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Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

(213) 576-6982

FILED

OCT 26 2009

DEPARTMENT OF REAL ESTATE
BY: *ASJ*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
 PAUL HENRY REED, doing business)
 as Seaview Financial and)
 Unbelievable Real Estate,)
)
 Respondent.)

No. H-35763 LA

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondent
PAUL HENRY REED dba Seaview Financial and Unbelievable Real
Estate, (sometimes referred to as "Respondent"), represented by
Timothy J. Stafford, Esq. 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 March 9, 2009, in this
matter:

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondent

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

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

10 3. Respondent timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of requesting a hearing on the allegations in the Accusation.
13 Respondent hereby freely and voluntarily withdraws said Notice of
14 Defense. Respondent acknowledges that he understands that by
15 withdrawing said Notice of Defense he thereby waives his right to
16 require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that he will waive other rights
19 afforded to him in connection with the hearing such as the right
20 to present evidence in his defense the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondent chooses not to contest these
26 allegations, but to remain silent and understands that, as a
27

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

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

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

25 7. The Order or any subsequent Order of the Real
26 Estate Commissioner made pursuant to this Stipulation shall not
27

1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for Accusation in this proceeding but do
5 constitute a bar, estoppel and merger as to any allegations
6 actually contained in the Accusations against Respondent herein.

7 DETERMINATION OF ISSUES

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

10 The conduct of PAUL HENRY REED as described in
11 Paragraph 4, above, is in violation of Business and Professions
12 Code Sections 10148 and 10162 and Section 2715 of Title 10,
13 Chapter 6 of the California Code of Regulations and is a basis
14 for the suspension or revocation of Respondent's license and
15 license rights as violations of the Real Estate Law pursuant to
16 Code Section 10177(d).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 I. All licenses and licensing rights of Respondent
20 PAUL HENRY REED under the Real Estate Law are suspended for a
21 period of sixty (60) days from the effective date of this
22 Decision.

23
24 A. Provided, however, that if Respondent requests, the
25 initial thirty (30) days of said suspension (or a portion
26 thereof) shall be stayed for two (2) years upon condition that:
27

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

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

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

13 4. If Respondent fails to pay the monetary penalty in
14 accordance with the terms of the Decision, the Commissioner may,
15 without a hearing, order the immediate execution of all or any
16 part of the stayed suspension, in which event the Respondent
17 shall not be entitled to any repayment nor credit, prorated or
18 otherwise, for money paid to the Department under the terms of
19 this Decision.
20

21 5. If Respondent pays the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 license of Respondent occurs within two (2) years from the
24 effective date of the Decision, the stay hereby granted shall
25 become permanent.
26
27

1 B. The remaining thirty (30) days of the sixty (60)
2 day suspension shall be stayed for two (2) years upon the
3 following terms and conditions:

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

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

15 II. Respondent PAUL HENRY REED shall within six (6)
16 months from the effective date of this Decision, take and pass
17 the Professional Responsibility Examination administered by the
18 Department including the payment of the appropriate examination
19 fee. If Respondent fails to satisfy this condition, the
20 Commissioner may order suspension of Respondent's license until
21 Respondent passes the examination.
22
23
24
25

26 DATED: 9-9-09

EJL
27 ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

1
2
3 I have read the Stipulation and discussed it with my
4 counsel. Its terms are understood by me and are agreeable and
5 acceptable to me. I understand that I am waiving rights given to
6 me by the California Administrative Procedure Act (including but
7 not limited to Sections 11506, 11508, 11509 and 11513 of the
8 Government Code), and I willingly, intelligently and voluntarily
9 waive those rights, including the right of requiring the
10 Commissioner to prove the allegations in the Accusation at a
11 hearing at which I would have the right to cross-examine
12 witnesses against me and to present evidence in defense and
13 mitigation of the charges.

MAILING AND FACSIMILE

14
15 Respondent (1) shall mail the original signed signature
16 page of the stipulation herein to Elliott Mac Lennan: Attention:
17 Legal Section, Department of Real Estate, 320 W. Fourth St.,
18 Suite 350, Los Angeles, California 90013-1105. Additionally,
19 Respondent shall also (2) facsimile a copy of signed signature
20 page, to the Department at the following telephone/fax number:
21 (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile
22 constitutes acceptance and approval of the terms and conditions
23 of this stipulation.

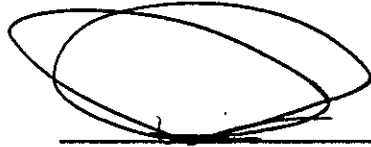
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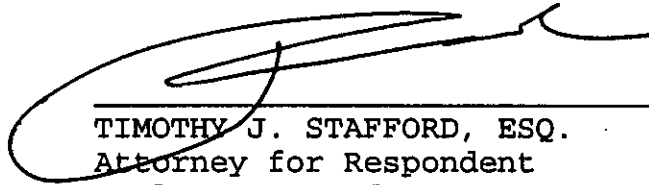
1 Respondent agrees, acknowledges and understands that by
2 electronically sending to the Department a facsimile copy of
3 Respondent's actual signature as it appears on the stipulation
4 that receipt of the facsimile copy by the Department shall be as
5 binding on Respondent as if the Department had received the
6 original signed stipulation.

7
8 DATED: 6/30/2009



PAUL HENRY REED, Respondent

9
10
11 DATED: 6/30/09



TIMOTHY J. STAFFORD, ESQ.
Attorney for Respondent
Paul Henry Reed
Approved as to form

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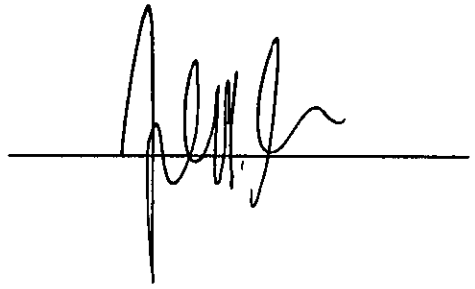
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent PAUL HENRY REED and shall
become effective at 12 o'clock noon on November 16 ,
2009.

IT IS SO ORDERED 9-29, 2009.

JEFF DAVI
Real Estate Commissioner



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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 - 9 2009

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
PAUL HENRY REED, doing business
as Seaview Financial and
Unbelievable Real Estate,
Respondents.

No. H-35763 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 PAUL HENRY REED dba Seaview Financial and Unbelievable
Real Estate, 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 PAUL HENRY REED.

///

///

2.

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

5 LICENSE HISTORY

6 3.

7 At all times mentioned, PAUL HENRY REED ("REED") was
8 licensed or had license rights issued by the Department as a real
9 estate broker. On August 3, 1984, REED was originally licensed
10 as a real estate salesperson. On May 3, 1989, REED was
11 originally licensed as a real estate broker.

12 BROKERAGE

13 4.

14 At all times mentioned, in the City of Corona Del Mar,
15 County of Orange, REED acted as a corporate real estate broker
16 within the meaning of:

17 A. Code Section 10131(a). REED operated a residential
18 resale brokerage dba Unbelievable Real Estate and
19

20 B. Code Section 10131(d). REED operated a mortgage
21 and loan brokerage dba Seaview Financial.

22 INVESTIGATION

23 5.

24 In or about February 2009, the Department conducted an
25 investigation of the books and records of REED pertaining to the
26 residential resale and mortgage loan activities described in
27

1 Paragraph 4, that require a real estate license. The
2 investigation revealed violations of the Code and the Regulations
3 as set forth in the following paragraphs.

4 VIOLATIONS OF THE REAL ESTATE LAW

5 6.

6 In the course of activities described in Paragraphs 4
7 and 5, above, Respondent REED, acted in violation of the Code and
8 the Regulations in that he:

9 (a) Abandoned REED's office located at 2855 East
10 Pacific Coast Highway, Suite 229, Corona Del Mar, California,
11 without notification to the Department, in violation of Code
12 Sections 10162 and 10177(g) and Regulation 2715; and

13 (b) Failed to retain all records of REED's activities
14 requiring a real estate broker license during the past three
15 years including sales and loan transaction files for REED's real
16 estate clients and further including listings, real estate
17 contracts, canceled checks, escrow and trust records, as required
18 by Code Section 10148;

19 7.

20
21 The conduct of Respondent REED, described in Paragraph
22 7, violated the Code and the Regulations as set forth below:

23 PARAGRAPH

PROVISIONS VIOLATED

24 6(a)

Code Sections 10162 and 10177(g)
25 and Regulation 2715

26
27 6(b)

Code Section 10148

1 The foregoing violations constitute cause for the suspension or
2 revocation of the real estate license and license rights of REED
3 under the provisions of Code Sections 10148, 10165, 10177(d)
4 and/or 10177(g).
5

6 NEGLIGENCE

7 8.

8 The overall conduct of Respondent REED in abandoning
9 REED'S office including, but not limited to, abandoning twenty-
10 four Bekins boxes containing approximately 350 files of real
11 estate clients that contained, inter alia, employment,
12 residential and personal financial data including social security
13 numbers and bank account numbers and for not retaining client
14 files, constitutes negligence. This conduct and violation are
15 cause for the suspension or revocation of the real estate license
16 and license rights of REED pursuant to Code Section 10177(g).
17

18 LACK OF SUPERVISION AND COMPLIANCE

19 9.

20 The overall conduct of Respondent REED constitutes a
21 failure on his part, to exercise the reasonable supervision and
22 control over the licensed activities of REED, as required by Code
23 Section 10177(h) and to keep REED his brokerage within compliance
24 with the Real Estate Law, and is cause for the suspension or
25 revocation of the real estate license and license rights of REED
26 pursuant to Code Sections 10177(d), 10177(g) and 10177(h).
27

BREACH OF FIDUCIARY DUTY

9.

Respondent REED's inappropriate means of disposal via trash bin dumping of 24 Bekins boxes of approximately 350 client files, without notice to his clients constitutes a breach of fiduciary duty with respect to their private, personal and family data and constitutes a breach of breach duty and is cause for the suspension or revocation of the real estate license and license rights of REED pursuant 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 PAUL HENRY REED, 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 5th day of March 2009.


Deputy Real Estate Commissioner

cc: Paul Henry Reed
Maria Suarez
Sacto
Nick Cain