

*Sachs*  
*Jan*

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

4 (213) 576-6982  
5 (213) 576-6914

**FILED**  
SEP 1 2000  
DEPARTMENT OF REAL ESTATE

By *Jana B. Stone*

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 IN-CO FINANCIAL, INC., JOHN )  
13 PAUL EDDY, individually and )  
14 as designated broker of IN-CO )  
15 FINANCIAL, INC., and DOUGLAS )  
16 JAMES SHEA; )  
17 Respondents. )

NO. H-28449 LA  
L-2000040119

STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between IN-CO FINANCIAL,  
18 INC. (hereinafter, "Respondent IN-CO"), acting by and through its  
19 designated broker, Respondent JOHN PAUL EDDY, and JOHN PAUL EDDY  
20 in his individual capacity as broker (hereinafter "Respondent  
21 EDDY"), and DOUGLAS JAMES SHEA, each and all represented by  
22 Margaret E. Morrow of Russell & Mirkovich, and the Complainant,  
23 acting by and through Martha J. Rosett, Counsel for the  
24 Department of Real Estate, as follows for the purpose of settling  
25 and disposing of the Accusation filed on March 17, 2000 in this  
26 matter:  
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1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondents  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act (APA), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement.

8           2. Respondents have each received, read and  
9 understand the Statement to Respondent, the Discovery Provisions  
10 of the APA and the Accusation filed by the Department of Real  
11 Estate in this proceeding.

12           3. On March 30, 2000, Respondents filed a Notice of  
13 Defense pursuant to Section 11506 of the Government Code for the  
14 purpose of requesting a hearing on the allegations in the  
15 Accusation. In order to effectuate this settlement, Respondents  
16 hereby freely and voluntarily withdraw said Notice of Defense.  
17 Respondents acknowledge that they each understand that by  
18 withdrawing said Notice of Defense, they will thereby waive their  
19 rights to require the Commissioner to prove the allegations in  
20 the Accusation at a contested hearing held in accordance with the  
21 provisions of the APA and that they will waive other rights  
22 afforded to them in connection with the hearing such as the right  
23 to present evidence in defense of the allegations in the  
24 Accusation and the right to cross-examine witnesses.

25           4. Respondents, pursuant to the limitations set forth  
26 below, although not admitting or denying the truth of the  
27 allegations, will not contest the factual allegations contained

1 in the Accusation filed in this proceeding and the Real Estate  
2 Commissioner shall not be required to provide further evidence of  
3 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 rights  
8 as set forth in the below "Order." In the event that the  
9 Commissioner in her discretion does not adopt the Stipulation and  
10 Agreement, it shall be void and of no effect, and Respondents  
11 shall retain the right to a hearing and proceeding on the  
12 Accusation under all the provisions of the APA and shall not be  
13 bound by any stipulation or waiver made herein.

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

20 7. The Stipulation is entered into by each party with  
21 the express understanding and agreement that it is to be used for  
22 the purposes of settling these proceedings only and that this  
23 stipulation shall not be deemed, used, or accepted as an  
24 acknowledgment or stipulation in any other civil or  
25 administrative proceeding to which this Department is not a  
26 party. Said stipulation is expressly limited to these  
27 proceedings and to any further proceeding initiated by or brought



1 before the Department of Real Estate, and shall have no  
2 collateral estoppel or res judicata effect in any proceeding  
3 other than a proceeding brought by the Department of Real Estate.

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9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations and waivers and  
11 solely for the purpose of settlement of the pending Accusation  
12 without a hearing, it is stipulated and agreed that the following  
13 Determination of Issues shall be made:

14 I

15 The acts or omissions of Respondent IN-CO, as alleged  
16 in the Accusation, in performing activities requiring a license  
17 when its license had expired, and in compensating a salesperson  
18 who was not properly licensed are grounds for the revocation or  
19 suspension of Respondent IN-CO's license and license rights  
20 pursuant to Business and Professions Code Sections 10130, 10137,  
21 and 10177(d).

22 II

23 The acts or omissions of Respondent EDDY, as alleged in  
24 the Accusation, in performing activities requiring a license when  
25 his license had expired, constitute grounds for revocation or  
26 suspension of his individual real estate license pursuant to Code  
27 Sections 10130 and 10177(d).

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III

The acts or omissions of Respondent EDDY as the officer designated by Respondent IN-CO pursuant to Section 10211 of the Code to be responsible for the supervision and control of the activities conducted on behalf of IN-CO, in permitting Respondent IN-CO to engage in activities requiring a license when its license had lapsed and in employing and compensating agents who were not properly licensed constitutes grounds to suspend or revoke Respondent EDDY's license pursuant to Code Section 10177(h).

IV

The acts or omissions of Respondent DOUGLAS JAMES SHEA, as alleged in the Accusation, in conducting activities requiring a real estate license after his license had expired is in violation of Section 10130 of the Code and is grounds to suspend or revoke his license and/or license rights pursuant to Section 10177(d) of the Code.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I. All licenses and licensing rights of Respondent IN-CO, FINANCIAL, INC., under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Decision; provided however, that sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

A. Respondent shall obey all laws, rules and regulations governing the rights, duties and

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responsibilities of a real estate licensee in the State of California; and

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

C. As to the remaining thirty (30) days of said ninety day suspension, all licenses and licensing rights of Respondent IN-CO under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision; provided, however, that if Respondent petitions, the remaining thirty days of said ninety day suspension shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be

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delivered to the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of Respondent occurs within two year of the Decision in this matter.

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

5. If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two years from the effective date of the Decision, the stay hereby granted shall become permanent.

II. All licenses and licensing rights of Respondents

JOHN PAUL EDDY, and DOUGLAS JAMES SHEA, under the Real Estate Law are suspended for a period of ninety (90) days each from the effective date of this Decision; provided however, that sixty (60) days of said suspensions shall be stayed for two (2) years upon the following terms and conditions:

A. Respondents shall obey all laws, rules and regulations governing the rights, duties and

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responsibilities of a real estate licensee in the State of California; and

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

C. As to the remaining thirty (30) days of said ninety day suspensions, all licenses and licensing rights of Respondents JOHN PAUL EDDY and DOUGLAS JAMES SHEA under the Real Estate Law are suspended for a period of thirty (30) days each from the effective date of this Decision; provided, however, that if Respondents petition, the remaining thirty days of said ninety day suspension shall be stayed upon condition that:

1. Respondents each pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be



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delivered to the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of Respondents occurs within two year of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondents shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to the Department under the terms of this Decision.

5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two years from the effective date of the Decision, the stay hereby granted shall become permanent.

III. Respondents JOHN PAUL EDDY and DOUGLAS JAMES SHEA shall each, within six months from the effective date of this Decision, take and pass the Professional Responsibility Exam administered by the Department including the payment of the appropriate examination fee. If either Respondent fails to satisfy this condition, the Commissioner may order suspension of that Respondent's license until that Respondent passes the examination.

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DATED: 7/13/00

*Martha J. Rosett*  
MARTHA J. ROSETT  
Counsel for Complainant

DATED: July 11, 2000

*M. Morrow*  
MARGARET E. MORROW,  
Counsel for Respondents

\* \* \*

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: 7.10.2000

*John P. Eddy*  
IN-CO. FINANCIAL, INC., by JOHN PAUL EDDY, designated broker, Respondent

DATED: 7.10.2000

*John P. Eddy*  
JOHN PAUL EDDY, Respondent

DATED: 6/30/00

*Douglas James Shea*  
DOUGLAS JAMES SHEA, Respondent

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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 21, 2000.

IT IS SO ORDERED

July 31, 2000.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

Paula Reddish Zinnemann

*Sacto*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
MAY - 5 2000  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

IN-CO FINANCIAL, INC., et al.,

By *K. Mederholt*

Case No. H-28449 LA

OAH No. L-2000040119

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA 90013 on June 14, 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: May 5, 2000

By *Martha Purcell*  
Counsel

cc: In-Co Financial Inc.  
John Paul Eddy  
Douglas James Shea  
Margaret E. Morrow, Esq.  
Sacto OAH LK

RE 501 (Rev. 8/97)

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*Handwritten signature*

MARTHA J. ROSETT, Counsel (SBN # 142072)  
Department of Real Estate  
320 West Fourth Street, Suite 350  
Los Angeles, CA 90013

(213) 576-6982  
(213) 576-6914

**FILED**  
MAR 17 2000  
DEPARTMENT OF REAL ESTATE

By *K. Knecht*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	No. H- 28449 LA
IN-CO FINANCIAL, INC., JOHN )	<u>A C C U S A T I O N</u>
PAUL EDDY, individually and )	
as designated broker of IN-CO )	
FINANCIAL, INC., and )	
DOUGLAS JAMES SHEA; )	
Respondents. )	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against IN-CO FINANCIAL, INC., JOHN PAUL EDDY, individually and as designated broker of IN-CO FINANCIAL, INC., and DOUGLAS JAMES SHEA, alleges as follows:

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

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Respondent IN-CO FINANCIAL, INC. (hereinafter "IN-CO") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code"), as a corporate real estate broker. Respondent IN-CO was originally issued a corporate broker's license by the Department in 1982. It was licensed continuously until its license expired on or about April 26, 1998. Respondent IN-CO's license was renewed on December 7, 1998, and is now due to expire on December 6, 2002. Between April 27, 1998 and December 6, 1998, Respondent IN-CO's license had lapsed, and Respondent IN-CO was therefore not licensed as a real estate broker. At all relevant times referred to herein, Respondent JOHN PAUL EDDY was designated by Respondent IN-CO as its designated broker-officer.

Respondent JOHN PAUL EDDY is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. Respondent EDDY was originally licensed as a real estate broker on or about November 10, 1988. His license first expired on November 10, 1992. It was renewed on April 5, 1994 and expired again on April 4, 1998. Respondent EDDY renewed his license on November 24, 1998. Between April 5, 1998 and November 23, 1998, Respondent EDDY's license had lapsed, and Respondent EDDY was not licensed as a real estate broker.

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From on or about April 26, 1994 to the present, Respondent EDDY, as the officer designated by Respondent IN-CO, pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of IN-CO by its officers and employees as necessary to secure full compliance with Real Estate Laws as set forth in Section 10159.2 of the Code.

Respondent DOUGLAS JAMES SHEA (hereinafter "Respondent SHEA") was originally licensed as a real estate salesperson on November 2, 1984. His license was renewed and he remained licensed until January 31, 1997, when his license expired. Respondent SHEA renewed his license on November 5, 1997. Between February 1, 1997 and November 4, 1997, Respondent SHEA's license had lapsed, and Respondent SHEA was therefore not licensed as a real estate salesperson.

All further references to "Respondents," unless otherwise specified, include the parties identified in Paragraphs 2 through 6 above, and also include the employees, agents and real estate licensees employed by or associated with said parties, who at all times material herein were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority, agency or employment.

1  
2 Beginning sometime before January of 1997, and through  
3 the present, Respondents, and each of them, engaged in the  
4 business of, acted in the capacity of, advertised or assumed to  
5 act as a real estate broker in the State of California, within the  
6 meaning of Sections 10131(a) and (b) of the Business and  
7 Professions Code ("Code"), wherein they solicited prospective  
8 purchasers of, solicited or obtained listings of, or negotiated  
9 the purchase, sale or exchange of real property on behalf of the  
10 buyer or seller, and solicited prospective tenants, or negotiated  
11 the sale, purchase or exchanges of leases on real property, or on  
12 a business opportunity, or collected rents from real property for  
13 or in expectation of compensation.

14 FIRST CAUSE OF ACCUSATION: SHEA TRANSACTIONS

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16 In relation to the activities described in Paragraph 7  
17 above, between on or about February 17, 1997 and continuing  
18 through June 13, 1997, during a period of time when his license  
19 had expired, Respondent SHEA acted on behalf of the sellers and  
20 buyers of real property located at 1501 Santa Fe Avenue, Long  
21 Beach California. In this transaction, on or about February 17,  
22 1997, while in the employ of Respondent IN-CO, Respondent SHEA  
23 entered into a Standard Owner-Agency Agreement with property owner  
24 JONES HARDWARE for the sale or lease of the Santa Fe Avenue  
25 property. On or about April 30, 1997, SHEA drafted a Standard  
26 Offer, Agreement and Escrow Instructions for the Purchase of the  
27 Santa Fe Avenue property on behalf of the buyer, B&B, Dan Berns.



1 The offer was accepted and the sale escrow closed on June 13,  
2 1997. In connection with his activities relating to this  
3 transaction, Respondent IN-CO paid SHEA \$6,390 in commission.

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5 On or about June 10, 1997, while employed by Respondent  
6 IN-CO, Respondent SHEA represented the lessees, Eric Bouyer,  
7 Boualem Ghali, and Anne Vallier, dba, "Out U.S.A." in the lease of  
8 property located at 114 East 7th Street, in Long Beach,  
9 California. As compensation for the work performed on this  
10 transaction, Respondent IN-CO paid SHEA a commission of \$489.52.

11 10

12 The conduct of Respondent SHEA in conducting activities  
13 requiring a real estate license after his license had expired, as  
14 described in paragraphs 8 and 9 above, is in violation of Section  
15 10130 of the Code and is grounds to suspend or revoke his license  
16 and/or license rights pursuant to Section 10177(d) of the Code.

17 11

18 The conduct of Respondent IN-CO in compensating  
19 Respondent SHEA for activities performed requiring a real estate  
20 license when SHEA in fact was not properly licensed, as described  
21 in paragraphs 8 and 9 above is in violation of Code Section 10137  
22 and constitutes grounds to suspend or revoke the license and/or  
23 license rights of Respondent IN-CO.

24 SECOND CAUSE OF ACCUSATION: UNLICENSED ACTS BY CORPORATION

25 12

26 Between on or about April 26, 1998 and December 7, 1998,  
27 Respondent IN-CO's corporate broker's license had expired.



1 Nonetheless, the corporation continued to perform and acts and do  
2 business for which a real estate license was required. Examples  
3 of such transactions include the following:

4 a) On or about May 19, 1998, Respondent IN-CO, acting  
5 by and through its agents, Respondent SHEA and/or Respondent EDDY,  
6 entered into a contract to offer for sale real property located at  
7 901 East 27th Street, in Long Beach, California on behalf of the  
8 property owner, Carl W. Stark. In connection with this  
9 transaction, Respondent IN-CO advertised and solicited buyers for  
10 this property.

11 b) On or about June 15, 1998, Respondent IN-CO, acting  
12 by and through its agents, Respondent SHEA and/or Respondent EDDY,  
13 entered into an agreement to offer for lease property known as  
14 2460 Lemon Avenue, Signal Hill, California on behalf of the  
15 property owner Jack E. Simmons. Respondent IN-CO continued to  
16 represent the property owner in soliciting lessees for this  
17 property and in negotiating a lease on behalf of the owner on or  
18 about September 9, 1998.

19 c) Between on or about August 6, 1998 and October 12,  
20 1998, Respondent IN-CO advertised and solicited lessees for  
21 properties located at 3530 Atlantic Avenue, in Long Beach, 1313  
22 Pine Avenue in Long Beach and 3401 Katella Avenue in Los Alamitos.

23 13

24 The conduct of Respondent IN-CO as described in  
25 Paragraphs 12(a) through 12(c) above in performing activities  
26 requiring a license, including soliciting lessees on behalf of the  
27 owners of real property, when its license had expired, is in



1 violation of Code Section 10130 and constitutes grounds for the  
2 revocation or suspension of its license and license rights.

3 THIRD CAUSE OF ACCUSATION: DESIGNATED BROKER EDDY

4 14

5 There is hereby incorporated in this Third, separate and  
6 distinct Cause of Accusation, all of the allegations contained in  
7 paragraphs 8 and 9 of the First Cause of Accusation; and  
8 paragraphs 12(a) through 12(c) of the Second Cause of Accusation,  
9 with the same force and effect as if herein fully set forth.

10 15

11 At all times mentioned in the First and Second Causes of  
12 Accusation, Respondent JOHN PAUL EDDY, as the officer designated  
13 by Respondent IN-CO, pursuant to Section 10211 of the Code, was  
14 responsible for the supervision and control of the activities  
15 conducted on behalf of IN-CO by its officers and employees as  
16 necessary to secure full compliance with Real Estate Laws as set  
17 forth in Section 10159.2 of the Code.

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19 As set forth more fully above, between April 26, 1998  
20 and December 7, 1998, Respondent IN-CO transacted business  
21 requiring a real estate license when its license had expired.

22 17

23 As set forth more fully above, between April 4, 1998 and  
24 November 24, 1998, Respondent EDDY transacted business requiring a  
25 real estate license when his license had expired.

26 18

27 The conduct of Respondent EDDY as the designated broker



1 of Respondent IN-CO in allowing and permitting Respondent In-Co to  
2 engage in activities requiring a real estate license when its  
3 license had lapsed and in employing and compensating agents who  
4 were not properly licensed and/or whose licenses had lapsed was  
5 negligent and constitutes grounds to suspend or revoke Respondent  
6 EDDY's license rights pursuant to Code section 10177(h).

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9 The conduct of Respondent EDDY in performing activities  
10 requiring a real estate license when his license had expired is in  
11 violation of Code Section 10130 and grounds for discipline of his  
12 license pursuant to Code Section 10177(d).

13 WHEREFORE, Complainant prays that a hearing be  
14 conducted on the allegations of this Accusation and that upon  
15 proof thereof, a decision be rendered imposing disciplinary action  
16 against all licenses and/or license rights of Respondents IN-CO  
17 FINANCIAL, INC., JOHN PAUL EDDY, and DOUGLAS JAMES SHEA under the  
18 Real Estate Law and for such other and further relief as may be  
19 proper under applicable provisions of law.

20 Dated at Los Angeles, California  
21 this 17th day of March , 2000.

22 THOMAS MC CRADY

23 Deputy Real Estate Commissioner

24 cc: IN-CO FINANCIAL, INC.  
25 JOHN PAUL EDDY  
26 DOUGLAS JAMES SHEA

27 Sacto.  
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