

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
MAR - 8 2005
DEPARTMENT OF REAL ESTATE

By R. Benninghoff

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

DRE No. H-30797 LA

12 VIOREL ALEXANDRU PETRUSAN)

13 doing business as AP)

14 International Mortgage)

15 and Century 21 A-Team,)

Respondent.)

STIPULATION

AND
AGREEMENT

16 It is hereby stipulated by and between VIOREL ALEXANDRU
17 PETRUSAN (sometimes referred to as "Respondent"), represented by
18 Charles Benninghoff, Professional Advocate, Benninghoff and
19 Ramirez, and the Complainant, acting by and through Elliott Mac
20 Lennan, Counsel for the Department of Real Estate, as follows for
21 the purpose of settling and disposing of the Accusation filed on
22 March 24, 2004, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27

1 Procedure Act ("APA"), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement (Stipulation).

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. Respondent filed a Notice of Defense pursuant to
9 Section 11506 of the Government Code for the purpose of
10 requesting a hearing on the allegations in the Accusation.
11 Respondent hereby freely and voluntarily withdraws said Notice of
12 Defense. Respondent acknowledges that he understands that by
13 withdrawing said Notice of Defense he thereby waives his right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that he will waive other rights
17 afforded to him in connection with the hearing such as the right
18 to present evidence in his defense of the allegations in the
19 Accusation and the right to cross-examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interest of
22 expedience and economy, Respondent chooses not to contest these
23 allegations, but to remain silent and understands that, as a
24 result thereof, these allegations, without being admitted or
25 denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. The Real Estate Commissioner shall
27

1 not be required to provide further evidence to prove said
2 allegations.

3 5. This Stipulation and Respondent's decision not to
4 contest the Accusation is made for the purpose of reaching an
5 agreed disposition of this proceeding and is expressly limited to
6 this proceeding and any other proceeding or case in which the
7 Department of Real Estate ("Department"), or another licensing
8 agency of this state, another state or if the federal government
9 is involved, and otherwise shall not be admissible in any other
10 criminal or civil proceeding.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt this Stipulation as his Decision
13 in this matter thereby imposing the penalty and sanctions on
14 Respondents real estate licenses and license rights as set forth
15 in the "Order" herein below. In the event that the Commissioner,
16 in his discretion, does not adopt the Stipulation, it shall be
17 void and of no effect and Respondents shall retain the right to
18 a hearing and proceeding on the Accusation under the provisions
19 of the APA and shall not be bound by any stipulation or waiver
20 made herein.

21 7. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department of Real
25 Estate with respect to any matters which were not specifically
26 alleged to be causes for Accusation in this proceeding but do
27

1 constitute a bar, estoppel and merger as to any allegations
2 actually contained in the Accusation against Respondents herein.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers and
5 solely for the purpose of settlement of the pending Accusation
6 without a hearing, it is stipulated and agreed that the following
7 determination of issues shall be made:

8 The conduct, acts and/or omissions of VIOREL ALEXANDRU
9 PETRUSAN, as described in Paragraph 4, above, constitutes a
10 violation of Business and Professions Code ("Code") Section 10145
11 and violations of Title 10, Chapter 6, California Code of
12 Regulations Sections 2832.1, 2834, 2835(b), 2950(d), 2950(f),
13 2950(g), 2950(h) and 2951, and is a basis for the suspension or
14 revocation of Respondent's license pursuant to Sections 10177(d)
15 and 10177(g) of the Business and Professions Code.
16

17 ORDER

18 WHEREFORE THE FOLLOWING ORDER IS HEREBY MADE:

19 I.

20 All licenses and licensing rights of Respondent
21 VIOREL ALEXANDRU PETRUSAN, under the Real Estate Law are revoked;
22 provided, however, a restricted real estate salesperson license
23 shall be issued to Respondent, pursuant to Section 10156.5 of the
24 Business and Professions Code, if Respondent makes application
25 therefor and pays to the Department of Real Estate the
26 appropriate fee for the restricted license within ninety (90)
27

1 days from the effective date of this Decision. The restricted
2 license issued to Respondent shall be subject to all of the
3 provisions of Section 10156.7 of the Code and the following
4 limitations, conditions and restrictions imposed under authority
5 of Section 10156.6 of that Code:

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

11 2. The restricted license issued to Respondent may
12 be suspended prior to hearing by Order of the Real Estate
13 Commissioner on evidence satisfactory to the Commissioner that
14 Respondent has violated provisions of the California Real Estate
15 Law, the Subdivided Lands Law, Regulations of the Real Estate
16 Commissioner or conditions attaching to the restricted license.
17

18 3. Respondent shall not be eligible to apply for the
19 issuance of an unrestricted real estate license nor for the
20 removal of any of the conditions, limitations or restrictions of
21 a restricted license until two (2) years has elapsed from the
22 effective date of this Decision.

23 4. Respondent shall submit with any application for
24 license under an employing broker, or any application for
25 transfer to a new employing broker, a statement signed by the
26
27

1 prospective employing real estate broker on a form approved by
2 the Department of Real Estate which shall certify:

- 3 (a) That the employing broker has read
4 the Decision of the Commissioner which
5 granted the right to a restricted license;
6 and
7 (b) That the employing broker will exercise
8 close supervision over the performance by the
9 restricted licensee relating to activities
10 for which a real estate license is required.
11

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

24 6. Respondent shall within six months from the
25 effective date of the restricted license, take and pass the
26 Professional Responsibility Examination administered by the
27 Department including the payment of the appropriate examination

1 fee. If Respondent fails to satisfy this condition, the
2 Commissioner may order suspension of the restricted license until
3 respondent passes the examination.

4 II.

5 All licenses and licensing rights of Respondent VIOREL
6 ALEXANDRU PETRUSAN under the Real Estate Law suspended for a
7 period of ninety (180) days from the issuance of a restricted
8 license; provided, however, that if Respondent petitions, the
9 initial ninety (90) days of said suspension (or a portion
10 thereof) shall be stayed for two (2) years upon condition that:

11 1. Respondent pays a monetary penalty pursuant to
12 Section 10175.2 of the Business and Professions Code at the rate
13 of \$33.33 per day for each day of the suspension for a total
14 monetary penalty of \$3,000.

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

20 3. No further cause for disciplinary action against
21 the real estate license of Respondent occurs within two (2) years
22 from the effective date of the Decision in this matter.

23 4. If Respondent fails to pay the monetary penalty in
24 accordance with the terms of the Decision, the Commissioner may,
25 without a hearing, order the immediate execution of all or any
26
27

1 part of the stayed suspension, in which event the Respondent
2 shall not be entitled to any repayment nor credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

5 5. If Respondent pays the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 license of Respondent occurs within two (2) years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent

10 6. The remaining ninety (90) days of the one-hundred
11 eighty (180) day suspension shall be stayed for two (2) years,
12 upon the following terms and conditions:

13 (a) Respondent shall obey all laws, rules and
14 regulations governing the rights, duties and responsibilities of
15 a real estate licensee in the State of California; and

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

25 ///

26 ///

III.

All licenses and licensing rights of Respondent VIOREL ALEXANDRU PETRUSAN are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

DATED: 2-10-05

ELL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * * *

I have read the Stipulation and Agreement, have discussed it with my professional advocate, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent VIOREL ALEXANDRU PETRUSAN can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: _____

VIOREL ALEXANDRU PETRUSAN,
Respondent

DATED: _____

Charles Benninghoff
Professional Advocate
Benninghoff and Ramirez
Approved as to form

///

///

///

Respondent VIOREL ALEXANDRU PETRUSAN can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED:

02/08/05

VIOREL ALEXANDRU PETRUSAN,
Respondent

DATED:

2/10/05

Charles Benninghoff
Professional Advocate
Benninghoff and Ramirez
Approved as to form

///

///

///

* * *

1 The foregoing Stipulation and Agreement is hereby
2
3 adopted as my Decision and shall become effective at
4 12 o'clock noon on APR -7 , 2005.

5 IT IS SO ORDERED 3-2- , 2005..

6
7 JEFF DAVI
8 Real Estate Commissioner

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

*Auto
File*

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

FILED
SEP 24 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

VIOREL ALEXANDRU PETRUSAN,

By *K. M. Kennedy*

Case No. H-30797 LA

OAH No. L-2004060724

Respondent

NOTICE OF CONTINUED 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 West Fourth Street, Ste. 630, Los Angeles, CA on February 22-24, 2005, 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: SEP 24 2004

By *E. T. C.*
ELLIOTT MAC LENNAN, Counsel

cc: Viorel Alexandru Petrusan
Charles Benninghoff.
Sacto/OAH/MT

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED
MAR 24 2004

DEPARTMENT OF REAL ESTATE

By K. Neiderholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-30797 LA

VIOREL ALEXANDRU PETRUSAN, doing
business as A P International
Mortgage and Century 21 A-Team,

A C C U S A T I O N

Respondent.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against VIOREL ALEXANDRU PETRUSAN dba A P International Mortgage
and Century 21 A-Team ("PETRUSAN"), alleges as follows:

1.

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

///

///

2.

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

LICENSE HISTORY

3.

At all times mentioned, PETRUSAN was licensed or had license rights issued by the Department of Real Estate (Department) as a restricted real estate broker. On June 27, 1996, PETRUSAN was originally licensed as a real estate broker.

Effective July 8, 1998, in H-27638 LA, Respondent's real estate license was suspended for ninety (90) days, on terms and conditions. Said suspension was stayed for a two year period.

Effective May 23, 2000, in H-28618 LA, Respondent's real estate broker license was revoked with a right to a restricted license. That restricted broker licensed was suspended for one-hundred twenty (120) days. The revocation and suspension were stayed for a two year period.

On April 4, 2002, in H-28618 LA, Respondent's restricted real estate broker license was suspended indefinitely.

On June 10, 2002, said suspension was terminated.

Respondent's license history is more fully set forth in Paragraphs 9 and, below.

///

///

///

1 4.

2 At all times mentioned, in the City of Bellflower,
3 County of Los Angeles, PETRUSAN acted as a real estate broker and
4 conducted licensed activities within the meaning of:

5 A. Section 10131(a) of the Code in that PETRUSAN
6 operated a residential resale brokerage dba Century 21 A- Team;

7 B. Section 10131(d) of the Code in that PETRUSAN
8 operated a mortgage and loan brokerage dba A P International
9 Mortgage; and

10 C. Conducted broker-controlled escrows through her
11 escrow division under the exemption set forth in California
12 Financial Code Section 17006(a)(4) for real estate brokers
13 performing escrows incidental to a real estate transaction where
14 the broker is a party and where the broker is performing acts for
15 which a real estate license is required.
16

17 5.

18 On June 12, 2003, the Department completed an audit
19 examination of the books and records of PETRUSAN dba A P
20 International Mortgage and Century 21 A-Team pertaining to the
21 broker-escrow activities described in Paragraph 4 that require a
22 real estate license for the residential resale and mortgage and
23 loan activities. The audit examination covered a period of time
24 beginning on January 1, 2001 to May 22, 2001. The audit
25 examination revealed violations of the Code and the Regulations
26 as set forth in the following paragraphs, and more fully
27

1 discussed in Audit Report LA 020321 and the exhibits and
2 workpapers attached to said audit report.

3 6.

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

11 "Century 21 A-Team Escrow Division Trust Account
12 Account No. 046-8688619"
13 Wells Fargo Bank
14 Bellflower, California
(escrow trust account)

15 7.

16 With respect to the trust funds referred to in
17 Paragraph 6, it is alleged that PETRUSAN:

18 (a) Permitted, allowed or caused the disbursement of
19 trust funds from the escrow trust account where the disbursement
20 of funds reduced the total of aggregate funds in the escrow trust
21 account, to an amount which, on May 22, 2001, was \$14,793.59,
22 less than the existing aggregate trust fund liability of PETRUSAN
23 to every 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 Regulations 2832.1, 2950(g)
26 and 2951.
27

1 (b) Permitted Cornel Paraschiv, a real estate
2 salesperson, who was not licensed to Respondent from January 2001
3 to May 2001, and who was not bonded, to be an authorized
4 signatory on the escrow trust account who signed checks 5435,
5 5436, 5317, 5317, 5078 and 5079 during this four month period, in
6 violation of Code Section 10145 and Regulation 2834.

7 (c) As escrow agent, failed to disburse from the escrow
8 trust account broker's escrow fees totaling \$21 169.16, within
9 twenty-five (25) days of deposit, from January 2001 until May
10 2003, in violation of Code Section 10145 and Regulation 2835(b),
11 2950(d) and 2951.

12 (d) While acting in the capacity of an escrow agent and
13 holder for the Century 21 A-Team in-house escrow in four purchase
14 and sale transactions, failed to place trust funds, including
15 earnest money deposits, accepted on behalf of another into the
16 hands of the owner of the funds, a neutral escrow depository or
17 into a trust fund account in the name of the broker at a bank or
18 other financial institution not later than the next business day
19 following receipt of the funds by the broker or by the broker's
20 salesperson, as required by Code Section 10145 and Regulation
21 2950(f), 2950(d) and 2951.

22 (e) dba Century 21 A-Team or A P International Mortgage
23 failed to disclose in writing to all parties his financial
24 interest and ownership of his escrow company, as required by Code
25 Section 10145 and Regulation 2950(h), 2950(d) and 2951.
26
27

8.

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

PARAGRAPH

PROVISIONS VIOLATED

7(a)

Code Section 10145 and Regulations 2832.1, 2950(g) and 2951

7(b)

Code Section 10145 and Regulation 2834

7(c)

Code Section 10145 and Regulations 2835(b), 2950(d) and 2951

7(d)

Code Section 10145 and Regulation 2950(f), 2950(d) and 2951

7(e)

Code Section 10145 and Regulation 2950(h), 2950(d) and 2951

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of PETRUSAN under the provisions of Code Sections 10177(d) and/or 10177(g).

///

///

///

///

///

///

1 PRIOR DEPARTMENT ACTION

2 9.

3 On July 8, 1998, in Case No. H-27638 LA, a Stipulation
4 and Agreement became effective against VIOREL ALEXANDRU PETRUSAN
5 dba A P International Mortgage and Century 21 A-Team for
6 violations of Code Sections 10145 and 10161.8 of the Business and
7 Professions and Sections 2752, 2831, 2831.1, 2831.2, 2832, and
8 2832.1 of Title 10, Chapter 6, California Code of Regulations
9 based on an Accusation filed on April 9, 1998. Respondent
10 Petrusan's real estate broker license was suspended for ninety
11 (90) days on terms and conditions.
12

13 PRIOR DEPARTMENT ACTION

14 10.

15 On May 23, 2001, in Case No. H-28618 LA, a Decision
16 After Rejection became effective against VIOREL ALEXANDRU
17 PETRUSAN dba A P International Mortgage and Century 21 A-Team for
18 violations of Code Sections 10145 and 10161.8 of the Business and
19 Professions and Sections 2752, 2831, 2831.1, 2831.2, 2832, and
20 2832.1 of Title 10, Chapter 6, California Code of Regulations
21 upon an Accusation filed on April 27, 2001. Respondent
22 Petrusan's real estate broker license was revoked with a right to
23 a restricted real estate broker license.
24

25 ///

26 ///

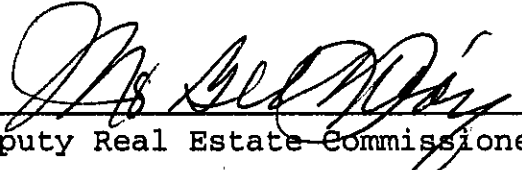
11.

The overall conduct of Respondent PETRUSAN constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent PETRUSAN pursuant to Code Section 10177(g).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondent VIOREL ALEXANDRU PETRUSAN dba Century 21 A-Team and A P International Mortgage, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this *23rd Day of March 2004.*


Deputy Real Estate Commissioner

cc: Viorel Alexandru Petrusan
Maria Suarez
Sacto
MT
Audits