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FILED
JUL 10 2008
DEPARTMENT OF REAL ESTATE
By K. Mcdurholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SAN MORITZ ENTERPRISES LTD., and, THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., Respondents.	)	No. H-32654 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents SAN MORITZ ENTERPRISES LTD., a corporate real estate broker and THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., (sometimes collectively referred to as "Respondents"), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on April 4, 2006, in this matter:

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

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

3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of

expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove said factual allegations.

5. This Stipulation and Respondents decision not to contest the Accusation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), the state or federal government, or any agency of this state, another state or federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations against Respondent herein.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of audit which led to this disciplinary action. The total amount of said cost is $6,044.22 (LA030224 [$3,061.86] and LA030301 [$2,982.36]).

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed $6,044.22.

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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of SAN MORITZ ENTERPRISES LTD., as described in Paragraph 4, above, is in violation of Section 10145 of the Business and Professions Code ("Code") and Sections 2831, 2831.1, 2831.2, 2832.1, 2950(d) and 2951 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d).

II.

The conduct of THEODORE GRANT, as described in Paragraph 4, constitutes a failure to keep San Moritz Enterprises Ltd. in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee in violation of Section 10159.2 of the Code. This conduct is a basis for the suspension or revocation of Respondent's license pursuant to Code Section 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

Respondents SAN MORITZ ENTERPRISES LTD., and THEODORE GRANT are publicly reproved.

II.

Pursuant to Section 10148 of the Business and Professions Code, Respondents SAN MORITZ ENTERPRISES LTD., and THEODORE GRANT shall pay the Commissioner's reasonable cost for (a) the audits which led to this disciplinary action (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is $6,044.22. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Said amount for the prior and subsequent audits shall not exceed $12,088.44.

Respondents SAN MORITZ ENTERPRISES LTD., and THEODORE GRANT shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

The Commissioner may suspend the license of Respondents SAN MORITZ ENTERPRISES LTD., and THEODORE GRANT pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: 5-12-04

ELLIOTT MAC LENNAN, Counsel for the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation, 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.

DATED: 5/28/06

Gregg Allen Grant for SMEL

SAN MORITZ ENTERPRISES LTD., a corporate real estate broker,
BY: GREGG ALLEN GRANT, Respondent

DATED: 5/28/06

THEODORE GRANT individually and as former designated officer of San Moritz Enterprises Ltd., Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents SAN MORITZ ENTERPRISES LTD. and THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., and shall become effective at 12 o'clock noon on JUL 31, 2006.

IT IS SO ORDERED 6-29, 2006.

JEFF DAVI
Real Estate Commissioner

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)
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FILED
APR - 4 2006
DEPARTMENT OF REAL ESTATE
By K. Meidenholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SAN MORITZ ENTERPRISES LTD.; and THEODORE GRANT, individually and as former designated officer of San Moritz Enterprises Ltd. Respondents.	No. H-32654 LA A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SAN MORITZ ENTERPRISES LTD., dba Century 21 Mountain Information Center, Century 21 San Moritz Realty and San Moritz Realty, and THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., is informed and alleges as follows:

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1.

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

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.

3.

SAN MORITZ ENTERPRISES LTD., (hereinafter "SAN MORITZ") and THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., (hereinafter "GRANT") (sometimes hereinafter collectively referred to as Respondents) are presently licensed or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code").

4.

At all times material herein, SAN MORITZ was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through GRANT, as the designated officer and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf SAN MORITZ by SAN MORTIZ' officers, agents and employees.

SAN MORITZ was originally licensed on September 15, 1989. GRANT was originally licensed as a real estate broker on July 8, 1980, and as designated officer of SAN MORITZ on November 7, 2001. GRANT's designated officer status for SAN MORITZ expired on November 7, 2005. Gregg Allen Grant is now the designated officer of SAN MORITZ.

5.

All further references to "Respondents", unless otherwise specified, includes the parties identified in Paragraphs 3 and 4, above, and also includes the officers, directors, managers, employees, agents and/or real estate licensees employed by or associated with said parties, who at all times material herein were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority, agency, or employment.

6.

At all times material herein, in Lake Gregory, California, Respondent SAN MORITZ engaged in the business as a real estate broker as follows:

A. Code Section 10131(a) of the Code in that SAN MORITZ operated a residential property resale brokerage;

B. Code Section 10131(b) of the Code in that SAN MORITZ operated a property management brokerage; and,

C. Conducted broker-controlled escrows as an escrow holder, servicer and/or agent, through its escrow division under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

7.

April 13, 2004, the Department completed an audit examination of the books and records of SAN MORITZ pertaining to its (1) property management and (2) broker-escrow activities, requiring a real estate license as described in Paragraph 6. The audit examination covered a period of time beginning January 1, 2003 to December 31, 2003. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 030224 & LA 030301 and the exhibits and workpapers attached to said audit report.

8.

At all times material herein, in connection with the activities described in Paragraph 6, above, Respondents SAN MORITZ and GRANT accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by Respondents SAN MORITZ and GRANT and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by Respondents SAN MORITZ and GRANT in the Vineyard Bank account as follows:

"San Moritz Enterprises Ltd. Escrow Trust Account"
Account No. 3913899"
Crestline, California ("escrow trust account")

"San Moritz Enterprises Ltd. Inc. Trust Account
and dba Century 21 San Moritz Realty"
Account No. 3108090"
Crestline, California ("property management trust account")

9.

In the course of activities described in Paragraphs 6, 7 and 8, above, and during the examination period described in Paragraph 7, Respondents SAN MORITZ and GRANT, acted in violation of the Code and the Regulations in that:

(a) as of December 31, 2003, the property management trust account had a shortage in the amount of approximately $2,975.00. Respondents SAN MORITZ and GRANT caused, permitted and/or allowed, the withdrawal or disbursement of trust funds from the escrow trust account, thereby reducing the balance of funds in the account to an amount less than the aggregate trust fund liability of the broker to all owners of the trust funds without prior written consent of every principal who then was an owner of funds in the account, in violation of Code Section 10145 and Regulation 2832.1.

(b)(1) Failed to maintain an adequate control record in the form of a columnar record in chronological order of all trust funds received, deposited into, and disbursed from the escrow trust account, in violation of Code Section 10145 and Regulations 2831, 2950(d) and 2951.

(b)(2) Failed to maintain an adequate control record in the form of a columnar record in chronological order of all trust funds received, deposited into, and disbursed from the property management trust account, in violation of Code Section 10145 and Regulation 2831.

(c)(1) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed in the escrow trust account, as required by Code Section 10145 and Regulations 2831.1, 2950(d) and 2951.

(c)(2) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed in the property management trust account, as required by Code Section 10145 and Regulation 2831.1.

(d)(1) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by the escrow trust account, as required by Code Section 10145 and Regulations 2831.2, 2950(d) and 2951.

(d)(2) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by the property management trust account, as required by Code Section 10145 and Regulation 2831.2.

(e) Received undisclosed compensation in the form of an earnings credit as a percentage of deposits on demand from Vineyard Bank wherein bank service charges were deducted from the earning credit as a rebate to SAN MORITZ and not disclosed to the owners of the trust funds, in violation of Code Sections 10176(a) and 10176(g).

10.

The conduct, acts and omissions of Respondents SAN MORITZ and GRANT as described in Paragraph 10, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
9(a)	Code Section 10145 and Regulations 2832.1
9(b)(1)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
9(b)(2)	Code Section 10145 and Regulation 2831

9(c)(1)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
9(c)(2)	Code Section 10145 and Regulation 2831.1
9(d)(1)	Code Section 10145 Regulation 2831.2, 2950(d) and 2951
9(d)(2)	Code Section 10145 Regulation 2831.2
9(e)	Code Sections 10176(a) and 10176(g)

Each of the foregoing violations constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents SAN MORITZ and GRANT, under the provisions of Code Sections 10176(g), 10177(d) and/or 10177(g).

11.

The conduct, acts and/or omissions of Respondent GRANT, in causing, allowing, or permitting SAN MORITZ to violate the Real Estate Law, as described, herein above, constitutes failure on the part of GRANT, as the officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of SAN MORITZ, as required by Code Section 10159.2. Said conduct is cause to suspend or revoke the real estate licenses and license rights of GRANT pursuant to Code Sections 10177(d) or 10177(g) and 10177(h).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent SAN MORITZ ENTERPRISES LTD., and THEODORE GRANT, individually and as designated officer of San Moritz Enterprises Ltd., 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 2nd day of February 2006.

Deputy Real Estate Commissioner

cc: San Moritz Enterprises Ltd.
c/o Gregg Allen Grant
Theodore Grant
Maria Suarez
LA Audit Section - Lisa Kwong
Sacto.