

1 ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
2 Department of Real Estate
320 West Fourth Street; Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6911
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7

FILED
OCT - 1 2001
DEPARTMENT OF REAL ESTATE

By K. Mederholt

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) NO. H-29008 LA
12)
13 SAFEGUARD PROPERTIES INC.,)
doing business as Safeguard) STIPULATION AND AGREEMENT
14 Mortgage Services, Real Estaters,)
Realty Network, Save-U-Sell, and)
15 Safeguard Investments;)
RAYMOND LEWIS WALLS,)
16 individually and as designated)
officer of Safeguard Properties,)
17 Inc; SAFEGUARD PROPERTY MANAGEMENT)
INC.; ROLAND EARLE WEICHMAN,)
18 formerly as designated officer of)
Safeguard Property Management, Inc.)
19 and Safeguard Properties, Inc.;)
MARK EDWARD CESTARIC; and)
20 HERIBERTO TALAVERA;)
Respondents.)
21)

22 It is hereby stipulated by and between Respondents
23 SAFEGUARD PROPERTIES INC., doing business as Safeguard Mortgage
24 Services, Real Estaters, Realty Network, Save-U-Sell, and
25 Safeguard Investments; RAYMOND LEWIS WALLS, individually and as
26 designated officer of Safeguard Properties, Inc., SAFEGUARD
27

1 PROPERTY MANAGEMENT INC., MARK EDWARD CESTARIC and HERIBERTO
2 TALAVERA (sometimes collectively referred to as Respondents), and
3 the Complainant, acting by and through Elliott Mac Lennan,
4 Counsel for the Department of Real Estate, as follows for the
5 purpose of settling and disposing of the Accusation filed on
6 April 4, 2001, in this matter:

7 1. All issues which were to be contested and all evidence
8 which was to be presented by Complainant and Respondents at a
9 formal hearing on the Accusation, which hearing was to be held in
10 accordance with the provisions of the Administrative Procedure
11 Act (APA), shall instead and in place thereof be submitted solely
12 on the basis of the provisions of this Stipulation and Agreement
13 (Stipulation).

14 2. Respondents have received, read and understand the
15 Statement to Respondent, the Discovery Provisions of the APA and
16 the Accusation filed by the Department of Real Estate in this
17 proceeding.

18 3. Respondents filed a Notice of Defense pursuant to
19 Section 11506 of the Government Code for the purpose of
20 requesting a hearing on the allegations in the Accusation.
21 Respondents hereby freely and voluntarily withdraw said Notice of
22 Defense. Respondents acknowledge that they understand that by
23 withdrawing said Notice of Defense they thereby waive their right
24 to require the Commissioner to prove the allegations in the
25 Accusation at a contested hearing held in accordance with the
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1 provisions of the APA and that they will waive other rights
2 afforded to them in connection with the hearing such as the right
3 to present evidence in their defense the right to cross-examine
4 witnesses.

5 4. This Stipulation is based on the factual allegations
6 contained in the Accusation. In the interest of expedience and
7 economy, Respondents choose not to contest these allegations, but
8 to remain silent and understand that, as a result thereof, these
9 factual allegations, without being admitted or denied, will serve
10 as a prima facie basis for the disciplinary action stipulated to
11 herein. The Real Estate Commissioner shall not be required to
12 provide further evidence to prove said factual allegations.

13 5. This Stipulation is based on Respondents' decision not
14 to contest the allegations set forth in the Accusation as a
15 result of the agreement negotiated between the parties. This
16 Stipulation is expressly limited to this proceeding and any
17 further proceeding initiated by or brought before the Department
18 of Real Estate based upon the facts and circumstances alleged in
19 the Accusation and is made for the sole purpose of reaching an
20 agreed disposition of this proceeding without a hearing. The
21 decision of Respondents not to contest the allegations is made
22 solely for the purpose of effectuating this Stipulation. It is
23 the intent and understanding of the parties that this Stipulation
24 shall not be binding or admissible against Respondents in any
25 actions against Respondents by third parties.
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1 6. It is understood by the parties that the Real Estate
2 Commissioner may adopt this Stipulation as her Decision in this
3 matter thereby imposing the penalty and sanctions on Respondents'
4 real estate licenses and license rights as set forth in the
5 "Order" herein below. In the event that the Commissioner in her
6 discretion does not adopt the Stipulation, it shall be void and
7 of no effect and Respondents shall retain the right to a hearing
8 and proceeding on the Accusation under the provisions of the APA
9 and shall not be bound by any stipulation or waiver made herein.

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

16 8. This Stipulation and the Order made pursuant to this
17 stipulation shall have no collateral estoppel or res judicata
18 effect in any proceeding(s) in which SAFEGUARD PROPERTIES INC.,
19 RAYMOND LEWIS WALLS, individually and as designated officer of
20 Safeguard Properties, Inc., SAFEGUARD PROPERTY MANAGEMENT INC.,
21 MARK EDWARD CESTARIC and HERIBERTO TALAVERA and the Department
22 are not parties. This Stipulation is made and accepted with the
23 express understanding and agreement that it is for the purpose of
24 settling these proceedings only, and is not intended as, nor
25 shall be it be deemed, used, argued, or accepted as an
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1 acknowledgement or admission of fact in any other judicial,
2 administrative, or other proceeding in which the Department is
3 not a party.

4 9. Respondent SAFEGUARD PROPERTIES INC. understands that by
5 agreeing to this Stipulation, Respondent agrees to pay, pursuant
6 to Business and Professions Code Section 10148, the cost of the
7 audit (Safeguard Properties Inc.) which led to this disciplinary
8 action. The amount of said cost is \$2,815.16

9 10. Respondent SAFEGUARD PROPERTIES INC. has received,
10 read, and understands the "Notice Concerning Costs of Subsequent
11 Audit". Respondent further understands that by agreeing to this
12 Stipulation, the findings set forth below in the Determination of
13 Issues become final, and the Commissioner may charge Respondent
14 for the cost of any subsequent audit conducted pursuant to
15 Business and Professions Code Section 10148 to determine if the
16 violations have been corrected. The maximum cost of the
17 subsequent audit will not exceed \$2,815.
18

19 11. Respondent SAFEGUARD PROPERTY MANAGEMENT INC.
20 understands that by agreeing to this Stipulation, it agrees to
21 pay, pursuant to Business and Professions Code Section 10148, the
22 cost of the audit (Safeguard Property Management Inc.) which led
23 to this disciplinary action. The amount of said cost is \$3,501.

24 12. Respondent SAFEGUARD PROPERTY MANAGEMENT INC. has
25 received, read, and understands the "Notice Concerning Costs of
26 Subsequent Audit". Respondent further understands that by
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1 agreeing to this Stipulation, the findings set forth below in the
2 Determination of Issues become final, and the Commissioner may
3 charge Respondent for the cost of any subsequent audit conducted
4 pursuant to Business and Professions Code Section 10148 to
5 determine if the violations have been corrected. The maximum
6 cost of the subsequent audit will not exceed \$3,501.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing, it is stipulated and agreed that
9 the following determination of issues shall be made:

10 I

11 The conduct of SAFEGUARD PROPERTIES INC., as described in
12 Paragraph 4, is in violation of Sections 10137, 10145, 10163 and
13 10240 of the Business and Professions Code (Code) and Sections
14 2731, 2832, 2832.1 and 2840 of Title 10, Chapter 6 of the
15 California Code of Regulations (Regulations) and is a basis for
16 the suspension or revocation of Respondent's license and license
17 rights as a violation of the Real Estate Law pursuant to Sections
18 10177(d) and 10177(g) of the Code.

19 II

20
21 The conduct of SAFEGUARD PROPERTY MANAGEMENT INC., as
22 described in Paragraph 4, is in violation of Sections 10130 and,
23 10145 Code and Section 2832.1 of the Regulations and is a basis
24 for the suspension or revocation of Respondent's license and
25 license rights as a violation of the Real Estate Law pursuant to
26 Sections 10177(d) and 10177(g) of the Code.

III

1 The conduct of RAYMOND LEWIS WALLS, as described in
2 Paragraph 4, constitutes a failure to keep Safeguard Properties
3 Inc., in compliance with the Real Estate Law during the time that
4 he was the officer designated by a corporate broker licensee in
5 violation of Section 10159.2 of the Code. This conduct is a
6 basis for the suspension or revocation of Respondent's license
7 pursuant to Section 10177(h) of the Code.

9 IV

10 The conduct of MARK EDWARD CESTARIC, as described in
11 Paragraph 4, is in violation of Section 10130 of the Code and is
12 a basis for the suspension or revocation of Respondent's license
13 and license rights as a violation of the Real Estate Law pursuant
14 to Section 10177(d) of the Code.

15 V

16 The conduct of HERIBERTO TALAVERA, as described in Paragraph
17 4, is in violation of Section 10130 of the Code and is a basis
18 for the suspension or revocation of Respondent's license and
19 license rights as a violation of the Real Estate Law pursuant to
20 Section 10177(d) of the Code.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensed rights of Respondent SAFEGUARD PROPERTIES INC., under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent make application therefor and pay to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of
6 a restricted license until two (2) years have elapsed from the
7 effective date of this Decision.

8 4. Pursuant to Section 10148 of the Business and
9 Professions Code, Respondent SAFEGUARD PROPERTIES INC. shall pay
10 the Commissioner's reasonable cost for (a) the audit which led to
11 this disciplinary action and (b) a subsequent audit to determine
12 if said Respondents are now in compliance with the Real Estate
13 Law. The cost of the audit of Safeguard Properties Inc. which
14 led to this disciplinary action is \$2,815. In calculating the
15 amount of the Commissioner's reasonable cost, the Commissioner
16 may use the estimated average hourly salary for all persons
17 performing audits of real estate brokers, and shall include an
18 allocation for travel time to and from the auditor's place of
19 work. Said amount for the prior and subsequent audits shall not
20 exceed \$5,630.

22 Respondent SAFEGUARD PROPERTIES INC. shall pay such cost
23 within 60 days of receiving an invoice from the Commissioner
24 detailing the activities performed during the audit and the
25 amount of time spent performing those activities.

1 The Commissioner may suspend the license of Respondent
2 SAFEGUARD PROPERTIES INC. pending a hearing held in accordance
3 with Section 11500, et seq., of the Government Code, if payment
4 is not timely made as provided for herein, or as provided for in
5 a subsequent agreement between the Respondent and the
6 Commissioner. The suspension shall remain in effect until
7 payment is made in full or until Respondent enters into an
8 agreement satisfactory to the Commissioner to provide for
9 payment, or until a decision providing otherwise is adopted
10 following a hearing held pursuant to this condition.

11 II

12 If SAFEGUARD PROPERTY MANAGEMENT INC. reapplies for a
13 real estate broker license, a restricted real estate license
14 shall be issued to Respondent on the terms set forth in Paragraph
15 I above except for the difference in the cost of the audits as
16 set forth in Paragraphs 11 and 12 above, if Respondent first
17 shows proof satisfactory to the Real Estate Commissioner that the
18 trust fund shortage set forth in the Accusation has been cured.

19 III

20 Respondent RAYMOND LEWIS WALLS is publicly reprovded.

21 IV

22 All licenses and licensing rights of Respondent MARK EDWARD
23 CESTARIC and HERIBERTO TALAVERA under the Real Estate Law are
24 suspended for a period of ninety (90) days from the effective
25 date of this Decision; provided, however, that if each Respondent
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1 petitions, the initial thirty (30) days of said suspension (or a
2 portion thereof) shall be permanently stayed upon condition that:

3 1. Each Respondent pays a monetary penalty pursuant to
4 Section 10175.2 of the Business and Professions Code at the rate
5 of \$50 per day for each day of the suspension for a total
6 monetary penalty of \$1,500, each.

7 2. Said payment shall be in the form of a cashier's check
8 or certified check made payable to the Recovery Account of the
9 Real Estate Fund. Said check must be received by the Department
10 prior to the effective date of the Decision in this matter.

11 3. No further cause for disciplinary action against the
12 real estate license of either Respondent occurs within one (1)
13 year from the effective date of the Decision in this matter.

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

21 5. If each Respondent pays the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 license of Respondent occurs within one year (1) from the
24 effective date of the Decision, the stay hereby granted shall
25 become permanent
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1 * * *

2 EXECUTION OF THE STIPULATION

3 We have read the Stipulation and Agreement, and have
4 discussed it with our counsel. Its terms are understood by us
5 and are agreeable and acceptable to us. We understand that we
6 are waiving rights given to us by the California Administrative
7 Procedure Act (including but not limited to Sections 11506,
8 11508, 11509 and 11513 of the Government Code), and we willingly,
9 intelligently and voluntarily waive those rights, including the
10 right of requiring the Commissioner to prove the allegations in
11 the Accusation at a hearing at which we would have the right to
12 cross-examine witnesses against us and to present evidence in
13 defense and mitigation of the charges.
14

15 Respondents can signify acceptance and approval of the terms
16 and conditions of this Stipulation and Agreement by faxing a copy
17 of its signature page, as actually signed by Respondents, to the
18 Department at the following telephone/fax number: Elliott Mac
19 Lennan at (213) 576-6911; (213) 576-6917. Respondents agree,
20 acknowledge and understand that by electronically sending to the
21 Department a fax copy of Respondents' actual signature as they
22 appear on the Stipulation and Agreement, that receipt of the
23 faxed copy by the Department shall be as binding on Respondents
24 as if the Department had received the original signed Stipulation
25 and Agreement.
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DATED: 8/21/01

David Hernandez
SAFEGUARD PROPERTIES INC.
BY: ~~RAYMOND LEWIS WALLS, D.O.~~,
Respondent David Hernandez

DATED: 8/21/01

David Hernandez
SAFEGUARD PROPERTY MANGEMENT INC.,
BY: ~~RAYMOND LEWIS WALLS, D.O.~~,
Respondent David Hernandez

DATED: 8/21/01

Raymond Lewis Walls
RAYMOND LEWIS WALLS, Respondent

DATED: _____

MARK EDWARD CESTARIC, Respondent

DATED: 8/21/01

Heriberto Talavera
HERIBERTO TALAVERA, Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents SAFEGUARD PROPERTIES INC., SAFEGUARD PROPERTY MANGEMENT INC., RAYMOND LEWIS WALLS. MARK EDWARD CESTARIC and HERIBERTO TALAVERA shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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DATED: _____

SAFEGUARD PROPERTIES INC.
BY: ~~RAYMOND LEWIS WALLS, D.O.~~,
Respondent *David Hernandez*

DATED: _____

SAFEGUARD PROPERTY MANGEMENT INC.,
BY: ~~RAYMOND LEWIS WALLS, D.O.~~,
Respondent *David Hernandez*

DATED: 8/21/01

Raymond Lewis Walls
RAYMOND LEWIS WALLS, Respondent

DATED: 8/22/01

M. E. Cestaric
MARK EDWARD CESTARIC, Respondent

DATED: 8/31/01

Heriberto Talavera
HERIBERTO TALAVERA, Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents SAFEGUARD PROPERTIES INC., SAFEGUARD PROPERTY MANGEMENT INC., RAYMOND LEWIS WALLS, MARK EDWARD CESTARIC and HERIBERTO TALAVERA shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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DATED: _____

SAFEGUARD PROPERTIES INC.
BY: RAYMOND LEWIS WALLS, D.O.,
Respondent

DATED: _____

SAFEGUARD PROPERTY MANGEMENT INC.,
BY: RAYMOND LEWIS WALLS, D.O.,
Respondent

DATED: _____

RAYMOND LEWIS WALLS, Respondent

DATED: _____

MARK EDWARD CESTARIC, Respondent

DATED: _____

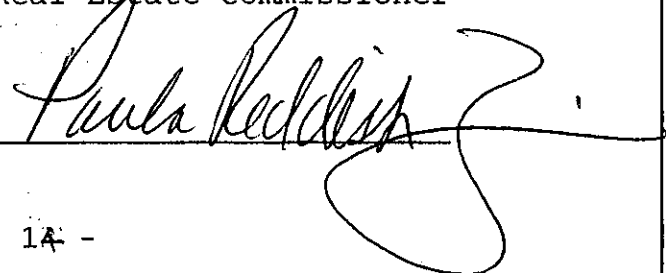
HERIBERTO TALAVERA, Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents SAFEGUARD PROPERTIES INC., SAFEGUARD PROPERTY MANGEMENT INC., RAYMOND LEWIS WALLS, MARK EDWARD CESTARIC and HERIBERTO TALAVERA shall become effective at 12 o'clock noon on October 22, 2001.

IT IS SO ORDERED September 24, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



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FILED
AUG 6 2001
DEPARTMENT OF REAL ESTATE

By *K. Knudsen*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29008 LA
SAFEGUARD PROPERTIES, INC.,)	
doing business as Safeguard)	
Mortgage Services, Real Estaters,)	
Realty Network, Save-U-Sell, and)	
Safeguard Investments;)	
RAYMOND LEWIS WALLS, individually)	
and as designated officer of)	
Safeguard Properties Inc.;)	
SAFEGUARD PROPERTY MANAGEMENT,)	
INC., ROLAND EARLE WEICHMAN,)	
formerly as designated officer of)	
Safeguard Property Management,)	
Inc., and Safeguard Properties,)	
Inc.; MARK EDWARD CESTARIC; and)	
HERIBERTO TALAVERA;)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On April 4, 2001, an Accusation was filed in this matter against Respondent ROLAND EARLE WEICHMAN.

On July 10, 2001, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker

1 license pursuant to Section 10100.2 of the Business and
2 Professions Code.

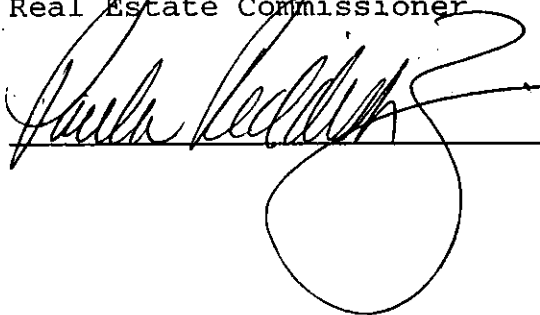
3 IT IS HEREBY ORDERED that Respondent ROLAND EARLE
4 WEICHMAN'S petition for voluntary surrender of his real estate
5 broker license is accepted as of the effective date of this Order
6 as set forth below, based upon the understanding and agreement
7 expressed in Respondent's Declaration dated July 10, 2001,
8 (attached as Exhibit "A" hereto). Respondent's license
9 certificate, pocket card and any branch office license
10 certificate shall be sent to the below listed address so that
11 they reach the Department on or before the effective date of this
12 Order:

13 Department of Real Estate
14 Atten: Licensing Flag Section
15 P.O. Box 187000
16 Sacramento, CA 95818-7000

16 This Order shall become effective at 12 o'clock noon on
17 August 27, 2001.

18 DATED: August 1, 2001

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20 PAULA REDDISH ZINNEMANN
21 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-29008 LA
)	
SAFEGUARD PROPERTIES, INC.,)	
doing business as Safeguard)	
mortgage Services, Real Estaters,)	
Realty Network, Save-U-Sell, and)	
Safeguard Investments;)	
RAYMOND LEWIS WALLS,)	
individually and as designated)	
officer of Safeguard Properties,)	
Inc; SAFEGUARD PROPERTY MANAGEMENT,)	DECLARATION
INC.; ROLAND EARLE WEICHMAN,)	
formerly as designated officer of)	
Safeguard Property Management, Inc.)	
and Safeguard Properties, Inc.;)	
MARK EDWARD CESTARIC; and)	
HERIBERTO TALAVERA;)	
)	
Respondents.)	

My name is ROLAND EARLE WEICHMAN and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am representing myself in this matter. In lieu of proceeding in this matter in accordance

1 with the provisions of the Administrative Procedures Act
2 (Sections 11400 et seq., of the Government Code).

3 I wish to voluntarily surrender my real estate license issued
4 by the Department of Real Estate ("Department:"), pursuant to
5 Business and Professions Code Section 10100.2. I understand
6 that by so voluntarily surrendering my license, that it can
7 only be reinstated in accordance with the provisions of Section
8 11522 of the Government Code. I also understand that by so
9 voluntarily surrendering my license, I agree to the following:

10 The filing of this Declaration shall be deemed as my
11 petition for voluntary surrender. It shall also be deemed to be
12 an understanding and agreement by me that, I waive all rights I
13 have to require the Commissioner to prove the allegations
14 contained in the Accusation filed in this matter at a hearing
15 held in accordance with the provisions of the Administrative
16 Procedures Act (Government Code Sections 11400 et seq.), and
17 that I also waive other rights afforded to me in connection with
18 the hearing such as the right to discovery, the right to present
19 evidence in defense of the allegations in the Accusation and the
20 right to cross examine witnesses. I further agree that upon
21 acceptance by the Commissioner, as evidenced by an appropriate
22 order, all affidavits and all relevant evidence obtained by the
23 Department in this matter prior to the Commissioner's
24 acceptance, and all allegations contained in the Accusation
25 filed in the Department Case No. H-29008, may be considered by
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1 the Department to be true and correct for the purpose of
2 deciding whether or not to grant reinstatement of my license
3 pursuant to Government Code Section 11522.

4 I declare under penalty of perjury under the laws of
5 the State of California that the above is true and correct and
6 that I freely and voluntarily surrender my license and all
7 license rights attached thereto.

8 DATED: 7-10-01 at Newport Beach, CA
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11 
12 ROLAND EARLE WEICHMAN
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Sandoz

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 3 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SAFEGUARD PROPERTIES, INC., et al.,

By K. Medvedev

Case No. H-29008 LA

OAH No. L-2001050652

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 on August 23, 2001, 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: July 3, 2001

By Raymond Lewis Walls

Counsel

cc: Safeguard Properties
Safeguard Property Mgmt.
Mark Edward Cestaric
Scott L. Metzger, Esq.
OAH
DW

Raymond Lewis Walls
Roland Earle Weichman
Heriberto Talavera
Sacto.

kw

RE 501 (Rev. 8/97)

*Accr
stay*

1 ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
2 Department of Real Estate
320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6911
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FILED
APR - 4 2001
DEPARTMENT OF REAL ESTATE

By *K. Niederholt*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11	In the Matter of the Accusation of)	NO. H- 29008 LA
12	SAFEGUARD PROPERTIES, INC.,)	
13	doing business as Safeguard)	A C C U S A T I O N
14	mortgage Services, Real Estaters,)	
15	Realty Network, Save-U-Sell, and)	
16	Safeguard Investments;)	
17	RAYMOND LEWIS WALLS,)	
18	individually and as designated)	
19	officer of Safeguard Properties,)	
20	Inc; SAFEGUARD PROPERTY MANAGEMENT,)	
21	INC.; ROLAND EARLE WEICHMAN,)	
22	formerly as designated officer of)	
23	Safeguard Property Management, Inc.)	
24	and Safeguard Properties, Inc.;)	
25	MARK EDWARD CESTARIC; and)	
26	HERIBERTO TALAVERA;)	
27	Respondents.)	

22 The Complainant, Thomas McCrady, a Deputy Real Estate
23 Commissioner of the State of California, for cause of Accusation
24 against SAFEGUARD PROPERTIES, INC., dba Safeguard Mortgage
25 Services, Real Estaters, Realty Network, and Safeguard
26 Investments; RAYMOND LEWIS WALLS, individually and as designated
27 officer of Safeguard Properties, Inc.; SAFEGUARD PROPERTY

1 MANAGEMENT, INC; EARLE WEICHMAN, formerly as designated officer
2 of Safeguard Property Management, Inc. and Safeguard Properties,
3 Inc., MARK EDWARD CESTARIC, and HERIBERTO TALAVERA aka Ed
4 Talavera, alleges as follows:

5 1.

6 The Complainant, Thomas McCrady, acting in his
7 official capacity as a Deputy Real Estate Commissioner of the
8 State of California makes this Accusation against SAFEGUARD
9 PROPERTIES, INC., (SPI), SAFEGUARD PROPERTY MANAGEMENT, INC.
10 (SPMI), RAYMOND LEWIS WALLS (WALLS), ROLAND EARLE WEICHMAN
11 (WEICHMAN), MARK EDWARD CESTARIC (CESTARIC), and HERIBERTO
12 TALAVERA (TALAVERA).

13 2.

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

18 3.

19 SPI, WALLS and WEICHMAN, CESTARIC and TALAVERA,
20 (hereinafter referred to as Respondents) are presently licensed
21 or have license rights under the Real Estate Law (Part 1 of
22 Division 4 of the Business and Professions Code, hereinafter
23 "Code").

1 SAFEGUARD PROPERTIES, INC.

2 FIRST CAUSE OF ACCUSATION

3 4.

4 From December 14, 1981 until April 16, 2000, WEICHMAN,
5 and then from April 17, 2000 to date, WALLS were licensed by the
6 Department as designated officers of SPI to qualify SPI and to
7 act for SPI as real estate brokers and, as provided by Code
8 Section 10159.2, were responsible for the supervision and
9 control of the activities conducted on behalf of SPI by its
10 officers, managers and employees as necessary to secure full
11 compliance with the provisions of the Real Estate Law including
12 the supervision of the salespersons licensed to the corporation
13 in the performance of acts for which a real estate license is
14 required. WEICHMAN was originally licensed as a real estate
15 broker on December 10, 1991. WALLS was originally licensed as a
16 real estate broker on December 10, 1991, also.

17 5.

18 Whenever reference is made in an allegation in the
19 Accusation to an act or omission of SPI such allegation shall be
20 deemed to mean that the officers, directors, managers,
21 employees, agents and real estate licensees employed by or
22 associated with SPI including WALLS and WEICHMAN committed such
23 act or omission while engaged in the furtherance of its business
24 or operation and while acting within the course and scope of its
25 corporate authority, agency and employment.

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1 6.

2 At all times herein mentioned, SPI on behalf of others
3 in expectation of compensation, engaged in the business, acted
4 in the capacity of, advertised or assumed to act as a real
5 estate broker within the meaning of:

6 A. Section 10131(a) of the Code in that SPI operated
7 a residential real estate resale business with the public
8 wherein, on behalf of others and for compensation or in
9 expectation of compensation, SPI sold or offered to sell, bought
10 or offered to buy, solicited prospective sellers or purchasers
11 of, solicited or obtained listings of, or negotiated the
12 purchase, sale or exchange of real property;

13 B. Section 10131(d) of the Code in that SPI operated
14 as a mortgage and loan broker, including soliciting borrowers
15 and lenders and negotiating and servicing loans on real
16 property; and,

17 C. In addition, SPI conducted broker controlled
18 escrows through its escrow division "Safeguard Escrow," under
19 the exemption set forth in Section 17006(a)(4) of the California
20 Financial Code.

21 7.

22 On December 11, 2001, the Department completed an
23 audit examination (LA 000123) of the books and records of SPI
24 pertaining to its residential resale, mortgage and loan
25 brokerage and escrow activities requiring a real estate license
26 as described in Paragraph 6. The audit examination covered a
27 period of time beginning on November 1, 1999 to September 30,

1 2000. The audit examination revealed violations of the Code and
2 the Regulations as set forth in the following paragraphs.

3 8.

4 At all times mentioned, in connection with the
5 activities described in Paragraph 6, above, SPI accepted or
6 received funds in trust (trust funds) from or on behalf of
7 buyers and sellers and borrowers and lenders, and thereafter
8 made disposition of such funds. Respondent SPI maintained the
9 following trust account during the audit period into which were
10 deposited certain of these funds at:

11 "Safeguard Escrow Services Trust Account #1
12 Account No. 31-021-111"
13 Imperial Bank
14 Beverly Hills, CA

15 9.

16 With respect to the trust funds referred to in
17 Paragraph 8, it is alleged that SPI:

18 (a) Permitted, allowed or caused the disbursement of
19 trust funds from T/A #1 where the disbursement of said funds
20 reduced the total of aggregate funds in T/A #1, to an amount
21 which, on September 30, 2000, was \$845.58, less than the
22 existing aggregate trust fund liability of SPI to every
23 principal who was an owner of said funds, without first
24 obtaining the prior written consent of the owners of said funds,
25 as required by Code Section 10145 and Regulation 2832.1. This
26 shortage has been cured, and;

1 (b) Failed to place funds, including funds received in
2 certain residential resale and mortgage loan brokerage
3 transactions into a trust fund account in the name of the broker
4 as trustee at a bank or other financial institution, as required
5 by Code Section 10145 and Regulation 2832. Respondent SPI used
6 the name "Safeguard Escrow Services Trust Account #1".

7 10.

8 The conduct of Respondent SPI, described in Paragraph
9 9, above, violated the Code and the Regulations as set forth
10 below:

11 PARAGRAPH

PROVISIONS VIOLATED

12 9(a)

Code Section 10145 and
13 Regulation 2832.1

14
15 9(b)

Code Section 10145 and
16 Regulation 2832

17
18 Each of the two foregoing violations separately constitutes
19 cause for the suspension or revocation of the real estate
20 license and license rights of SPI under the provisions of Code
21 Section 10177(d).

22 11.

23 The audit examination revealed that SPI employed and
24 compensated Ed Talavera aka Heriberto Talavera, as SPI's
25 Mortgage division Manager, to perform acts for which a real
26 estate license is required, including originating loans,
27

1 soliciting borrowers and lenders, and negotiating loans secured
2 by liens on real property, for or in expectation of compensation
3 for the following borrowers: Javier Campos, Hilda Chavez, Fred
4 Stonestreet, Rosa Romero, Andrew Dix, and Maria Sidamon, during
5 a time when his licensed expired, in violation of Code Section
6 10137. This conduct and violation are cause to suspend or
7 revoke the licenses and license rights of Respondent SPI under
8 the provisions of Code Section 10137.

9 12.

10 The audit examination revealed that SPI employed and
11 compensated real estate salesperson CESTARIC, after his license
12 had expired on June 6, 2000, and was not renewed until November
13 17, 2000, to perform acts for which a real estate license is
14 required, including originating loans, soliciting borrowers and
15 lenders, and negotiating loans secured by liens on real
16 property, for or in expectation of compensation. On June 24,
17 2000, SPI paid a commission check to CESTARIC who was the
18 selling agent for the 2286 Pacific Avenue #D, Costa Mesa, CA,
19 during a time when his licensed expired, in violation of Code
20 Section 10137. This conduct and violation are cause to suspend
21 or revoke the license and license rights of Respondent SPI under
22 the provisions of Code Section 10137.

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2 The audit examination revealed that CESTARIC continued
3 to solicit buyers and sellers and negotiate for the purchase and
4 sale of real property after his real estate license expired on
5 June 6, 2000, and which was not renewed until November 17, 2000.
6 On or about June 24, 2000, CESTARIC conducted activities
7 requiring a real estate license with respect to the property
8 known as 2286 Pacific Avenue #D, Costa Mesa, California. The
9 conduct of CESTARIC is in violation of Section 10130 of the Code
10 and is cause to suspend or revoke his license and license rights
11 under Code Section 10177(d).

12
13 The audit examination moreover revealed that TALAVERA,
14 employed as the Mortgage Division Manager of SPI, continued to
15 solicit buyers and sellers and negotiate for the purchase and
16 sale of real property after his real estate license expired on
17 November 3, 1997. Between April 20, 2000 and September 28,
18 2000, TALAVERA, interview six borrowers: Javier Campos, Hilda
19 Chavez, Fred Stonestreet, Rosa Romero, Andrew Dix, and Maria
20 Sidamon, negotiated their loans receiving compensation thereon
21 totaling \$13,087.10. The conduct of TALAVERA is in violation of
22 Section 10130 of the Code and is cause to suspend or revoke his
23 license and license rights under Code Section 10177(d).

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1 The audit examination furthermore revealed that SPI
2 failed to provide and/or maintain a statement in writing, a
3 Mortgage Loan Disclosure Statement, containing all the
4 information required by Section 10241 of the Code to various
5 borrowers including but not limited to: Hilda Chavez, Fred
6 Stonestreet, Rosa Romero and Maria Sidamon, before these
7 borrowers became obligated to perform under the terms of their
8 loans. Having not provided a Mortgage Loan Disclosure Statement
9 SPI is required to comply with the provisions of Code Section
10 10240(c). That Code Section requires Respondent SPI to provide:
11 (1) a "good faith estimate" that satisfies the requirements of
12 the Real Estate Settlement Procedures Act known as RESPA and
13 which sets forth SPI's real estate license number plus a
14 statement that the good faith estimate does not constitute a
15 loan commitment; and (2) Truth in Lending Disclosures. In the
16 above referenced loans, the good faith disclosures did not
17 contain either the SPI's real estate license number or a
18 statement that the good faith estimate does not constitute a
19 loan commitment. Nor did good faith disclosures contain the
20 Truth in Lending disclosures. This omission is a violation of
21 Code Section 10240(c) and Regulation 2840. These omissions
22 constitute cause for the suspension or revocation of the real
23 estate license and license rights of Respondent SPI under Code
24 Section 10177(d).
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16.

1 The audit examination also revealed that Respondent
2 SPI used the fictitious names of "Safeguard Escrow" and
3 "Safeguard Group" to conduct licensed activities on behalf of
4 SPI without holding a license bearing these fictitious business
5 names. The conduct of SPI, in failing to obtain licenses for
6 use of the aforesaid names, is in violation of Regulation 2731
7 and is cause to suspend or revoke Respondent's real estate
8 license and license rights under Code Section 10177(d).
9

10 17.

11 The conduct of Respondent SPI in failing to obtain a
12 license for the unlicensed branch office at 3554 Business Part
13 Drive Ste. A, Costa Mesa, California, used by SPI to conduct
14 its activities requiring a real estate license is in violation
15 of Code Section 10163 of the and is cause to suspend or revoke
16 Respondent SPI's real estate license and license rights under
17 Code 10177(d).
18

19 18.

20 The overall conduct of SPI, WEICHMAN and WALLS
21 constitutes negligence or incompetence. This conduct and
22 violation are cause for the suspension or revocation of the real
23 estate license and license rights of said Respondents under the
24 provisions of Code Section 10177(g).
25
26
27

1 The conduct of Respondent WALLS, constitutes a failure
2 on his part, as officer designated by a corporate broker
3 licensee, to exercise the reasonable supervision and control
4 over the licensed activities of SPI as required by Code Section
5 10159.2, and to keep it in compliance with the Real Estate Law,
6 is cause for the suspension or revocation of the real estate
7 license and license rights of WALLS pursuant to the provisions
8 of Code Sections 10159.2 and 10177(h).
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SAFEGUARD PROPERTY MANAGEMENT, INC.

SECOND CAUSE OF ACCUSATION

1
2
3 Complainant incorporates herein by reference the
4 Preamble and the allegations of Paragraphs 1 through 19,
5 inclusive, herein above.

6 20.

7 From August 15, 1991 until July 2, 1999, the date
8 SPMI's license expired, WEICHMAN, was licensed by the Department
9 as the designated officer of SPMI to qualify SPMI and to act for
10 SPMI as a real estate broker and, as provided by Code Section
11 10159.2, was responsible for the supervision and control of the
12 activities conducted on behalf of SPMI by its officers, managers
13 and employees as necessary to secure full compliance with the
14 provisions of the Real Estate Law including the supervision of
15 the salespersons licensed to the corporation in the performance
16 of acts for which a real estate license is required.

17 21.

18 After the expiration of SPMI's corporate real estate
19 license on July 2, 1999, WALLS replaced WEICHMAN and thereafter
20 acted in a de facto capacity as designated officer of SPMI.

21 22.

22 Whenever reference is made in an allegation in the
23 Accusation to an act or omission of SPMI such allegation shall
24 be deemed to mean that the officers, directors, managers,
25 employees, agents and real estate licensees employed by or
26 associated with SPMI, including WEICHMAN, committed such act or
27 omission while engaged in the furtherance of SPMI's business or

1 operation and while acting within the course and scope of its
2 corporate authority, agency and employment.

3 23.

4 At all times herein mentioned, SPMI on behalf of
5 others in expectation of compensation, engaged in the business,
6 acted in the capacity of, advertised or assumed to act as a real
7 estate broker within the meaning of:

8 A. Section 10131(b) of the Code in that SPMI
9 primarily acted as a real estate broker, within the meaning of
10 Section 10131(b) of the Code, including conducting licensed
11 activities as a property management business; and

12 B. Section 10131(d) of the Code in that SPMI
13 secondarily operated as a mortgage and loan broker, including
14 servicing loans on real property; and,

15 24.

16 On December 8, 2001, the Department completed an audit
17 examination (LA 00122) of the books and records of SPMI
18 pertaining to its property management and loan servicing
19 activities requiring a real estate license as described in
20 Paragraph 21. The audit examination covered a period of time
21 beginning on January 1, 1999 to October 31, 2000. The audit
22 examination revealed violations of the Code and the Regulations
23 as set forth in the following paragraphs.

24 25.

25 At all times mentioned, in connection with the
26 activities described in Paragraph 23, above, SPMI accepted or
27 received funds in trust (trust funds) from or on behalf of

1 lessors and lessees, owners, tenants and borrowers, and
2 thereafter made disposition of such funds. Respondent SPMI
3 maintained the following trust accounts during the audit period
4 into which were deposited certain of these funds at:

5 "Safeguard Property Management Inc. Trust Account #1
6 Account No. 24397-08262"
7 Bank of America
8 Irvine, CA
9 (formerly Account No. 24394-05628)

10 "Safeguard Property Management Inc. L S Trust Account #2
11 Account No. 24395-04029"
12 Bank of America
13 Irvine, CA

14 26.

15 With respect to the trust funds referred to in
16 Paragraph 25, it is alleged that SPMI:

17 (a) Permitted, allowed or caused the disbursement of
18 trust funds from T/A #1 (Account No. 24397-08262), the rent
19 collection trust fund, where the disbursement of said funds
20 reduced the total of aggregate funds in T/A #1, to an amount
21 which, on October 31, 2000, was \$156,981.74, less than the
22 existing aggregate trust fund liability of SPMI, to every
23 principal who was an owner of said funds, without first
24 obtaining the prior written consent of the owners of said funds,
25 as required by Code Section 10145 and Regulation 2832.1;

26 (b) Permitted, allowed or caused the disbursement of
27 trust funds from T/A #1, (Account No. 24394-05628) the former
rent collection trust fund, where the disbursement of said funds
reduced the total of aggregate funds in T/A #1, to an amount

1 which, on May 31, 1999, was \$85,605.12, less than the existing
2 aggregate trust fund liability of SPMI, during the time that
3 WEICHMAN was the designated officer of SPMI, to every principal
4 who was an owner of said funds, without first obtaining the
5 prior written consent of the owners of said funds, as required
6 by Code Section 10145 and Regulation 2832.1; and

7 (c) Permitted, allowed or caused the disbursement of
8 trust funds from T/A #1, in amount of \$44,938.034, to Treeco
9 Property Services, without first obtaining the prior written
10 consent of the owners of said trusts funds, as required by Code
11 Section 10145.

12 27.

13 The conduct of Respondent SPMI, described in Paragraph
14 26, above, violated the Code and the Regulations as set forth
15 below:

17 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
18 26(a)	19 Code Section 10145 and 20 Regulation 2832.1
21 26(b)	22 Code Section 10145 and 23 Regulation 2832.1
24 26(c)	25 Code Section 10145

1 Each of the foregoing violations separately constitutes cause
2 for the suspension or revocation of the license rights of SPMI
3 under the provisions of Code Section 10177(d).

4 28.

5 The audit examination revealed that SPMI continued to
6 engage in activities requiring a real estate license including
7 but not limited to collecting rents for compensations by way of
8 management fees after SPMI's corporate real estate broker
9 license expired on July 2, 1999, and during the time that WALLS
10 was the de facto designated officer of SPMI. SPMI continued to
11 collect rents and receive compensation in the form of management
12 fees from managed rental properties tenanted by: Susan and
13 Michael Taylor, Elizabeth Rose, Maria Diaz Reynosa, Gene
14 Bulkowski, Yvonne Krong, and Brian Hayes. This conduct is in
15 violation of Code Section 10130 and is cause to suspend or
16 revoke SPMI's license rights under Code Section 10177(d).

17 29.

18 The overall conduct of SPMI and WEICHMAN constitutes
19 negligence or incompetence. This conduct and violation are
20 cause for the suspension or revocation of the real estate
21 license and/or license rights of said Respondents under the
22 provisions of Code Section 10177(g).

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The conduct of Respondent WEICHMAN, constitutes a failure on his part, as the officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of SPMI as required by Code Section 10159.2, and to keep it in compliance with the Real Estate Law, is cause for the suspension or revocation of the real estate licenses and license rights of WEICHMAN pursuant to the provisions of Code Sections 10159.2 and 10177(h).

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1 WHEREFORE, complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and licensing rights of Respondents
5 SAFEGUARD PROPERTIES, INC., SAFEGUARD PROPERTY MANAGEMENT, INC.,
6 ROLAND EARLE WEICHMAN, individually and as former designated
7 officer of Safeguard Properties, Inc. and Safeguard Property
8 Management, Inc., and RAYMOND LEWIS WALLS, individually and as
9 designated officer of Safeguard Properties, Inc., MARK EDWARD
10 CESTARIC and HERIBERTO TALAVERA under the Real Estate Law (Part
11 1 of Division 4 of the Business and Professions Code) and for
12 such other and further relief as may be proper under other
13 applicable provisions of law.

14 Dated at Los Angeles, California

15 this 4th day of April, 2001

16
17 THOMAS MC CRADY

18 Deputy Real Estate Commissioner

19
20 cc: Safeguard Properties, Inc.

21 cc: Safeguard Property Management, Inc.

22 cc: Raymond Lewis Walls

23 cc: Roland Earle Weichman

24 cc: Mark Edward Cestaric

25 cc: Heriberto Talavera

26 Sacto.

27 DW