

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 -or- (213) 576-6910 (Direct)

FILED
SEP - 8 2000
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
12	MORENO VALLEY REALTY, INC.,)	NO. H-28441 LA
13	a corporation, dba)	L-2000030625
14	Re/Max Results and)	
15	THEODORE JAMES BOECKER,)	<u>STIPULATION AND AGREEMENT</u>
16	individually and as)	
17	designated officer of)	
18	Moreno Valley Realty, Inc.,)	
19	Respondents.)	

17 It is hereby stipulated by and between MORENO VALLEY
18 REALTY, INC., a corporation dba Re/Max Results (hereinafter
19 "MORENO") and THEODORE JAMES BOECKER, individually and as
20 designated officer of Moreno Valley Realty, Inc. (hereinafter
21 "BOECKER") (hereinafter sometimes referred to as "Respondents"),
22 and the Complainant, acting by and through Chris Leong, Counsel
23 for the Department of Real Estate, as follows for the purpose of
24 settling and disposing of the Accusation filed on March 10,
25 2000.

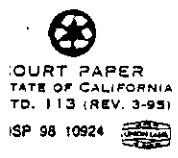
26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and

1 Respondents at a formal hearing on the Accusation, which hearing
2 was to be held in accordance with the provisions of the
3 Administrative Procedure Act, shall instead and in place thereof
4 be submitted solely on the basis of the provisions of this
5 Stipulation and Agreement.

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the
8 Administrative Procedure Act and the Accusation, filed by the
9 Department of Real Estate in this proceeding.

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

23 4. In the interest of expedience and economy,
24 Respondents choose not to contest the factual allegations in
25 Paragraphs 1 through 12 of the Accusation, but to remain silent
26 and understand that, as a result thereof, these factual
27 statements, without being admitted or denied, will serve as a



1 prima facie basis for the disciplinary action stipulated to
2 herein. The Real Estate Commissioner shall not be required to
3 provide further evidence to prove such allegations.

4 5. It is understood by the parties that the Real
5 Estate Commissioner may adopt the Stipulation and Agreement as
6 her Decision in this matter, thereby imposing the penalty and
7 sanctions on Respondents' real estate licenses and license
8 rights as set forth in the "Order" below. In the event that the
9 Commissioner in her discretion does not adopt the Stipulation
10 and Agreement, it shall be void and of no effect, and
11 Respondents shall retain the right to a hearing and proceeding
12 on the Accusation under all the provisions of the Administrative
13 Procedure Act and shall not be bound by any admission or waiver
14 made herein.

15 6. The Order or any subsequent Order of the Real
16 Estate Commissioner made pursuant to this Stipulation and
17 Agreement shall not constitute an estoppel, merger or bar to any
18 further administrative or civil proceeding by the Department of
19 Real Estate with respect to any matters which were not
20 specifically alleged to be causes for accusation in this
21 proceeding.

22 DETERMINATION OF ISSUES

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

27 The acts and omissions of Respondent BOECKER,



1 described in Paragraphs 1 through 12 of the Accusation, are
2 cause for the suspension or revocation of all real estate
3 licenses and license rights of Respondent under the provisions
4 of Sections 10145 and 10177(h) of the Business and Professions
5 and Sections 2831 and 2832.1 of Title 10, Chapter 6, California
6 Code of Regulations.

7 The acts and omissions of Respondent MORENO, described
8 in Paragraphs 1 through 12 of the Accusation, are cause for the
9 suspension or revocation of all real estate licenses and license
10 rights of Respondent under the provisions of Sections 10145 and
11 10177(d) of the Business and Professions and Sections 2831 and
12 2832.1 of Title 10, Chapter 6, California Code of Regulations.

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 All licenses and licensing rights of Respondents
16 MORENO VALLEY REALTY, INC., a corporation dba Re/Max Results,
17 Inc. and THEODORE JAMES BOECKER, individually and as designated
18 officer of Moreno Valley Realty, Inc., under the Real Estate Law
19 are suspended for a period of sixty (60) days from the effective
20 date of this Decision; provided, however, that all of said
21 suspension shall be stayed for two (2) years upon the following
22 terms and conditions:

23 1. Before the effective date of this Decision,
24 Respondents shall provide proof to the Department that the
25 \$3,212.34 trust fund shortage identified in audit number
26 LA 980650 has been cured.

27 2. Pursuant to Section 10148 of the Business and



1 Professions Code, Respondents MORENO and BOECKER, jointly or
2 severally, shall pay the Commissioner's reasonable cost for:
3 (a) the audit which led to this disciplinary action and,
4 (b) a subsequent audit to determine if Respondents have
5 corrected the trust fund violations found in the Determination
6 of Issues. The cost of the audit which led to this disciplinary
7 action is \$5,992.07. In calculating the amount of the
8 Commissioner's reasonable cost for the subsequent audit, the
9 Commissioner may use the estimated average hourly salary for all
10 persons performing audits of real estate brokers, and shall
11 include an allocation for travel time to and from the auditor's
12 place of work. Said amount for the subsequent audit shall not
13 exceed \$5,992.07.

14 Respondents shall pay the cost of both audits within
15 sixty (60) days of receiving an invoice from the Commissioner
16 detailing the activities performed during the audit and the
17 amount of time spent performing those activities. The
18 Commissioner may in her discretion, vacate and set aside any
19 stay order, if payment is not timely made as provided for
20 herein, or as provided for in a subsequent agreement between the
21 Respondents and the Commissioner. The vacation and set aside of
22 the stay shall remain in effect until payment is made in full,
23 or until Respondents enter into an agreement satisfactory to the
24 Commissioner to provide for payment. Should no order vacating
25 the stay be issued, the stay imposed herein shall become
26 permanent.

27



1 3. Respondents shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

4 4. That no final subsequent determination be made
5 after hearing or upon stipulation, that cause for disciplinary
6 action occurred within two (2) years of the effective date of
7 this Decision. Should such a determination be made, the
8 Commissioner may, in her discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension.

11 If no further cause for disciplinary action against
12 the real estate licenses of Respondents occurs within two (2)
13 years from the effective date of this Decision and if the above
14 conditions are satisfied, the sixty (60) day stay hereby granted
15 shall become permanent.

16
17 DATED: 7/31/00 CHRIS LEONG
18 CHRIS LEONG, ESQ.
19 Counsel for Complainant


20 * * *

21 We have read the Stipulation and Agreement and its
22 terms are understood by us and are agreeable and acceptable to
23 us. We understand that we are waiving rights given to us by the
24 California Administrative Procedure Act (including but not
25 limited to Sections 11506, 11508, 11509 and 11513 of the
26 Government Code), and we willingly, intelligently and
27 voluntarily waive those rights, including the right of requiring
the Commissioner to prove the allegations in the Accusation at a

1 hearing at which we would have the right to cross-examine
2 witnesses against us and to present evidence in defense and
3 mitigation of the charges.

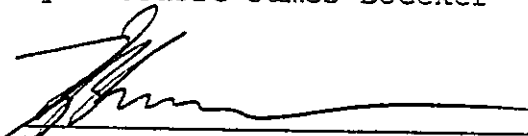
4 Respondents can signify acceptance and approval of the
5 terms and conditions of this Stipulation and Agreement by faxing
6 a copy of the signature page, as actually signed by Respondents,
7 to the Department at the following telephone/fax number
8 (213) 567-6917. Respondents agree, acknowledge and understand
9 that by electronically sending to the Department a fax copy of
10 their actual signatures as it appears on the Stipulation and
11 Agreement, that receipt of the faxed copy by the Department
12 shall be as binding on Respondents as if the Department had
13 received the original signed Stipulation and Agreement.

14
15 DATED: 7/12/00



MORENO VALLEY REALTY, INC.,
a corporation dba Re/Max Results,
by Theodore James Boecker

18
19 DATED: 7/12/00



THEODORE JAMES BOECKER,
individually and
as designated officer of
Moreno Valley Realty, Inc.,
Respondent

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*Faxed To DRE
7/12/00 JB*


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* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on September 28, 2000.

IT IS SO ORDERED September 1, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



SAC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
MORENO VALLEY REALTY, INC.,)
a corporation, dba Re/Max Results)
and THEODORE JAMES BOECKER,)
individually and as designated)
officer of MORENO VALLEY REALTY, INC.,)
_____)
Respondent (s)

Case No. H-28441 LA

OAH No. L-2000030625

FILED
JUN 27 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION 3

To the above-named Respondent (s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, AUGUST 9, 2000, 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 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 27, 2000

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: Moreno Valley Realty, Inc.
Theodore James Boecker
Jennifer Lin/L.A. Audits
Sacto.
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
MORENO VALLEY REALTY, INC.,)
a corporation, dba Re/Max Results)
and THEODORE JAMES BOECKER,)
individually and as designated)
officer of MORENO VALLEY REALTY, INC.,)

Case No. H-28441 LA

OAH No. L-2000030625

FILED
MAY - 9 2000
DEPARTMENT OF REAL ESTATE

Respondent (s)

NOTICE OF CONTINUED 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 the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on FRIDAY, JUNE 23, 2000, 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 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.

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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: May 9, 2000

By

Chris Leong
CHRIS LEONG, Counsel

cc: Moreno Valley Realty, Inc.
Theodore James Boecker
Jennifer Lin/L.A. Audits
Sacto.
OAH

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
MORENO VALLEY REALTY, INC.,)
a corporation, dba Re/Max Results)
and THEODORE JAMES BOECKER,)
individually and as designated)
officer of MORENO VALLEY REALTY, INC.,)

Case No. H-28441 LA
OAH No. L-2000030625

Respondent (s)

FILED
APR - 5 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent (s):

By CS

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, MAY 10, 2000, 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 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.

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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: April 5, 2000

By Chris Leong
CHRIS LEONG, Counsel

cc: Moreno Valley Realty, Inc.
Theodore James Boecker
Jennifer Lin/L.A. Audits
Sacto.
OAH

1 CHRIS LEONG, Counsel
2 State Bar Number 141079
3 Department of Real Estate
4 320 West Fourth Street, Suite 350
5 Los Angeles, California 90013-1105
6 Telephone: (213) 576-6982
7 -or- (213) 576-6910 (Direct)

FILED
MAR 10 2000
DEPARTMENT OF REAL ESTATE

By CS

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

11 * * *

12 In the Matter of the Accusation of)
13 MORENO VALLEY REALTY, INC.,) NO. H-28441 LA
14 a corporation, dba)
15 Re/Max Results and) A C C U S A T I O N
16 THEODORE JAMES BOECKER,)
17 individually and as)
18 designated officer of)
19 Moreno Valley Realty, Inc.,)
20 Respondents.)

21 The Complainant, Thomas McCrady, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against MORENO VALLEY REALTY, INC. a corporation, dba Re/Max
24 Results (hereinafter "MORENO") and THEODORE JAMES BOECKER,
25 individually and as designated officer of Moreno Valley Realty,
26 Inc. (hereinafter "BOECKER") (hereinafter sometimes collectively
27 referred to as "Respondents"), is informed and alleges as
follows:

1.

The Complainant, Thomas McCrady, a Deputy Real Estate

1 Commissioner of the State of California, makes this Accusation
2 against Respondents in his official capacity.

3
4 2.

5 All Sections of Title 10, Chapter 6, California Code
6 of Regulations, are hereinafter referred to as "Regulations".

7 3.

8 At all times herein mentioned, Respondent MORENO was
9 and still is licensed and/or has license rights under the Real
10 Estate Law, Part 1 of Division 4 of the Business and Professions
11 Code (hereinafter "Code"), and was and still is licensed by the
12 Department of Real Estate of the State of California
13 (hereinafter "Department") as a corporate real estate broker.

14 4.

15 At all times herein mentioned, Respondent BOECKER,
16 individually and as designated officer of MORENO, was and still
17 is licensed by the Department as a real estate broker.

18 5.

19 From April 1997 to present, in Los Angeles County,
20 California, MORENO and BOECKER, for compensation or in
21 expectation of compensation, engaged in the real estate sales
22 business with the public, wherein purchasers and sellers of real
23 property were solicited and negotiated on behalf of buyers and
24 sellers. Respondents also engaged in escrow activities.

25 6.

26 On or about September 1, 1999, the Department
27 completed an audit of the activities of MORENO and BOECKER, for
the period from April 1, 1997 through May 31, 1999. The results



1 of that aud are set forth in Paragraphs 7 and 8.

2
3 7.

4 From 1997 to 1999, in connection with their real
5 estate business activities, MORENO and BOECKER accepted or
6 received escrow funds in trust (hereinafter "trust funds")
7 from or on behalf of buyers and sellers and thereafter made
8 disbursements of such funds. These trust funds were maintained
9 by them in seven money market accounts at Union Bank of
10 California, Escrow Industrial Group, Post Office Box 513840,
11 Los Angeles, CA 90051-3840 and one other escrow account known as
12 Moreno Valley Realty, Inc. DBA Re/Max Results, Account No.
13 9120047733 (hereinafter "TA#1"). Respondent also maintained
14 seven other accounts. The seven money market accounts are all
15 closed.

16 8.

17 In connection with those trust funds described in
18 Paragraph 7, MORENO and BOECKER:

19 (a) maintained a shortage in TA#1, as of May 31,
20 1999, of \$3,212.34, in violation of Code Section 10145 and
21 Section 2832.1 of the Regulations;

22 (b) maintained incomplete and inaccurate control
23 ledgers of escrow receipts and disbursements from TA#1, in
24 violation of Code Section 10145 and Section 2831 of the
25 Regulations;

26 (c) failed to maintain adequate separate records for
27 each beneficiary or transaction, in violation of Section 2831.1
of the Regulations;



1 (d) failed to maintain monthly separate
2 reconciliation records for TA#1, in violation of Section 2831.2
3 of the Regulations;

4 (e) failed to designate TA#1 as a trust account, in
5 violation of Code Section 10145 and Section 2832 of the
6 Regulations;

7 (f) allowed unlicensed and unbonded persons to be
8 signatories on TA#1 including Jodi Lee, Julie Johnson, Sharon
9 Visser and Johanna Grosso, in violation of Section 2834 of the
10 Regulations; and

11 (g) failed to disclose to all principals in writing
12 that MORENO had a financial interest in the escrow, in violation
13 of Section 2950(h) of the Regulations.

14 FIRST CAUSE OF ACCUSATION

15 (Violation by Respondents of Code Sections 10145 and 10177(d),
16 Financial Code Section 17006(a)(4) and Sections 2831, 2831.1
17 2831.2, 2832.1, 2834 and 2950(h) of the Regulations)

18 9.

19 As a First Cause of Accusation, Complainant
20 incorporates herein by this reference the Preamble and each of
21 the allegations in Paragraphs 1 through 8, herein above.

22 10.

23 The conduct of Respondents, in handling trust funds as
24 alleged in Paragraphs 5 through 8, constitutes violation under
25 Code Section 10145 and Sections 2831, 2831.1, 2831.2, 2832.1,
26 2834 and 2950(h) of the Regulations. Said conduct is cause
27 pursuant to Code Section 10177(d) for the suspension or



1 revocation of all licenses and license rights of Respondents
2 under the Real Estate Law.

3 SECOND CAUSE OF ACCUSATION

4 (Violation by Respondent BOECKER of Section 10177(h) of the
5 Code)

6 11.

7 As a Second Cause of Accusation, Complainant
8 incorporates herein by this reference the Preamble and each of
9 the allegations in Paragraphs 1 through 8, herein above.

10 12.

11 The conduct of Respondent BOECKER, as alleged above,
12 constitutes dishonest dealing under Code Section 10177(h). Said
13 conduct is cause for the suspension or revocation of all
14 licenses and license rights of Respondent BOECKER under the Real
15 Estate Law.

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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 Respondents, MORENO VALLEY REALTY, INC., a corporation, dba Re/Max Results and THEODORE JAMES BOECKER, individually and as designated officer of Moreno Valley Realty, Inc., 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 10th day of March, 2000.

THOMAS MCCRADY
Deputy Real Estate Commissioner

cc: Moreno Valley Realty, Inc.
Theodore James Boecker
Thomas McCrady
Sacto.
LA Audit Section/Lin
PM