

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

4 (213) 576-6913

FILED  
FEB - 9 2001  
DEPARTMENT OF REAL ESTATE

By *James R. Peel*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of )  
12 ) No. H-28664 LA  
13 MASTERS REALTY SERVICES, INC., )  
14 and NEIL MARTIN SCHWARTZ, ) STIPULATION AND AGREEMENT  
15 Respondents. )

16 It is hereby stipulated by and between MASTERS REALTY  
17 SERVICES, INC., and NEIL MARTIN SCHWARTZ (sometimes referred to as  
18 Respondents), and their attorney, Steven A. Sokol, and the  
19 Complainant, acting by and through James R. Peel, Counsel for the  
20 Department of Real Estate, as follows for the purpose of settling  
21 and disposing of the Accusation filed on July 27, 2000, in this  
22 matter.

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

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.  
3

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. On August 8, 2000, Respondents filed a Notice of  
9 Defense, pursuant to Section 11506 of the Government Code for the  
10 purpose of requesting a hearing on the allegations in the  
11 Accusation. Respondents hereby freely and voluntarily withdraw  
12 said Notice of Defense. Respondents acknowledge that they  
13 understand that by withdrawing said Notice of Defense  
14 they will thereby waive their right to require the Commissioner to  
15 prove the allegations in the Accusation at a contested hearing  
16 held in accordance with the provisions of the APA and that  
17 they will waive other rights afforded to them in connection with  
18 the hearing, such as the right to present evidence in defense of  
19 the allegations in the Accusation and the right to cross-examine  
20 witnesses.

21 4. Respondents, pursuant to the limitations set forth  
22 below, although not admitting or denying the truth of the  
23 allegations, will not contest the factual allegations contained in  
24 the Accusation filed in this proceeding and the Real Estate  
25 Commissioner shall not be required to provide further evidence of  
26 such allegations.

27 5. It is understood by the parties that the Real Estate  
Commissioner may adopt the Stipulation and Agreement as her

1 decision in this matter thereby imposing the penalty and sanctions  
2 on Respondents' real estate licenses and license rights as set  
3 forth below in the "Order". In the event that the Commissioner in  
4 her discretion does not adopt the Stipulation and  
5 Agreement, it shall be void and of no effect, and Respondents  
6 shall retain the right to a hearing and proceeding on the  
7 Accusation under the provisions of the APA and shall not be bound  
8 by any stipulation or waiver made herein.  
9

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

17 7. This Stipulation is entered into by each party  
18 with the express understanding and agreement that it is to be  
19 used for the purposes of settling these proceedings only and  
20 that this Stipulation shall not be deemed, used, or accepted  
21 as an acknowledgment or stipulation in any other civil or  
22 administrative proceeding to which this Department is not a  
23 party.

24 8. Respondents can signify acceptance and approval  
25 of the terms and conditions of this Stipulation and Agreement  
26 by faxing a copy of its signature page, as actually signed by  
27 Respondents, to the Department at the following telephone/fax  
number (213) 576-6917. Respondents agree, acknowledge and

1 understand that by electronically sending to the Department a  
2 fax copy of his or her actual signature as it appears on the  
3 Stipulation and Agreement, that receipt of the faxed copy by  
4 the Department shall be as binding on Respondents as if the  
5 Department had received the original signed Stipulation and  
6 Agreement.

7  
8 DETERMINATION OF ISSUES

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

13 I

14 The conduct of Respondents, MASTERS REALTY  
15 SERVICES, INC. and NEIL MARTIN SCHWARTZ, as alleged in the  
16 Accusation, may be grounds for the suspension or revocation  
17 of all of the real estate licenses and license rights of  
18 Respondents under the provisions of Regulations 2831.2,  
19 2832.1 and 2834 and Sections 10145(a), 10176(e), 10177(d),  
20 10177(g), and Section 17403.4 of the Financial Code.

21 ORDER

22 All licenses and license rights of Respondents  
23 MASTERS REALTY SERVICES, INC. and NEIL MARTIN SCHWARTZ under  
24 the Real Estate Law are suspended for a period of ninety (90)  
25 days from the effective date of this Order; provided,  
26 however, that sixty (60) days of said suspension shall be  
27 stayed for two years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation that cause for disciplinary action occurred within two years of the effective date of this Order. 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.

3. Pursuant to Section 10148 of the Business and Professions Code, Respondents shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and, b) a subsequent audit to determine if Respondents have corrected the trust fund violation(s) 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 costs, including mileage, time to and from the auditor's place of work and per diem. Respondents shall pay such cost within 60 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 her discretion, vacate and set aside the stay order, if

1 payment is not timely made as provided for herein, or as  
2 provided for in a subsequent agreement between the  
3 Respondents and the Commissioner. The vacation and the set  
4 aside of the stay shall remain in effect until payment is  
5 made in full, or until Respondents enter into an agreement  
6 satisfactory to the Commissioner to provide for payment.  
7 Should no order vacating the stay be issued, either in  
8 accordance with this condition or condition "2", the stay  
9 imposed herein shall become permanent.

10  
11 4. Provided further, that the remaining thirty (30)  
12 days of said 90 day suspension shall be stayed on condition  
13 that:

14 a. Respondents pay a monetary penalty pursuant to  
15 Section 10175.2 of the Business and Professions  
16 Code at the rate of \$100 for each day of the  
17 suspension for a total monetary penalty of \$3,000  
18 for both Respondents or \$1,500 for only one  
19 Respondent.

20 b. Said payment shall be in the form of a  
21 cashier's check or certified check made payable to  
22 the Recovery Account of the Real Estate Fund. Said  
23 check must be delivered to the Department prior to  
24 the effective date of the Decision in this matter.

25 c. That no final subsequent determination be made,  
26 after hearing or upon stipulation that cause for  
27 disciplinary action occurred within two years of  
the effective date of this Order. Should such a



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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.

5. Respondent NEIL MARTIN SCHWARTZ shall, within 9 months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of Respondent's license rights until the Respondent presents such evidence.

6. Respondent NEIL MARTIN SCHWARTZ shall, within six months from the effective date of the 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 rights until Respondent passes the examination.

DATED: Jan. 8, 2001

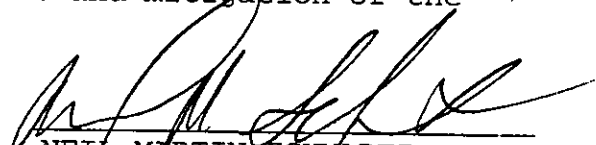
James R. Peel  
JAMES R. PEEL  
Counsel for Complainant

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I have read the Stipulation and Agreement in Settlement, 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.

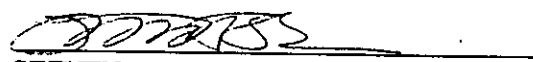
DATED: 1-2-2001

  
NEIL MARTIN SCHWARTZ  
Respondent

DATED: 1-2-2001

  
MASTERS REALTY SERVICES INC.  
Respondent

DATED: 1-3-2001

  
STEVEN A. SOKOL, ESQ..  
Counsel for Respondents\\



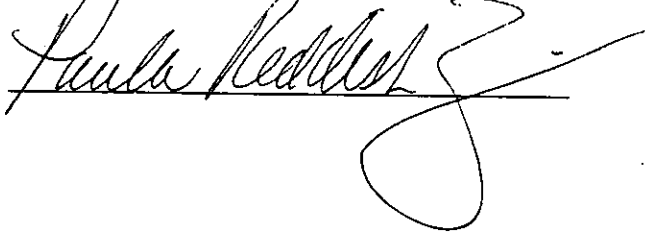
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision in this matter and shall become  
effective at 12 o'clock noon on March 1, 2001.

IT IS SO ORDERED February 5, 2001.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



*Sacto*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
SEP - 6 2000  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

MASTERS REALTY SERVICES INC., ET AL.,

}

By *R. Niederholt*

Case No. H-28664 LA

OAH No. L-2000080652

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 320 W. Fourth Street, Ste. 630, Los Angeles, CA on October 27 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: September 6, 2000

By *James R. Peef*  
Counsel

cc: Masters Realty Services Inc.  
Neil Martin Schwartz  
Steven A. Sokol, Esq.  
Sacto OAH CW

kw

*Direct*

JAMES R. PEEL, Counsel  
Department of Real Estate  
320 W. 4th St., Room 350  
Los Angeles, California 90013  
State Bar 47055

(213) 576-6982  
576-6913 (direct)

**FILED**  
JUL 27 2000  
DEPARTMENT OF REAL ESTATE

By *K. Kriegerhoff*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	NO. H-28664 LA
MASTERS REALTY SERVICES, INC.	)	<u>A C C U S A T I O N</u>
and NEIL MARTIN SCHWARTZ,	)	
	)	
Respondents.	)	
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The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MASTERS REALTY SERVICES, INC. and NEIL MARTIN SCHWARTZ, alleges as follows:

I

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California makes this Accusation against MASTERS REALTY SERVICES, INC. and NEIL MARTIN SCHWARTZ.

II

MASTERS REALTY SERVICES, INC. and NEIL MARTIN SCHWARTZ (hereinafter referred to as respondents) are presently

1 licensed and/or have license rights under the Real Estate Law  
2 (Part 1 of Division 4 of the Business and Professions Code,  
3 hereinafter "Code").

4 III

5  
6 At all times herein mentioned, respondent MASTERS  
7 REALTY SERVICES, INC. was licensed by the Department of Real  
8 Estate of the State of California as a corporate real estate  
9 broker, and respondent NEIL MARTIN SCHWARTZ was licensed as  
10 the designated broker officer of said corporation, and  
11 ordered, authorized or participated in the illegal conduct of  
12 respondent MASTERS REALTY SERVICES, INC., as alleged in this  
13 Accusation.

14 IV

15 At all times herein mentioned, respondent MASTERS  
16 REALTY SERVICES, INC., on behalf of others in expectation of  
17 compensation, engaged in the business, acted in the capacity  
18 of, advertised or assumed to act as a real estate broker in  
19 the State of California within the meaning of Section 10131(a)  
20 of the Code, including soliciting sellers and buyers and  
21 negotiating the sale of real property.

22 V

23 During 1999 and 2000, in connection with the  
24 aforesaid real estate brokerage activities, respondent MASTERS  
25 REALTY SERVICES, INC. accepted or received funds from sellers  
26 and buyers and thereafter made disbursements of such funds.  
27 Respondent maintained trust account Nos. 1005502401 (T/A 1),



1 1521266701 (T/A 2), and 1005503201 (T/A 3), Southern  
2 California Bank.

3 VI

4 In connection with respondents' activities as a real  
5 estate broker as described above, respondents MASTERS REALTY  
6 SERVICES, INC. and NEIL MARTIN SCHWARTZ, acted in violation of  
7 the Real Estate Law, Business and Professions Code  
8 (hereinafter Code), and California Code of Regulations  
9 (hereinafter Regulations), Title 10, Chapter 6, as follows:

10 1. Violated Section 10145(a) of the Code and  
11 Regulation 2832.1 by maintaining a combined shortage in T/A 1  
12 and T/A 2 as of February 29, 2000, in the amount of  
13 \$17,352.67.

14 2. Violated Section 10176(e) of the Code by  
15 maintaining in T/A 2 funds belonging to respondents as well as  
16 funds belonging to the clients of respondents.

17 3. Violated Regulation 2831.2 by failing to maintain  
18 trust account reconciliations for T/A 3.

19 4. Violated Regulation 2834 by allowing unlicensed  
20 signatories to sign on T/A 3. There is no fidelity bond  
21 coverage.

22 5. Violated Section 17403.4 of the Financial Code  
23 by failing to disclose to the parties of each escrow the  
24 license name and agency under which respondents were  
25 performing the escrows.  
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VII

The conduct of respondent MASTERS REALTY SERVICES, INC., as alleged above, subjects its real estate license and license rights to suspension or revocation pursuant to Sections 10177(d), 10176(e), and 10177(g) of the Code.

VIII

The conduct of respondent NEIL MARTIN SCHWARTZ, as alleged above, as the responsible broker, by allowing and permitting respondent MASTERS REALTY SERVICES, INC. to engage in the conduct specified in paragraph VI above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 10176(e), and 10177(h) of the Code.

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 licensing rights of respondents MASTERS REALTY SERVICES, INC. and NEIL MARTIN SCHWARTZ 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 27th day of July, 2000.

cc: Masters Realty Services Inc.  
Neil Martin Schwartz  
Sacto  
CW  
Audits

THOMAS MC CRADY  

---

Deputy Real Estate Commissioner