

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

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

FILED
APR 12 2002
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) DRE No. H-29261 LA
13 LADERA REALTY, INC. and) OAH No. L-2001110387
14 VELMA LEE MURPHY, individually)
15 and as designated broker-officer) STIPULATION AND AGREEMENT
16 of Ladera Realty, Inc.,)
17 Respondents.)

17 It is hereby stipulated by and between LADERA REALTY,
18 INC., VELMA LEE MURPHY, in her individual capacity and in her
19 capacity as designated broker-officer of Ladera Realty, Inc.
20 (sometimes referred to herein as "Respondents,"), and the
21 Complainant, acting by and through Martha J. Rosett, Counsel
22 for the Department of Real Estate, as follows for the purpose
23 of settling and disposing of the Accusation filed on October
24 24, 2001 in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27 Respondents at a formal hearing on the Accusation, which

1 hearing was to be held in accordance with the provisions of the
2 Administrative Procedure Act (APA), shall instead and in place
3 thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.

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

9 3. On November 8, 2001, Respondents filed a Notice
10 of Defense pursuant to Section 11506 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. In order to effectuate this settlement,
13 Respondents hereby freely and voluntarily withdraw said Notice
14 of Defense. Respondents acknowledge that they each understand
15 that by withdrawing said Notice of Defense, they will thereby
16 waive their rights to require the Commissioner to prove the
17 allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will
19 waive other rights afforded to them in connection with the
20 hearing such as the right to present evidence in defense of the
21 allegations in the Accusation and the right to cross-examine
22 witnesses.

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

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

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

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

1 suspension. Should no such determination be made, the stay
2 imposed herein shall become permanent.

3 C. As to the remaining thirty (30) days of said
4 ninety (90) day suspension, all licenses and licensing rights
5 of Respondent LADERA REALTY, INC. are suspended for a period of
6 thirty (30) days from the effective date of this Decision;
7 provided, however, that if Respondent petitions, the remaining
8 thirty (30) days of said ninety (90) day suspension shall be
9 stayed upon condition that:

10 1. Respondent pays a monetary penalty pursuant to
11 Section 10175.2 of the Business and Professions Code at the
12 rate of \$50 for each day of the suspension for a total monetary
13 penalty of \$1,500.

14 2. Said payment shall be in the form of a cashier's
15 check or certified check made payable to the Recovery Account
16 of the Real Estate Fund. Said check must be received by the
17 Department prior to the effective date of the Decision in this
18 matter.

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

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

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

8 II. All licenses and licensing rights of Respondent
9 VELMA LEE MURPHY, under the Real Estate Law are suspended for a
10 period of ninety (90) days each from the effective date of this
11 Decision; provided however, that sixty (60) days of said
12 suspensions shall be stayed for two (2) years upon the
13 following terms and conditions:

14 A. Respondent shall obey all laws, rules and
15 regulations governing the rights, duties and responsibilities
16 of a real estate licensee in the State of California.

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

25 C. As to the remaining thirty (30) days of said
26 ninety day suspension, all licenses and licensing rights of
27 Respondent VELMA LEE MURPHY are suspended for a period of

1 thirty (30) days from the effective date of this Decision;
2 provided, however, that if Respondent petitions, the remaining
3 thirty (30) days of said ninety (90) day suspension shall be
4 stayed upon condition that:

5 1. Respondent pay a monetary penalty pursuant to
6 Section 10175.2 of the Business and Professions Code at the
7 rate of \$50 for each day of the suspension for a total monetary
8 penalty of \$1,500.

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

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

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

24 5. If Respondent pays the monetary penalty and if no
25 further cause for disciplinary action against the real estate
26 license of Respondent occurs within two (2) years from the
27

1 effective date of the Decision, the stay hereby granted shall
2 become permanent.

3 III. Pursuant to Section 10148 of the Business and
4 Professions Code, Respondent LADERA REALTY, INC. and Respondent
5 VELMA LEE MURPHY shall, jointly and severally, pay the
6 Commissioner's reasonable cost for: a) the audit which led to
7 this disciplinary action and, b) a subsequent audit to
8 determine if Respondents have corrected the trust fund
9 violations found in the Determination of Issues. In
10 calculating the amount of the Commissioner's reasonable cost,
11 the Commissioner may use the estimated average hourly salary
12 for all persons performing audits of real estate brokers, and
13 shall include an allocation for travel time to and from the
14 auditor's place of work. Respondents shall pay such cost,
15 within 60 days of receiving an invoice from the Commissioner
16 detailing the activities performed during the audit and the
17 amount of time spent performing those activities. The
18 Commissioner may suspend the licenses issued to Respondents
19 pending a hearing held in accordance with Section 11500, et
20 seq., of the Government Code, if payment is not timely made as
21 provided for herein, or as provided for in a subsequent
22 agreement between the Respondents and the Commissioner. The

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1 suspension shall remain in effect until payment is made in full
2 or until Respondents enter into an agreement satisfactory to
3 the Commissioner to provide for payment, or until a decision
4 providing otherwise is adopted following a hearing held
5 pursuant to this condition.

6
7 DATED: 3/14/02 *Martha J. Rosett*
8 MARTHA J. ROSETT
Counsel for Complainant

9 * * *

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

21 Respondents can signify acceptance and approval of the
22 terms and conditions of this Stipulation and Agreement by faxing
23 a copy of its signature page, as actually signed by Respondents,
24 to the Department at the following fax number (213) 576-6917.
25 Respondents agree, acknowledge and understand that by
26 electronically sending to the Department a fax copy of their
27

1 actual signatures as they appear on the Stipulation, that receipt
2 of the faxed copy by the Department shall be as binding on
3 Respondents as if the Department had received the original signed
4 Stipulation and Agreement.

5 DATED: 3/2/02

Ladera Realty, Inc.
6 LADERA REALTY, INC.,
7 by VELMA LEE MURPHY, *Velma Lee Murphy*
Respondent

8 DATED: 3/8/02

Velma Lee Murphy
9 VELMA LEE MURPHY,
10 Respondent

11 * * *

12 The foregoing Stipulation and Agreement is hereby
13 adopted as my Decision in this matter and shall become
14 effective at 12 o'clock noon on May 2, 2002.

15 IT IS SO ORDERED March 29, 2002.

16 PAULA REDDISH ZINNEBANN
17 Real Estate Commissioner

18 *Paula Reddish Zinnemann*
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
LADERA REALTY, INC. and)
VELMA LEE MURPHY, individually)
and as designated broker-officer)
of Ladera Realty, Inc.,)

Case No. H-29261 LA

OAH No. L-2001110387

Respondent(s)

FILED
DEC - 6 2001
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By CS

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, JANUARY 16, 2002, 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: December 6, 2001

By Martha Rosett
MARTHA J. ROSETT, Counsel

cc: Ladera Realty, Inc.
Velma Lee Murphy
Sacto.
OAH
L.A. Audits (Goff)

MARTHA J. ROSETT, Counsel (SBN #142072)
Department of Real Estate
320 West Fourth Street, Suite #350
Los Angeles, California 90013-1105

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FILED
OCT 24 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-29261 LA |
| LADERA REALTY INC. and) | |
| VELMA LEE MURPHY, individually) | <u>A C C U S A T I O N</u> |
| and as designated broker-officer)) | |
| of Ladera Realty Inc.,) | |
| Respondents.) | |

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LADERA REALTY, INC. and VELMA LEE MURPHY, individually and as designated officer of Ladera Realty, Inc., Respondents, is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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2.

At all times material herein, Respondent LADERA REALTY, INC. (hereinafter "Respondent LADERA") was and now is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code"), as a corporate real estate broker. Respondent LADERA is authorized to act by and through Respondent VELMA LEE MURPHY as the designated officer and broker responsible, pursuant to the provisions of Code Section 10159.2 for the supervision and control of the activities conducted on behalf of LADERA by LADERA's officers and employees.

3.

At all times material herein, Respondent VELMA LEE MURPHY, (hereinafter "Respondent MURPHY") was and now is presently licensed by the Department individually as a real estate broker and as the designated broker-officer of Respondent LADERA. As the designated broker-officer, MURPHY was and is responsible for the supervision and control of the activities conducted on behalf of LADERA by LADERA's officers and employees as necessary to secure full compliance with the Real Estate Law pursuant to Code Section 10159.

4.

All further references to "Respondents" unless otherwise specified, include the parties identified in Paragraphs 2 and 3 above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties, who at all times material herein

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

4 5.

5 At all times material herein, Respondents engaged in
6 the business of, acted in the capacity of, advertised or assumed
7 to act as real estate brokers in the State of California, within
8 the meaning of Code Sections 10131(a) and (b), for another or
9 others, for or in expectation of compensation. Said activity
10 included representation of sellers and buyers of residential
11 property and the collection of rents and property management on
12 behalf of the owners of rental properties.

13 6.

14 PRIOR DISCIPLINE

15 On April 22, 1987, the Department brought an Order to
16 Desist and Refrain against Respondent LADERA REALTY, INC., in
17 case number H-22856 LA. The Order set forth trust fund
18 violations discovered during an audit of LADERA's records
19 pertaining to its real estate activities.

20 AUDIT VIOLATIONS

21 7.

22 During the period between January 1, 1999 through
23 March 31, 2000, in connection with the aforesaid real estate
24 brokerage activities, Respondents accepted or received funds,
25 including funds in trust (hereinafter "trust funds") from or on
26 behalf of actual and prospective tenants and thereafter made
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1 deposits and/or disbursements of such funds. From time to time
2 herein mentioned, said trust funds were deposited into a trust
3 account maintained by Respondents in Account No. 59740-1006,
4 known as the "LADERA REALTY, INC. Real Estate Broker Trust
5 Account" (hereinafter "Trust Account") at Union Bank located at
6 1980 Saturn Street, Monterey Park, California 91755.

7 8.

8 On or about May 24, 2000, the Department completed its
9 examination of Respondent LADERA's books and records, pertaining
10 to the residential re-sale and property management real estate
11 activities described in Paragraphs 5 and 6 above, covering a
12 period from approximately January 1, 1999 through March 31, 2000.
13 The primary purpose of the examination was to determine
14 Respondents' compliance with the Real Estate Laws. The
15 examination, Audits #LA 990469 (re-sale activities) and #LA
16 990378 (property management activities) revealed violations of
17 the Code and of Title 10, Chapter 6, California Code of
18 Regulations ("Regulations"), as set forth below and as more
19 specifically set forth in audit reports and exhibits attached
20 thereto.

21 9.

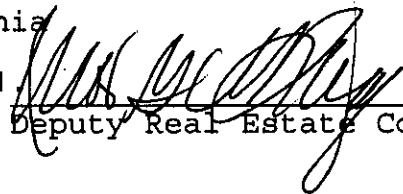
22 In the course of activities described in Paragraphs 5
23 and 6 above, and during the examination period described in
24 Paragraph 7, Respondents acted in violation of the Code and the
25 Regulations in that:

26 a) The Trust Account contained an overage of \$701.00
27 as of March 31, 2000, in violation of Code Section 10145;

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 license rights of Respondents
5 LADERA REALTY, INC. and VELMA LEE MURPHY, under the Real Estate
6 Law (Part 1 of Division 4 of the Business and Professions Code),
7 and for such other and further relief as may be proper under
8 other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 24th day of October, 2001


Deputy Real Estate Commissioner

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cc: Ladera Realty, Inc.
Velma Lee Murphy
Maria Suarez
Sacto.
EC
Audits