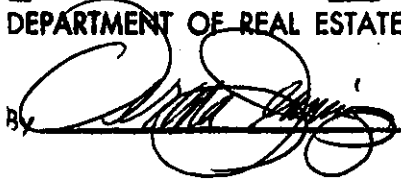


1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
MAR 12 2008
DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-35196 LA
12) L-2008 100 445
13 FIRST CHOICE REALTY AND MORTGAGE;)
14 ALEXEI V. PAVLOV, individually and) STIPULATION AND AGREEMENT
15 as designated officer of the)
16 corporation; and SINEAD MARTINA)
17 McMENAMIN,)
18)
19 Respondents.)

18 It is hereby stipulated by and between FIRST CHOICE
19 REALTY AND MORTGAGE, ALEXEI V. PAVLOV, and SINEAD MARTINA
20 McMENAMIN (sometimes referred to as Respondents), and their
21 attorney Scott I. Richards, and the Complainant, acting by and
22 through James R. Peel, Counsel for the Department of Real
23 Estate, as follows for the purpose of settling and disposing of
24 the Accusation filed on August 7, 2008, in this matter.

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

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

12 3. On September 15, 2008, Respondents filed a Notice
13 of Defense pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondents hereby freely and voluntarily withdraw
16 said Notice of Defense. Respondents acknowledge that they
17 understand that by withdrawing said Notice of Defense they will
18 thereby waive their right to require the Commissioner to prove
19 the allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that they will
21 waive other rights afforded to them in connection with the
22 hearing, such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondents choose not to contest these factual allegations, but
5 to remain silent and understand that, as a result thereof, these
6 factual statements, will serve as a prima facie basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

10 5. This Stipulation and Respondents' decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited
13 to this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or an agency of this state, another state or the
16 federal government is involved.

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt the Stipulation as his decision
19 in this matter thereby imposing the penalty and sanctions on
20 Respondents' real estate licenses and license rights as set
21 forth in the below "Order". In the event that the Commissioner
22 in his discretion does not adopt the Stipulation, the
23 Stipulation shall be void and of no effect, and Respondents
24 shall retain the right to a hearing on the Accusation under all
25 the provisions of the APA and shall not be bound by any
26 stipulation or waiver made herein.
27

1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any conduct which was not specifically
6 alleged to be causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers
9 and solely for the purpose of settlement of the pending
10 Accusation without a hearing, it is stipulated and agreed that
11 the following determination of issues shall be made:

12 I

13 The conduct, acts and/or omissions of Respondents
14 FIRST CHOICE REALTY AND MORTGAGE, ALEXEI V. PAVLOV, and SINEAD
15 MARTINA McMENAMIN, as set forth in the Accusation, constitute
16 cause for the suspension or revocation of all of the real estate
17 licenses and license rights of Respondents under the provisions
18 of Section 10177(g) of the Business and Professions Code
19 ("Code").

20 ///

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ORDER

1
2 All licenses and licensing rights of Respondents FIRST
3 CHOICE REALTY AND MORTGAGE, ALEXEI V. PAVLOV, and SINEAD MARTINA
4 McMENAMIN under the Real Estate Law are suspended for a period
5 of sixty (60) days from the effective date of this Decision;
6 provided, however, that thirty (30) days of said suspension
7 shall be stayed for two (2) years upon the following terms and
8 conditions:

9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities of
11 a real estate licensee in the State of California; and

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

20 3. Provided, however, that if Respondent petitions,
21 the remaining thirty (30) days of said sixty (60) day suspension
22 shall be stayed upon condition that:

23 a. Respondent pays a monetary penalty pursuant to
24 Section 10175.2 of the Business and Professions Code at the rate
25 of \$66.66 for each day of the suspension for a total monetary
26 penalty of \$2,000.
27

1
2 b. Said payment shall be in the form of a
3 cashier's check or certified check made payable to the Recovery
4 Account of the Real Estate Fund. Said check must be received by
5 the Department prior to the effective date of the Decision in
6 this matter.

7 c. No further cause for disciplinary action
8 against the real estate licenses of Respondent occurs within two
9 (2) years from the effective date of the Decision in this
10 matter.

11 d. If Respondent fails to pay the monetary
12 penalty in accordance with the terms and conditions of the
13 Decision, the Commissioner may, without a hearing, order the
14 immediate execution of all or any part of the stayed suspension
15 in which event the Respondent shall not be entitled to any
16 repayment nor credit, prorated or otherwise, for money paid to
17 the Department under the terms of this Decision.

18 e. If Respondent pays the monetary penalty and if
19 no further cause for disciplinary action against the real estate
20 license of Respondent occurs within two (2) years from the
21 effective date of the Decision, the stay hereby granted shall
22 become permanent.

23
24 4. Respondents ALEXEI V. PAVLOV and SINEAD MARTINA
25 McMENAMIN shall, within six months from the effective date of
26 this Decision, take and pass the Professional Responsibility
27 Examination administered by the Department including the payment

1 of the appropriate examination fee. If Respondent fails to
2 satisfy this condition, the Commissioner may order suspension of
3 Respondent's licenses until Respondent passes the examination.
4

5
6 DATED: Feb. 10, 2009

James R. Peel
7 JAMES R. PEEL, Counsel for the
8 Department of Real Estate

* * *

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

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

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

1 shall be as binding on Respondent as if the Department had
2 received the original signed Stipulation and Agreement.

3 Further, if the Respondent is represented, the
4 Respondent's counsel can signify his or her agreement to the
5 terms and conditions of the Stipulation and Agreement by
6 submitting that signature via fax.

7
8
9 DATED: _____

10 FIRST CHOICE REALTY AND MORTGAGE
Respondent

11
12 DATED: _____

13 ALEXEI V. PAVLOV
Respondent

14 DATED: _____

15 SINEAD MARTINA McMENAMIN
Respondent


16
17 DATED: _____

18 SCOTT I. RICHARDS
Counsel for Respondents

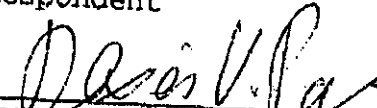
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4 Respondent's counsel can signify his or her agreement to the
5 terms and conditions of the Stipulation and Agreement by
6 submitting that signature via fax.

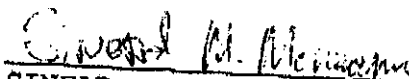
9 DATED: FEB 2 2009


FIRST CHOICE REALTY AND MORTGAGE
Respondent

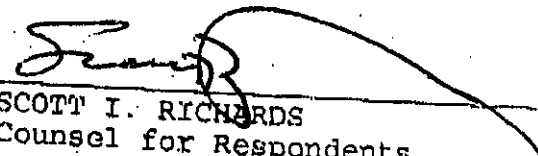
11 DATED: Feb 2 2009


ALEXEI V. PAVLOV
Respondent

14 DATED: Feb 1 2009


SINEAD MARTINA MCMENAMIN
Respondent

17 DATED: 2/6/09


SCOTT I. RICHARDS
Counsel for Respondents

27

* * *

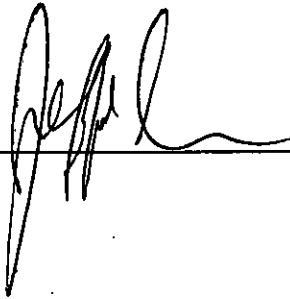
1 The foregoing Stipulation and Agreement is hereby
2
3 adopted as my Decision and Order in this matter, and shall
4 become effective at 12 o'clock noon on April 1, 2009

5 IT IS SO ORDERED

2/26/09

6 JEFF DAVI
7 Real Estate Commissioner

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Handwritten initials

1. JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6 Telephone: (213) 576-6982
7 -or- (213) 576-6913 (Direct)

FILED
AUG - 7 2008
DEPARTMENT OF REAL ESTATE
Handwritten signature

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-35196 LA
12 FIRST CHOICE REALTY AND MORTGAGE;) A C C U S A T I O N
13 ALEXEI V. PAVLOV, individually and)
14 as designated officer of the)
15 corporation; and SINEAD MARTINA)
16 McMENAMIN,)
17 Respondents.)

17 The Complainant, Robin L. Trujillo, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 accusation against FIRST CHOICE REALTY AND MORTGAGE; ALEXEI V.
20 PAVLOV, individually and as designated officer of the
21 corporation; and SINEAD MARTINA McMENAMIN, alleges as follows:

22 I

23 The Complainant, Robin L. Trujillo, acting in her
24 official capacity as a Deputy Real Estate Commissioner of the
25 State of California, makes this Accusation against FIRST CHOICE
26 REALTY AND MORTGAGE, ALEXEI V. PAVLOV, and SINEAD MARTINA
27 McMENAMIN.

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II

FIRST CHOICE REALTY AND MORTGAGE; ALEXEI V. PAVLOV, individually and as designated officer of said corporation; and SINEAD MARTINA McMENAMIN (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

Respondent FIRST CHOICE REALTY AND MORTGAGE was originally licensed as a real estate broker on July 15, 2003. The corporate license will expire on July 14, 2011. Pursuant to Code Section 10159.2, Respondent ALEXEI V. PAVLOV is responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

IV

At all times material herein, Respondent SINEAD MARTINA McMENAMIN was licensed by the Department of Real Estate as a real estate salesperson employed by Respondent FIRST CHOICE REALTY AND MORTGAGE.

V

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within

1 the meaning of Section 10131(d) of the Code, including soliciting
2 borrowers and lenders and negotiating loans on real property.

3 FIRST CAUSE OF ACCUSATION

4 VI

5 HSBC Mortgage Services purchases closed/funded loans
6 from banking clients on the secondary market. Respondents
7 originated two loans for borrower, Ozeas Ferreira.

8 VII

9 Ferreira purchased a property at 7890 Pineridge Court,
10 Riverside, California, for \$489,900. The loan closed on
11 November 4, 2005 with Decision One Mortgage financing the full
12 \$489,900 debt in the form of a first mortgage for \$391,920 and a
13 second for \$97,980. HSBC purchased the second mortgage only on
14 December 23, 2005.

15 VIII

16 Ferreira purchased another property located at
17 8126 Santa Inez Drive, Buena Park, California, for \$440,000. The
18 loan closed on December 2, 2005 with AME dba Millennium Funding
19 financing the full \$440,000 debt in the form of a first mortgage
20 for \$352,000 and a second for \$88,000. HSBC purchased the second
21 mortgage only on January 4, 2006.

22 IX

23 Respondents acted as the mortgage broker and received a
24 commission at closing for both loans.

25 X

26 Ferreira represented to the lenders that both
27 properties would be his primary residences.

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XI

The Loan Application for the Santa Inez property did not disclose the purchase of the Pineridge property despite the fact that Respondents brokered both loans. Therefore, Respondents failed to disclose a known liability.

XII

Based on the above, it can reasonably be determined that Respondents knew Ferreira closed on two loans under the premise that each property would be his primary residence.

XIII

Due to the higher risk related to investment properties, it is unlikely that either lender would have approved these loans for the granted terms had Respondents disclosed that the subject properties were investment properties.

XIV


The conduct, acts and/or omissions of Respondents FIRST CHOICE REALTY AND MORTGAGE, ALEXEI V. PAVLOV, and SINEAD MARTINA McMENAMIN, as alleged above, subject their real estate licenses and license rights to suspension or revocation pursuant to Section 10176(a) of the Code.

XV

The conduct, acts and/or omissions of Respondent ALEXEI V. PAVLOV in failing to ensure full compliance with the Real Estate Law are in violation of Section 10159.2 of the Code and subject his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 10177(g), and/or 10177(h) of the Code.

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 FIRST CHOICE REALTY AND MORTGAGE; ALEXEI V. PAVLOV, individually
6 and as designated officer of the corporation; and SINEAD MARTINA
7 McMENAMIN under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California
11 this 5 day of August, 2008.

12
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14 
15 _____
16 ROBIN L. TRUJILLO
17 Deputy Real Estate Commissioner
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24 cc: First Choice Realty and Mortgage
25 Alexei V. Pavlov
26 Sinead Martina McMenamin
27 Robin L. Trujillo
Sacto.