code:

A. The restricted license may be suspended prior to
hearing by Order of the Real Estate Commissioner in the event of
Respondent's conviction (including conviction on a plea of nolo
contendere) to a crime which bears a significant relationship to
Respondent's fitness or capacity as a real estate licensee.

B. The restricted license may be suspended prior to
hearing by Order of the Real Estate Commissioner on evidence

1 satisfactory to the Commissioner that Respondent has, after the
2 effective date of the Order herein, violated provisions of the
3 California Real Estate Law, the Subdivided Lands Law, Regulations
4 of the Real Estate Commissioner or conditions attaching to said
5 restricted license.

6 C. Respondent shall obey all laws of the United States,
7 the State of California and its political subdivisions, and shall
8 further obey and comply with all rules and regulations of the Real
9 Estate Commissioner.

10 D. Respondent shall within six months from the
11 effective date of any restricted license issued to him, take and
12 pass the Professional Responsibility Examination administered by
13 the Department including the payment of the appropriate
14 examination fee. If Respondent fails to satisfy this condition,
15 the Commissioner may order suspension of the restricted license
16 until Respondent passes the examination.

17 E. Respondent shall not be eligible for the issuance of
18 an unrestricted real estate license nor the removal of any of the
19 conditions, limitations or restrictions of the restricted license
20 until at least one year has elapsed from the issuance of any
21 restricted real estate license

22 F. Respondent shall submit with any application for
23 license under an employing broker, or any application for transfer
24 to a new employing broker, a statement signed by the prospective
25 broker which shall certify:

26

27



1 (1) That the employing broker has read the Order of
2 the Commissioner which granted the right to a
3 restricted license; and

4 (2) That the employing broker will exercise close
5 supervision over the performance by the
6 restricted licensee of the activities for
7 which a real estate license is required.
8

9 III

10 All license and license rights of Respondents MICHAEL
11 JACQUE O'ROURKE and CRAIG STEVEN O'ROURKE under the Real Estate
12 Law are suspended for a period of thirty (30) days from the
13 effective date of any restricted license issued to either of them.
14 Provided, however, that if a Respondent petitions, all thirty (30)
15 days of said suspension (or a portion thereof) shall be
16 permanently stayed upon condition that:

17 1. Each Respondent pays a monetary penalty pursuant to
18 Section 10175.2 of the Code at the rate of \$100.00
19 for each day of said suspension stayed, for a total
20 monetary penalty of \$3,000 each.
21

22 2. Said payment shall be in the form of a cashier's
23 check or certified check and payable to the Recovery
24 Account of the Real Estate Fund. Said check must be
25 delivered to the Department prior to the effective date
26 of the Decision in this matter.
27



ELLIOTT MAC LENNAN
Counsel for Complainant

We have read the Stipulation and Agreement and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited

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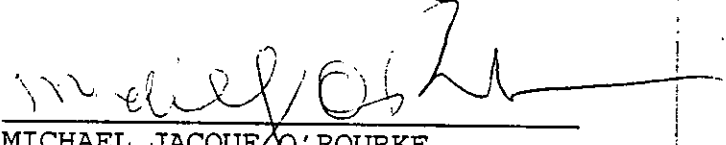
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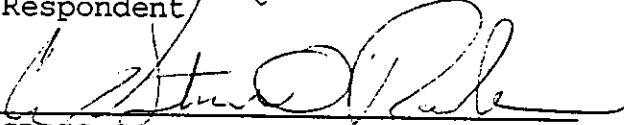
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1 to Sections 11506, 11508, 11509 and 11513 of the Government Code),
2 and we willingly, intelligently and voluntarily waive those
3 rights, including the right of requiring the Commissioner to prove
4 the allegations in the Accusation at a hearing at which we would
5 have the right to cross-examine witnesses against us and to
6 present evidence in defense and mitigation of the charges.

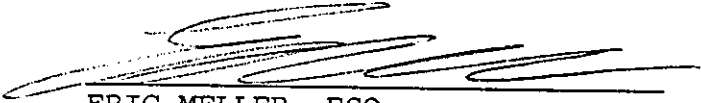
7
8 DATED: 11-3-98


MICHAEL JACQUE O'ROURKE,
Respondent

9
10 DATED: 11-3-98


CRAIG STEVEN O'ROURKE
Respondent

11
12
13 DATED: 11-1-98

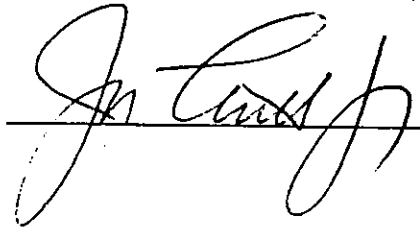

ERIC MELLER, ESQ.,
Attorney for Respondent

14
15 * * * *

16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision and shall become effective at 12 o' clock
18 noon on January 5, 1999

19 IT IS SO ORDERED 12/2, 1998.

20 JIM ANTT JR.
21 Real Estate Commissioner

22 
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27

Handwritten initials

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUN 16 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

MICHAEL JACQUE O'ROURKE and
CRAIG STEVEN O'ROURKE,

By *K. H. Schubert*

Case No. H-27688 LA

OAH No. L-1998060141

Respondent

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, 107 South Broadway, Second Floor, Los Angeles
CA 90012

on July 30, 1998, at the hour of 1:30 p.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 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: June 16, 1998

By *Eric Meller*

Counsel

cc: Michael Jacque O'Rourke
Craig Steven O'Rourke
Sacto

OAH LK

Eric Meller, Esq.

RE 501 (Rev. 8/97)

kw

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66764
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

Telephone (213) 897-3937

FILED
MAY 27 1993
DEPARTMENT OF REAL ESTATE

By R. Schubert

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

MICHAEL JACQUE O'ROURKE;)
CRAIG STEVEN O'ROURKE,)

No. H-27688 LA

A C C U S A T I O N

Respondents.)

The Complainant, Thomas McCrady, a Deputy Real Estate
Commissioner of the State of California, acting in his official
capacity, for cause of accusation against MICHAEL JACQUE O'ROURKE
dba O'Rourke Realty, and CRAIG STEVEN O'ROURKE, is informed and
alleges as follows:

I

MICHAEL JACQUE O'ROURKE (MICHAEL) and CRAIG STEVEN
O'ROURKE (CRAIG) sometimes referred to as Respondents, are
presently licensed and/or has license rights under the Real Estate
Law (Part 1 of Division 4 of the California Business and
Professions Code).



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II

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

III

At all times mentioned, MICHAEL was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. MICHAEL was initially licensed by the Department on April 18, 1967.

IV

At all times mentioned, CRAIG was licensed or had license rights issued by the Department as a real estate salesperson. CRAIG was initially licensed by the Department on March 1, 1992. CRAIG's license expired on March 30, 1996, and has not been renewed.

V

At all times mentioned, in the City of Costa Mesa, Santa Ana County, Respondent MICHAEL acted as real estate broker, within the meaning of Section 10131(a) of the Code in that he operated a residential real estate resale business with the public wherein, on behalf of others and for compensation or in expectation of compensation, he sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property. CRAIG was a salesperson employed by MICHAEL.

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VI

On March 17, 1997, CRAIG drafted and submitted a Bid for Purchase of Real Property Probate, Conservatorships and Guardianships as an Agreement to Purchase and Receipt for Deposit Subject to California Probate Code (Bid), on behalf of Betty Robertson and her son, Andrew Mikiel as their offer on the real property known as 3204 Gibson Place, Redondo Beach, California.

VI

The bid represented that the selling agent and broker was O'Rourke Realty represented by CRAIG O'ROURKE. The brokerage commission was scheduled for five (5%) percent. Although CRAIG negotiated with the listing agent, Richard P. Coleman of Shorewood Realtors, Inc., the purchase and sale transaction failed to consummate due to the seller accepting another offer to purchase.

VII

The conduct of CRAIG in preparing and submitting the bid and in negotiating the purchase of 3204 Gibson Place, Redondo Beach, California, on behalf of Betty Robertson and Andrew Mikiel, during a period when his license had expired, as described in Paragraph IV, is in violation of Section 10130 of the Code and is cause to suspend or revoke his license and license rights under Sections 10177(d) or 10177(f) of the Code.

VIII

In course of the residential resale brokerage activities described in Paragraph V, MICHAEL, with full knowledge that CRAIG's real estate license had expired, employed him to perform acts for which a real estate license is required, in violation of



1 Section 10137 of the Code. This conduct and violation are cause
2 to suspend or revoke the license and license rights of Respondent
3 MICHAEL under Section 10137 of the Code.

4 IX

5 The overall conduct of Respondent MICHAEL constitutes
6 negligence or incompetence. This conduct and violation are cause
7 for the suspension or revocation of the real estate license and
8 license rights of Respondent MICHAEL under Section 10177(g) of the
9 Code.

10 WHEREFORE, Complainant prays that a hearing be conducted
11 on the allegations of this Accusation and that upon proof thereof,
12 a decision be rendered imposing disciplinary action against the
13 licenses and license rights of Respondents MICHAEL JACQUE O'ROURKE
14 and CRAIG STEVEN O'ROURKE under the Real Estate Law (Part 1 of
15 Division 4 of the Business and Professions Code) and for such
16 other and further relief as may be proper under other applicable
17 provisions of law.

18 Dated at Los Angeles, California
19 this 27th day of May, 1998.

20
21 THOMAS MC CRADY

22 Deputy Real Estate Commissioner

23
24
25 cc Michael Jacque O'Rourke
26 Craig Steven O'Rourke
27 Sacto
LK

