

CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

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

FILED
OCT 26 2001
DEPARTMENT OF REAL ESTATE

By CS

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29048 LA
SEAPOINT REALTY, INC.,)	L-2001060319
a corporation, dba Re/Max)	
Seapoint Realty, Inc. and)	<u>STIPULATION AND AGREEMENT</u>
MARIA ROSSANA BRADARICH,)	
individually and as)	
designated officer of)	
Seapoint Realty, Inc.,)	
Respondents.)	

It is hereby stipulated by and between SEAPOINT REALTY, INC., a corporation, dba Re/Max Seapoint Realty, Inc. (hereinafter "SEAPOINT") and MARIA ROSSANA BRADARICH, individually and as designated officer of Seapoint Realty, Inc. (hereinafter "BRADARICH") (hereinafter sometimes referred to as "Respondents"), represented by Steven F. Spierer, Esq., and the Complainant, acting by and through Chris Leong, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on May 11, 2001, in this matter.

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and
3 Respondents at a formal hearing on the Accusation, which
4 hearing was to be held in accordance with the provisions of the
5 Administrative Procedure Act, shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation and Agreement.

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

12 3. On May 22, 2001, Respondents filed Notices of
13 Defense pursuant to Section 11505 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondents hereby freely and voluntarily withdraw
16 said Notices of Defense. Respondents acknowledge that they
17 understand that by withdrawing said Notices of Defense they
18 will thereby waive their right to require the Commissioner to
19 prove the allegations in the Accusation at a contested hearing
20 held in accordance with the provisions of the Administrative
21 Procedure Act and that Respondents will waive other rights
22 afforded to them in connection with the hearing, such as the
23 right to present evidence in defense of the allegations in the
24 Accusation and the right to cross-examine witnesses.

25 4. In the interest of expedience and economy,
26 Respondents choose not to contest the factual allegations in
27 Paragraphs 1 through 10, of the Accusation, but to remain

1 silent and understand that, as a result thereof, these factual
2 statements, without being admitted or denied, will serve as a
3 prima facie basis for the disciplinary action stipulated to
4 herein. The Real Estate Commissioner shall not be required to
5 provide further evidence to prove such allegations.

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

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

24 7. Respondents understand that by agreeing to this
25 Stipulation and Agreement, Respondents agree to pay, pursuant
26 to Section 10148 of the Business and Professions Code, the cost
27

1 of the audit which led to this disciplinary action. The amount
2 of said cost is \$8,908.24.

3 8. Respondents have received, read, and understand
4 the "Notice Concerning Cost of Subsequent Audit". Respondents
5 further understand that by agreeing to this Stipulation and
6 Agreement, and the findings set forth below in the
7 DETERMINATION OF ISSUES become final, that the Commissioner may
8 charge Respondents for the cost of any subsequent audit
9 conducted pursuant to Section 10148 of the Business and
10 Professions Code to determine if the violations have been
11 corrected. The maximum cost of said audit will not exceed
12 \$8,908.24.

13 DETERMINATION OF ISSUES

14 By reason of the foregoing stipulations, admissions
15 and waivers and solely for the purpose of settlement of the
16 pending Accusation without a hearing, it is stipulated and
17 agreed that the following Determination of Issues shall be
18 made:

19 The acts and omissions of Respondents, described in
20 Paragraphs 1 through 10 of the Accusation, are violations of
21 Section 10145 of the California Business and Professions Code
22 ("Code") and Sections 2831 and 2831.2 of Title 10, Chapter 6,
23 California Code of Regulations, which are cause for the
24 suspension or revocation of all real estate licenses and
25 license rights of Respondents under the provisions of Code
26 Section 10177(d).
27

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondents
SEAPOINT REALTY, INC. a corporation, dba Re/Max Seapoint
Realty, Inc. and MARIA ROSSANA BRADARICH, individually and as
designated officer of Seapoint Realty, Inc., under Real Estate
Law are revoked; provided, however, a restricted corporate real
estate broker license shall be issued to Respondent SEAPOINT
and a restricted real estate broker license shall be issued to
Respondent BRADARICH pursuant to Section 10156.5 of the Code,
if Respondents make applications therefor and pay to the
Department of Real Estate the appropriate fee for the
restricted licenses within 90 days from the effective date of
this Decision. The restricted licenses issued to Respondents
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 licenses issued to Respondents may
be suspended prior to hearing by Order of the Real Estate
Commissioner in the event of Respondents' convictions or plea
of nolo contendere to a crime which is substantially related to
Respondents' fitness or capacity as real estate licensees.

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

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

4 3. Respondents shall not be eligible to apply for
5 the issuance of unrestricted real estate licenses nor the
6 removal of any of the conditions, limitations or restrictions
7 of the restricted licenses until at least two years have
8 elapsed from the date of this Decision.

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

21 5. Pursuant to Section 10148 of the Business and
22 Professions Code, Respondents shall pay the Commissioner's
23 reasonable cost for: a) the audit which led to this
24 disciplinary action and b) a subsequent audit to determine if
25 Respondents have corrected the trust fund violations found in
26 the Determination of Issues. The cost of the audit which led
27 to this disciplinary action is \$8,908.24. In calculating the

1 amount of the Commissioner's reasonable cost, the Commissioner
2 may use the estimated average hourly salary for all persons
3 performing audits of real estate brokers, and shall include an
4 allocation for travel time to and from the auditor's place of
5 work. Said amount for the subsequent audit shall not exceed
6 \$8,908.24.

7 Respondents shall pay such cost for the original
8 audit in six equal installments of \$1,484.70, on the first of
9 each month, starting within 60 days of receiving an invoice
10 from the Commissioner detailing the activities performed during
11 the audit and the amount of time spent performing those
12 activities. Respondents shall pay such cost for the follow-up
13 audit within 60 days of receiving an invoice from the
14 Commissioner detailing the activities performed during the
15 audit and the amount of time spent performing those activities.
16 The Commissioner may suspend the restricted licenses issued to
17 Respondents pending a hearing held in accordance with Section
18 11500, et seq., of the Government Code, if payment is not
19 timely made as provided for herein, or as provided for in a
20 subsequent agreement between the Respondents and the
21 Commissioner. The suspension shall remain in effect until
22 payment is made in full, or until Respondents enter into an
23 agreement satisfactory to the Commissioner to provide for
24 payment, or until a decision providing otherwise is adopted
25 following a hearing held pursuant to this condition.

26 6. Respondent BRADARICH shall, within six months
27 from the effective date of this Decision, take and pass the

1 Professional Responsibility Examination administered by the
2 Department including the payment of the appropriate examination
3 fee. If Respondent fails to satisfy this condition, the
4 Commissioner may order suspension of Respondent's license until
5 Respondent passes the examination.

6 7. Respondents shall provide proof satisfactory to
7 the Commissioner, prior to the effective date of this Decision,
8 that the shortage of July 31, 2000, stated in audit report
9 numbers LA 990518, LA 000152 and LA 000153, have been cured.

10
11 DATED:

9/25/01

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

13 * * *

14 We have read the Stipulation and Agreement and its
15 terms are understood by us and are agreeable and acceptable to
16 us. We understand that we are waiving rights given to us by
17 the California Administrative Procedure Act (including but not
18 limited to Sections 11506, 11508, 11509 and 11513 of the
19 Government Code), and we willingly, intelligently and
20 voluntarily waive those rights, including the right of
21 requiring the Commissioner to prove the allegations in the
22 Accusation at a hearing at which we would have the right to
23 cross-examine witnesses against us and to present evidence in
24 defense and mitigation of the charges.

25 ///

26 ///

1 Respondents can signify acceptance and approval of
2 the terms and conditions of this Stipulation and Agreement by
3 faxing a copy of the signature page, as actually signed by
4 Respondents, to the Department at the following telephone/fax
5 number (213) 576-6917. Respondents agree, acknowledge and
6 understand that by electronically sending to the Department a
7 fax copy of their actual signatures as they appear on the
8 Stipulation and Agreement, that receipt of the faxed copy by
9 the Department shall be as binding on Respondents as if the
10 Department had received the original signed Stipulation and
11 Agreement.

12
13 DATED: _____

SEAPOINT REALTY, INC, a
corporation, dba Re/Max Seapoint
Realty, Inc., Respondent
by Maria Rossana Bradarich,
designated officer of
Seapoint Realty, Inc.

14
15
16
17
18 DATED: _____

MARIA ROSSANA BRADARICH,
individually and as designated
officer of Seapoint Realty,
Inc., Respondent

19
20
21
22 DATED: _____

STEVEN F. SPIERER, ESQ.
Counsel for Respondents

23
24 ///

25 ///

26 ///

27

Respondents can signify acceptance and approval of
 the terms and conditions of this stipulation and agreement by
 faxing a copy of the signature page, as actually signed by
 respondents, to the Department at the following telephone/fax
 number (213) 576-8917. Respondents agree, acknowledge and
 understand that by electronically sending to the Department a
 fax copy of their actual signatures as they appear on the
 stipulation and agreement, that receipt of the faxed copy by
 the Department shall be as binding on respondents as if the
 Department had received the original signed stipulation and
 agreement.

DATED: 8/24/01

Maria Rosanna Brindley
 SHARON REAR, INC., a
 corporation, aka Sharon Seapoint
 Realty, Inc., Respondent
 by Maria Rosanna Brindley,
 designated officer of
 Seapoint Realty, Inc.

DATED: AUG 24 2001

Maria Rosanna Brindley
 MARIA ROSANNA BRINDLEY,
 individually and as designated
 officer of Seapoint Realty,
 Inc. Respondent

DATED: 8/24/01

Steven M. Baker
 STEVEN M. BAKER, CEO,
 Council for Respondents

///

///

///

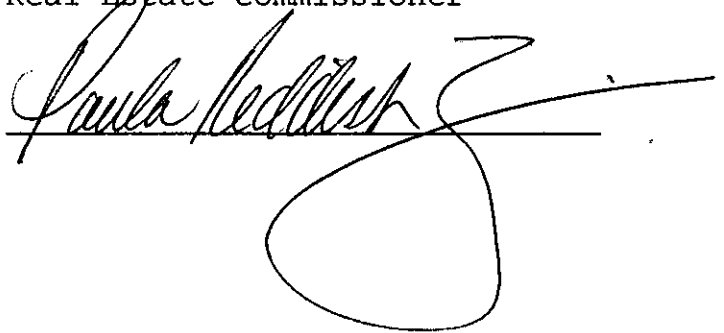
RECEIVED TIME AUG. 29. 10:04AM

1 * * *

2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision in this matter and shall become effective
4 at 12 o'clock noon on November 15, 2001.

5 IT IS SO ORDERED October 22, 2001.

6 PAULA REDDISH ZINNEMANN
7 Real Estate Commissioner

8 
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SAC

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of) Case No. H-29048 LA
)
SEAPOINT REALTY, INC., a corporation,) OAH No. L-2001060319
dba Re/Max Seapoint Realty, Inc. and)
MARIA ROSSANA BRADARICH, individually)
and as designated officer of)
Seapoint Realty, Inc.,)

Respondent(s)

FILED
JUL - 2 2001
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, AUGUST 29, 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 2, 2001

By

Chris Leong
CHRIS LEONG, Counsel

cc: Seapoint Realty, Inc.
Maria Rosanna Bradarich
Steven F. Spierer, Esq.
/Sacto.
OAH

CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

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



By C. Long

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29048 LA
SEAPOINT REALTY, INC.,)	<u>A C C U S A T I O N</u>
a corporation, dba Re/Max)	
Seapoint Realty, Inc. and)	
MARIA ROSSANA BRADARICH,)	
individually and as)	
designated officer of)	
Seapoint Realty, Inc.,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SEAPOINT REALTY, INC., a corporation, dba Re/Max Seapoint Realty Inc. (SEAPOINT) and MARIA ROSSANA BRADARICH, individually and as designated officer of Seapoint Realty, Inc. (BRADARICH) is informed and alleges in his official capacity as follows:

1.

SEAPOINT and BRADARICH are presently licensed and/or

1 have license rights under the Real Estate Law, Part 1 of
2 Division 4 of the California Business and Professions Code
3 (Code).

4 2.

5 At all times material herein, SEAPOINT was and still
6 is licensed by the Department of Real Estate of the State of
7 California (Department) as a corporate real estate broker, by
8 and through BRADARICH, as the designated officer and broker
9 responsible, pursuant to the provisions of Code Section
10 10159.2, for the supervision and control of the activities
11 conducted on behalf of SEAPOINT by SEAPOINT's officers and
12 employees.

13 3.

14 At all times material herein, BRADARICH was and now
15 is licensed by the Department, individually as a real estate
16 broker and as the designated officer of SEAPOINT. As the
17 designated broker-officer, BRADARICH was and is responsible
18 for the supervision and control of the activities conducted on
19 behalf of SEAPOINT by SEAPOINT's officers and employees as
20 necessary to secure full compliance with the Real Estate Law,
21 pursuant to Code Section 10159.

22 4.

23 All further references herein to "Respondents";
24 unless otherwise specified, include the parties identified in
25 Paragraphs 1 through 3, above, and also include the officers,
26 directors, employees, and real estate licensees employed by or
27 associated with said parties, who at all times herein

1 mentioned were engaged in the furtherance of the business or
2 operations of said parties and who were acting within the
3 course and scope of their authority and employment.

4 5.

5 At all times material herein, Respondents engaged in
6 the business of, acted in the capacity of, advertised or
7 assumed to act as real estate brokers for others in the State
8 of California, within the meaning of Code Sections 10131(a)
9 and 10131(d), including the operation and conduct of a real
10 estate sales business and mortgage loan business with the
11 public wherein Respondents sold or purchased, or offered for
12 sale or purchase, or solicited listings, or solicited for
13 prospective buyers or sellers, or negotiated the sale or
14 purchase of real property and solicited and negotiated
15 borrowers and lenders for loans secured by interest in real
16 property in expectation of compensation and performed broker
17 escrows.

18 FIRST CAUSE OF ACCUSATION

19 (Audit Findings)

20 6.

21 On December 8, 2000, the Department concluded its
22 examination of Respondents' books and records pertaining to
23 their activities as real estate brokers covering a period from
24 approximately January 1, 1999 to July 31, 2000. The
25 examination revealed violations of the Code and of Title 10,
26 Chapter 6, California Code of Regulations (Regulations), as
27 set forth below.

7.

At all times herein, in connection with the real estate sales, mortgage loan and broker escrow activity described in Paragraph 5, above, Respondents accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective parties to transactions handled by Respondents and thereafter made deposits and/or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by Respondents in accounts including, but not necessarily limited to, two bank accounts which held trust funds received in connection with its broker escrow activities and one trust account for sales activities. The three accounts were maintained at Comerica located at 21535 Hawthorne Blvd., Torrance, CA. The first bank account name was Re-Max Seapoint Realty, Inc. Seapoint Escrow, account number 1891068403 (hereinafter "Account 1"). The second bank account name was Seapoint Realty, Inc. Carson Escrow, account number 1891161323 (hereinafter "Account 2"). The third bank account was a trust account under the name Re-Max Seapoint Realty, Inc. Seapoint Escrow trust account, account number 1891068650 (hereinafter "Trust Account").

8.

As of June 30, 2000 and July 31, 2000, bank reconciliations were performed on the three accounts. Respondents acted in violation of the Code and the Regulations in that:

1 (a) As of June 30, 2000, Account 1 had a shortage
2 in the amount of approximately \$14,768.61. As of July 31,
3 2000, Account 1 had a shortage in the amount of approximately
4 \$12,721.10. As of July 31, 2000, Account 2 had a shortage in
5 the amount of approximately \$4,453.61. Respondents caused,
6 permitted and/or allowed the withdrawal or disbursement of
7 trust funds from Account 1 without the prior written consent
8 of every principal who then was an owner of funds in the
9 account thereby reducing the balance of funds in the said
10 account to an amount less than the existing aggregate trust
11 fund liability of the broker to all owners of said trust
12 funds, in violation of Code Section 10145 and Regulation
13 2832.1. In addition, as of July 31, 2000, the trust account
14 had an overage in the amount of approximately \$2,387.25, in
15 violation of Code Section 10145;

16 (b) Respondents failed to maintain records of all
17 purchase money deposits received and held uncashed in
18 connection with their sales activities, in violation of
19 Regulations 2831;

20 (c) Respondents failed to reconcile the balance of
21 all separate records with the record of all trust funds
22 received and disbursed at least once per month in connection
23 with their broker escrow activities, in violation of
24 Regulation 2831.2;

25 (d) Respondents allowed an unlicensed individual,
26 Maria Samoyoa, to be a signatory on Account 1. Respondents
27 allowed two salespersons, Robert Bradarich and Mirko Zeljak,

1 to be signatories on Account 1 without written authorization
2 and adequate fidelity bonds. Also, Respondents allowed an
3 unlicensed individual, Juana Renteria, to be a signatory on
4 Account 2 and did not give written authorization for a her to
5 be a signatory on the trust account and failed to provide
6 adequate fidelity bonds, in violation of Regulation 2834; and

7 (e) Respondents failed to set up Accounts 1 and 2
8 as trust accounts, in violation of Regulation 2832.

9 9.

10 The conduct, acts and omissions of Respondents, as
11 described in Paragraph 8, violated the Code and the
12 Regulations as set forth above and constitute cause for the
13 suspension or revocation of all real estate licenses and
14 license rights of Respondents under the provisions of Code
15 Section 10177(d).

16 10.

17 SECOND CAUSE OF ACCUSATION
18 (Supervision Violation)

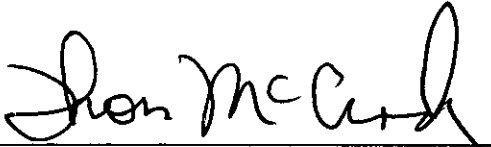
19 The conduct, acts and omissions of Respondent
20 SEAPOINT, as described in Paragraph 8, above, independently
21 and collectively constitute failure on the part of Respondent
22 BRADARICH, as officer designated by a corporate broker
23 licensee, to exercise the reasonable supervision and control
24 over the licensed activities of Respondent SEAPOINT as
25 required by Code Section 10159.2 and Regulation 2725 and is
26 cause for the suspension or revocation of all real estate
27 licenses and license rights of Respondent BRADARICH pursuant

1 to the provisions of Code Section 10177(h).

2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and/or license rights of
6 Respondents, SEAPOINT REALTY, INC., a corporation, dba Re/Max
7 Seapoint Realty, Inc. and MARIA ROSSANA BRADARICH,
8 individually and as designated officer of Seapoint Realty,
9 Inc., under the Real Estate Law (Part 1 of Division 4 of the
10 Business and Professions Code), and for such other and further
11 relief as may be proper under other applicable provisions of
12 law.

13 Dated at Los Angeles, California

14 this 11th day of May, 2001.

15 
16 Deputy Real Estate Commissioner
17
18
19
20
21
22

23 cc: Seapoint Realty, Inc.
24 Maria Rossana Bradarich
25 Thomas McCrady
26 Sacto.
27 LA Audit/Fajardo (Oh)
AS