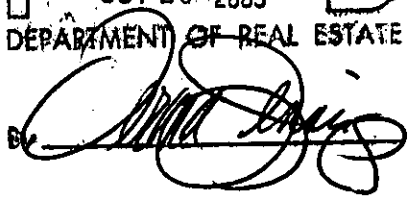


1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
OCT 20 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) No. H-31698 LA
12) L-2004 040 411
13 POWER PROPERTIES, INC.,)
14 and KENNETH SEGUIN,) STIPULATION AND AGREEMENT
15 Respondents.)

16 It is hereby stipulated by and between POWER
17 PROPERTIES, INC., and KENNETH SEGUIN (sometimes referred to as
18 Respondents), and their attorney, Kazuaki Uemura, and the
19 Complainant, acting by and through James R. Peel, Counsel for
20 the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the First Amended Accusation filed on
22 February 25, 2005, in this matter.

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and
25 Respondents at a formal hearing on the Accusation, which hearing
26 was to be held in accordance with the provisions of the
27 Administrative Procedure Act ("APA"), shall instead and in place

1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement ("Stipulation").

3 2. Respondents have received, read and understand the
4 Statement to Respondent, the Discovery Provisions of the
5 Administrative Procedure Act ("APA") and the Accusation filed by
6 the Department of Real Estate in this proceeding.

7 3. On March 14, 2005, Respondents filed a Notice of
8 Defense pursuant to Section 11506 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondents hereby freely and voluntarily withdraw
11 said Notice of Defense. Respondents acknowledge that they
12 understand that by withdrawing said Notice of Defense they will
13 thereby waive their right to require the Commissioner to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that they will
16 waive other rights afforded to them in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the First Amended Accusation filed in
22 this proceeding. In the interest of expedience and economy,
23 Respondents choose not to contest these factual allegations, but
24 to remain silent and understand that, as a result thereof, these
25 factual statements, will serve as a prima facie basis for the
26 disciplinary action stipulated to herein. The Real Estate
27

1 Commissioner shall not be required to provide further evidence
2 to prove such allegations.

3 5. This Stipulation and Respondents' 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
6 to this proceeding and any other proceeding or case in which the
7 Department of Real Estate ("Department"), the state or federal
8 government, or an agency of this state, another state or the
9 federal government is involved.

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

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 conduct which was not specifically
26 alleged to be causes for accusation in this proceeding.
27

DETERMINATION OF ISSUES

1
2 By reason of the foregoing stipulations and waivers
3 and solely for the purpose of settlement of the pending
4 Accusation without a hearing, it is stipulated and agreed that
5 the following determination of issues shall be made:

6 The conduct, acts and/or omissions of Respondents
7 POWER PROPERTIES, INC., and KENNETH SEGUIN, as set forth in the
8 First Amended Accusation, constitute cause for the suspension or
9 revocation of all of the real estate licenses and license rights
10 of Respondents under the provisions of Section 10177(d) of the
11 Business and Professions Code ("Code") for violations of Code
12 Section 10145(a) and Regulation 2832, Title 10, Chapter 6,
13 California Code of Regulations.

ORDER

14
15
16 All licenses and licensing rights of Respondents POWER
17 PROPERTIES, INC., and KENNETH SEGUIN under the Real Estate Law
18 are suspended for a period of ninety (90) days from the
19 effective date of this Decision; provided, however, that sixty
20 (60) days of said suspension shall be stayed for two (2) years
21 upon the following terms and conditions:

- 22 1. Respondents shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and
25 2. That no final subsequent determination be made,
26 after hearing or upon stipulation that cause for disciplinary
27 action occurred within two (2) years of the effective date of

1 this Decision. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the
3 stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay
5 imposed herein shall become permanent.

6 3. Provided, however, that if Respondents petition,
7 the remaining thirty (30) days of said ninety (90) day
8 suspension shall be stayed upon condition that:

9 a. Respondents pay a monetary penalty pursuant to
10 Section 10175.2 of the Business and Professions Code at the rate
11 of \$100 for each day of the suspension for a total monetary
12 penalty of \$3,000 (\$6,000 for both Respondents).

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

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

22 d. If Respondents fail to pay the monetary
23 penalty in accordance with the terms and conditions of the
24 Decision, the Commissioner may, without a hearing, order the
25 immediate execution of all or any part of the stayed suspension
26 in which event the Respondents shall not be entitled to any
27

1 repayment nor credit, prorated or otherwise, for money paid to
2 the Department under the terms of this Decision.

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

8 4. Respondent KENNETH SEGUIN shall, within six
9 months from the effective date of this Decision submit proof
10 satisfactory to the Commissioner of having taken and completed
11 the trust fund accounting and handling course specified in
12 paragraph (3), subdivision (a) of Section 10170.5 of the
13 Business and Professions Code. Proof of satisfaction of this
14 requirement includes evidence that Respondent has successfully
15 completed the trust fund account and handling continuing
16 education course within 120 days prior to the effective date of
17 the Decision in this matter. If Respondent fails to satisfy
18 this condition, the Commissioner may order suspension of
19 Respondent's license until Respondent submits such proof.

21 5. Respondent KENNETH SEGUIN shall, within six
22 months from the effective date of this Decision, take and pass
23 the Professional Responsibility Examination administered by the
24 Department including the payment of the appropriate examination
25 fee. If Respondent fails to satisfy this condition, the

26 ///

27

1 Commissioner may order suspension of Respondent's license until
2 Respondent passes the examination.

3
4 DATED: June 30

James R. Peel
5 JAMES R. PEEL, Counsel for the
6 Department of Real Estate
7 * * *

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

19 Respondents can signify acceptance and approval of the
20 terms and conditions of this Stipulation and Agreement by faxing
21 a copy of the signature page, as actually signed by Respondents,
22 to the Department at the following telephone/fax number:

23 (213) 576-6917. Respondents agree, acknowledge and understand
24 that by electronically sending to the Department a fax copy of
25 his or her actual signature as it appears on the Stipulation and
26 Agreement, that receipt of the faxed copy by the Department
27 shall be as binding on Respondents as if the Department had
received the original signed Stipulation and Agreement.

1 Further, if the Respondents are represented, the
2 Respondents' legal counsel can signify his or her agreement to
3 the terms and conditions of the Stipulation and Agreement by
4 submitting that signature via fax. The Commissioner has asked
5 that the attorney will concurrently or within 24 hours of
6 obtaining Respondents' signatures to the agreement deposit in
7 the mail the original settlement/stipulation containing the
8 original signatures of both Respondents and Respondents'
9 counsel.

10 DATED: _____

POWER PROPERTIES, INC.,
Respondent
by Kenneth Seguin

12 DATED: _____

KENNETH SEGUIN
Respondent

14 DATED: _____

KAZUAKI UEMURA
Counsel for Respondents

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08/28/2005 22:07 FAX 310 55 0074

Power Properties Inc

001

6/29/2005 2:01 PM FROM: Fax Law Offices of Kazuaki Uemura TO: 9, 267-0074 PAGE: 008 OF 009

JUN-29-05 WED 01:58 PM

FAX NO. 2135786817

P. 08

1 Further, if the Respondents are represented, the
 2 Respondents' legal counsel can signify his or her agreement to
 3 the terms and conditions of the Stipulation and Agreement by
 4 submitting that signature via fax. The Commissioner has asked
 5 that the attorney will concurrently or within 24 hours of
 6 obtaining Respondents' signatures to the agreement deposit in
 7 the mail the original settlement/stipulation containing the
 8 original signatures of both Respondents and Respondents'
 9 counsel.

10 DATED:

6-30-05

Ken Seguin

POWER PROPERTIES, INC.,
Respondent
by Kenneth Seguin

11
12 DATED:

6-30-05

Ken Seguin

KENNETH SEGUIN
Respondent

13
14 DATED:

6/30/05

[Signature]

KAZUAKI UEMURA
Counsel for Respondents


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2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision and Order in this matter, and shall
4 become effective at 12 o'clock noon on November 9, 2005.

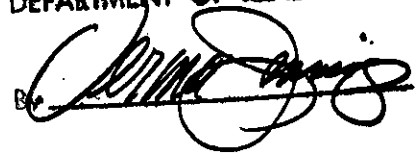
5 IT IS SO ORDERED 7-12, 2005.

6 JEFF DAVI
7 Real Estate Commissioner

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SACTO.

FILED
FEB 25 2005
DEPARTMENT OF REAL ESTATE



1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105
3
4 Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-31698 LA
12	POWER PROPERTIES, INC.,)	FIRST AMENDED
13	and KENNETH SEGUIN,)	ACCUSATION
14	Respondents.)	

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against POWER PROPERTIES, INC., and KENNETH SEGUIN alleges as
18 follows:

19 I

20 The Complainant, Maria Suarez, acting in her official
21 capacity as a Deputy Real Estate Commissioner of the State of
22 California, makes this Accusation against POWER PROPERTIES, INC.,
23 and KENNETH SEGUIN.

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II

POWER PROPERTIES, INC., and KENNETH SEGUIN (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

At all times herein mentioned, Respondent POWER PROPERTIES, INC. was licensed by the Department of Real Estate of the State of California as a real estate broker and Respondent KENNETH SEGUIN was licensed as a real estate salesperson employed by Respondent POWER PROPERTIES, INC.

IV

On or about March 7, 2002, while performing acts requiring a real estate license, Respondents POWER PROPERTIES, INC., and KENNETH SEGUIN received from Guadalupe Diaz \$5,785 representing rent and security for an office located at 8531 Florence Avenue, #102, Downey.

V

Respondents POWER PROPERTIES, INC., and KENNETH SEGUIN deposited the funds into an account which was not a trust account and thereafter misappropriated the funds to their personal use and benefit without the knowledge or permission of Diaz.

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VI

1
2 The conduct of Respondents POWER PROPERTIES, INC., and
3 KENNETH SEGUIN, as alleged above, was in violation of Section
4 10145(a) of the Code and Regulation 2832, Title 10, Chapter 6,
5 California Code of Regulations, and subjects their real estate
6 licenses and license rights to suspension or revocation pursuant
7 to Sections 10177(d), 10176(e), 10176(i) and/or 10177(g) of the
8 Code.

9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof, a decision be rendered imposing disciplinary
12 action against all licenses and license rights of Respondents
13 POWER PROPERTIES, INC., and KENNETH SEGUIN under the Real Estate
14 Law (Part 1 of Division 4 of the Business and Professions Code)
15 and for such other and further relief as may be proper under
16 other applicable provisions of law.

17 Dated at Los Angeles, California

18 this 25th day of February, 2005.

19
20
21 
22 Deputy Real Estate Commissioner

23 cc: Power Properties, Inc.
24 Kenneth Seguin
25 Janice A. Waddell
26 Sacto.
27 LM

SACD.
Flay

1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105
3
4 Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

FILED
FEB 22 2000
DEPARTMENT OF REAL ESTATE
[Signature]

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-31698 LA
12)
13 POWER PROPERTIES, INC.,) A C C U S A T I O N
14 Respondent.)
15

16 The Complainant, Janice A. Waddell, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against POWER PROPERTIES, INC., alleges as follows:

19 I

20 The Complainant, Janice A. Waddell, acting in her
21 official capacity as a Deputy Real Estate Commissioner of the
22 State of California, makes this Accusation against POWER
23 PROPERTIES, INC.

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II

POWER PROPERTIES, INC. (hereinafter referred to as "Respondent") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

At all times herein mentioned, Respondent was licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

On or about March 7, 2002, while performing acts requiring a real estate license, Respondent received from Guadalupe Diaz \$5,785 representing rent and security deposit for an office located at 8531 Florence Ave., #102, Downey.

V

Respondent deposited the funds into an account which was not a trust account.

VI


The conduct of Respondent, as alleged above, was in violation of Section 10145(a) of the Code and Regulation 2832, Title 10, Chapter 6, California Code of Regulations, and subjects its real estate license and license rights to suspension or revocation pursuant to Sections 10177(d), 10176(e), and 10177(g) of the Code.

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///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 POWER PROPERTIES, INC. under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

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Dated at Los Angeles, California
this 22 day of February, 2005.


Deputy Real Estate Commissioner

cc: Power Properties, Inc.
Janice A. Waddell
Sacto
LM