


1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)
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7

FILED
FEB 11 2005
DEPARTMENT OF REAL ESTATE


8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 WALLACE B. RODECKER, individually) NO. H-29909 LA
and doing business as) L-2003030161
13 Los Caballeros Real Estate &) STIPULATION AND AGREEMENT
Financial Services;)
14 Los Caballeros Real Estate; and)
Orange County Mortgage,)
15 Respondent.)
16

17 It is hereby stipulated by and between WALLACE B.
18 RODECKER, individually and doing business as Los Caballeros
19 Real Estate & Financial Services; Los Caballeros Real Estate;
20 and Orange County Mortgage (hereafter "Respondent"),
21 represented by Daniel A. Nassie, Esq., and the Complainant,
22 acting by and through Chris Leong, Counsel for the Department
23 of Real Estate, as follows for the purpose of settling and
24 disposing of the Accusation filed on January 24, 2003, as to
25 Respondent.

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

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

11 3. Respondent filed a Notice of Defense pursuant to
12 Section 11505 of the Government Code for the purpose of
13 requesting a hearing on the allegations in the Accusation.
14 Respondent hereby freely and voluntarily withdraws said Notice
15 of Defense. Respondent acknowledges that he understands that
16 by withdrawing said Notice of Defense that he will thereby
17 waive his right to require the Commissioner to prove the
18 allegations in the Accusation at a contested hearing held in
19 accordance with the provisions of the Administrative Procedure
20 Act and that Respondent will waive other rights afforded to him
21 in connection with the hearing, such as the right to present
22 evidence in defense of the allegations in the Accusation and
23 the right to cross-examine witnesses.

24 4. In the interest of expedience and economy,
25 Respondent chooses not to contest the factual allegations in
26 Paragraphs 1 through 13 of the Accusation, but to remain silent
27 and understands that, as a result thereof, these factual

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

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

16 6. This stipulation, and Respondent's decision not
17 to contest the Accusation, are made solely for the purpose of
18 reaching an agreed disposition of this proceeding and are
19 expressly limited to this proceeding and any other proceeding
20 or case in which the Department of Real Estate or another
21 licensing agency of this state, another state or if the federal
22 government is involved, and otherwise shall not be admissible
23 in any other criminal or civil proceedings.

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations and waivers
26 and solely for the purpose of settlement of the pending
27 Accusation without a hearing, it is stipulated and agreed that

1 the following Determination of Issues shall be made.

2 Respondent failed to comply with Business and Professions Code
3 Section 10236.4.

4 ORDER

5 1. No discipline shall be imposed on the real estate
6 license(s) and license rights of Respondent WALLACE B. RODECKER,
7 as a result of the above findings of violations herein.

8 2. Respondent shall terminate as designated officer
9 of Orange County Mortgage, Inc. for the period in which his
10 license is restricted.

11 3. Respondent shall not apply for the removal of the
12 restrictions on his license for two (2) years from the
13 effective date of this Decision.

14 4. Pursuant to Section 10148 of the Business and
15 Professions Code, Respondent shall pay the Commissioner's
16 reasonable cost for: a) the audit which led to this disciplinary
17 action and, b) a subsequent audit to determine if Respondent has
18 corrected the trust fund violations found in the Determination of
19 Issues. The cost of the audit which led to this disciplinary
20 action is \$3,838.00. In calculating the amount of the
21 Commissioner's reasonable cost, the Commissioner may use the
22 estimated average hourly salary for all persons performing audits
23 of real estate brokers, and shall include an allocation for
24 travel time to and from the auditor's place of work. Said amount
25 for the subsequent audit shall not exceed \$3,838.00.

26 Respondent shall pay such cost within 60 days of
27 receiving an invoice from the Commissioner detailing the

1 activities performed during the audit and the amount of time
2 spent performing those activities. The Commissioner may
3 suspend the restricted licenses issued to Respondent pending a
4 hearing held in accordance with Section 11500, et seq., of the
5 Government Code, if payment is not timely made as provided for
6 herein, or as provided for in a subsequent agreement between
7 the Respondent and the Commissioner.

8 5. Respondent shall, within six (6) months from the
9 effective date of this Decision, take and pass the Professional
10 Responsibility Examination administered by the Department
11 including the payment of the appropriate examination fee. If
12 Respondent fails to satisfy this condition, the Commissioner
13 may order suspension of Respondent's license until Respondent
14 passes the examination.

15
16 DATED: _____

8/30/04

Chris Leong

CHRIS LEONG, ESQ.
Counsel for Complainant

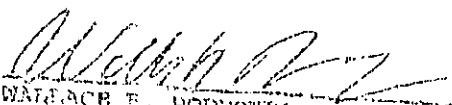
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18 * * *

19 I have read the Stipulation and Agreement, have
20 discussed it with my counsel, and its terms are understood by
21 me and are agreeable and acceptable to me. I understand that I
22 am waiving rights given to me by the California Administrative
23 Procedure Act (including but not limited to Sections 11506,
24 11508, 11509 and 11513 of the Government Code), and I
25 willingly, intelligently and voluntarily waive those rights,
26 including the right of requiring the Commissioner to prove the
27

1 obligations in the accusation at a hearing at which I would
2 have the right to cross-examine witnesses against me and to
3 present evidence in defense and mitigation of the charges.

4 Respondent can signify acceptance and approval of the
5 terms and conditions of this Stipulation and Agreement by
6 taking a copy of the signature page, as actually signed by
7 Respondent, to the Department at fax number (213) 576-6917.
8 Respondent agrees, acknowledges and understands that by
9 electronically sending to the Department a fax copy of her
10 actual signature as it appears on the Stipulation and
11 Agreement, that receipt of the faxed copy by the Department
12 shall be as binding on Respondent as if the Department had
13 received the original signed Stipulation and Agreement.

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15
16 DATED: 3-9-4


DENISE R. RODECKER, Respondent

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19
20 DATED: _____

DANIEL A. NASSIE, ESQ.
Counsel for Respondent
Approved as to form

1 allegations in the Accusation at a hearing at which I would
2 have the right to cross-examine witnesses against me and to
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11 Agreement, that receipt of the faxed copy by the Department
12 will be as binding on Respondent as if the Department had
13 received the original signed Stipulation and Agreement.

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16 DATED: _____

WALLACE B. RODECKER, Respondent

17
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19 DATED: 3/4/03

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21
22 DANIEL A. NASSIE, ESC.
23 Counsel for Respondent
24 Approved as to form

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13 received the original signed Stipulation and Agreement.

14
15
16 DATED: _____

WALLACE B. RODECKER, Respondent

17
18
19 DATED: _____

DANIEL A. NASSIE, ESQ.
Counsel for Respondent
Approved as to form


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The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on March 14, 2005.

IT IS SO ORDERED 2-9-05

JEFF DAVI
Real Estate Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 WALLACE B. RODECKER,)
)
)
)
 _____)
 Respondent(s)

Case No. H-29909 LA

OAH No. L-2003030161

FILED
AUG 21 2003
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

[Handwritten signature]

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 FRIDAY, MARCH 5, 2004, 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: August 21, 2003

By *CHRIS LEONG*
CHRIS LEONG, Counsel

cc: Wallace B. Rodecker
Daniel A. Nassie, Esq.
Sacto.
OAH
Lisa Kwong, L.A. Audits

1 California Business and Professions Code ("Code").

2 2.

3 At all times material herein, Respondent was and
4 still is licensed by the Department of Real Estate of the State
5 of California ("Department") as a restricted real estate
6 broker.

7 3.

8 At all times material herein, David DeCourcy
9 ("DeCourcy") was not licensed by the Department as a real
10 estate broker or salesperson. At all times Respondent employed
11 DeCourcy as his agent.

12 4.

13 At all times material herein, Respondent engaged in
14 the business of, acted in the capacity of, advertised or
15 assumed to act as a real estate broker for others in the State
16 of California, within the meaning of Code Section 10131(b) and
17 (d), including the operation and conduct of a real estate
18 property management and loan servicing business with the public
19 wherein Respondent leased or managed real property on behalf of
20 owners of real property and/or solicited borrowers for loans
21 secured by interest in real property and/or serviced loans
22 secured by interest in real property in expectation of
23 compensation.

24 5.

25 All further references to "Respondent", unless
26 otherwise specified, include the parties identified in Paragraphs
27 1 and 2, above, and also include the employees, agents and real

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1 estate licensees employed by or associated with said parties, who
2 at all times herein mentioned were engaged in the furtherance of
3 the business or operations of said parties and who were acting
4 within the course and scope of their authority and employment.

5 PRIOR DEPARTEMENTAL ACTION/DISCIPLINE

6 6.

7 On or about July 31, 1991, the Department filed an
8 Order to Desist and Refrain Case No. H-1200 SA against
9 Respondent citing violations of Code Section 10130. On or
10 about November 15, 1996, the Department filed Accusation Case
11 No. H-26906 LA. An Amended Accusation was filed on
12 February 27, 1997. This case was settled by Stipulation and
13 Agreement In Settlement and Order filed June 27, 1997. It had
14 been determined that Respondent was in violation of Code
15 Sections 10086, 10130, 10148 and 10162. Respondent's license
16 was revoked with the right to a restricted broker license.

17 FIRST CAUSE OF ACCUSATION

18 (First Audit Findings)

19 7.

20 On March 26, 2001, the Department concluded its
21 examination of Respondent's books and records pertaining to
22 Respondent's activities as a real estate broker in audit
23 numbers LA 000284 (mortgage loan activities) and LA 000344
24 (property management activities) covering a period from
25 approximately January 1, 2000 to January 31, 2001. The
26 examination revealed violations of the Code and of Title 10,
27 Chapter 6, California Code of Regulations ("Regulations"), as

1 set forth below.

2 8.

3 At all times herein, in connection with the real
4 estate loan and loan servicing activity described in Paragraph
5 3, above, Respondent accepted or received funds, including
6 funds in trust ("trust funds") from or on behalf of actual and
7 prospective parties to transactions handled by Respondent and
8 thereafter made deposits and/or disbursements of such funds.
9 From time to time herein mentioned, said trust funds were
10 deposited and/or maintained by Respondent in bank account No.
11 1046206, "Wallace Rodecker DBA Los Caballeros Real Estate &
12 Financial Services Trust Account", at the Bank of Orange,
13 Fountain Valley, California.

14 9.

15 Respondent acted in violation of the Code and the
16 Regulations in that Respondent:

17 (a) failed to provide Mortgage Loan Disclosure
18 Statements to borrowers, including Mr. and Mrs. Timothy L.
19 Weaver, that included the broker's real estate license number,
20 in violation of Code Section 10236.4,

21 (b) failed to maintain Mortgage Loan Disclosure
22 Statements with the signatures of borrowers, including Mr. and
23 Mrs. Timothy L. Weaver, in violation of Code Section 10240 and
24 Regulation 2840, and

25 (c) the Mortgage Loan Disclosure Statements prepared
26 by the broker did not include the broker's real estate license
27 number, in violation of Code Section 10236.4.

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SECOND CAUSE OF ACCUSATION

(Unlicensed activity)

10.

From on or about December 23, 1999, to beyond, and including January 31, 2000, when DeCourcy was not licensed as a real estate broker or salesperson, DeCourcy solicited and negotiated, for compensation, a loan to be secured by real property located at 215 Cuesta Drive, South San Francisco, CA 94080 ("Cuesta Property"). Said conduct requires a real estate broker license as described in Code Section 10131(a) and (d). This was done under the employment, direction of, and on behalf of, Respondent for compensation or in expectation of compensation. Respondent compensated DeCourcy in violation of Code Sections 10130 and 10137.

THIRD CAUSE OF ACCUSATION

(Mortgage negotiation violation)

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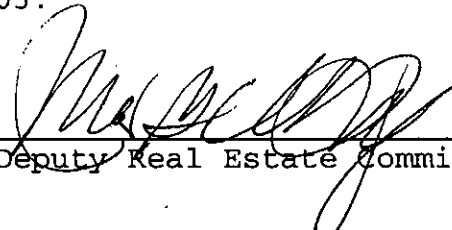
At all times mentioned herein, Respondent distributed materials that contained the name of DeCourcy, an unlicensed employee, in violation of Regulation 2841(a)(2); allowed a nonlicensed person to counsel or advise a prospective borrower, in violation of Regulation 2841(a)(3); entered information provided by a prospective borrower on an application without providing counseling, in violation of Regulation 2841(a)(5).

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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 Respondent, WALLACE B. RODECKER, individually and doing
7 business as Los Caballeros Real Estate & Financial Services;
8 Los Caballeros Real Estate; and Orange County Mortgage, under
9 the Real Estate Law (Part 1 of Division 4 of the Business and
10 Professions Code), and for such other and further relief as may
11 be proper under other applicable provisions of law.

12 Dated at Los Angeles, California

13 this 23rd day of January, 2003.

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16 Deputy Real Estate Commissioner
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24 cc: Wallace B. Rodecker
25 Maria Suarez
26 Sacto.
27 LA Audit/Kwong
ADP