

1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013
4 Telephone: (213) 576-6982

FILED
APR 27 2010
DEPARTMENT OF REAL ESTATE
[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-36052 LA
12)
13 OC ELITE ESCROW GROUP, INC.;)
14 and STEPHEN MORTENSEN) STIPULATION AND AGREEMENT
15 individually and as)
16 designated officer of)
17 the corporation,)
18 Respondents.)

18 It is hereby stipulated by and between OC ELITE ESCROW
19 GROUP, INC. and STEPHEN MORTENSEN (sometimes referred to as
20 Respondents), and the Complainant, acting by and through James
21 R. Peel, Counsel for the Department of Real Estate, as follows
22 for the purpose of settling and disposing of the Accusation
23 filed on June 12, 2009, in this matter.

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and
26 Respondents at a formal hearing on the Accusation, which hearing
27

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

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

9 3. On June 26, 2009, Respondents filed a Notice of
10 Defense pursuant to Section 11506 of the Government Code for the
11 purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notice of Defense. Respondents acknowledge that they
14 understand that by withdrawing said Notice of Defense they will
15 thereby waive their right to require the Commissioner to prove
16 the allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that they will
18 waive other rights afforded to them in connection with the
19 hearing, such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation filed in this
24 proceeding. In the interest of expedience and economy,
25 Respondents choose not to contest these factual allegations, but
26 to remain silent and understand that, as a result thereof, these
27

1 factual statements, will serve as a prima facie basis for the
2 disciplinary action stipulated to herein. The Real Estate
3 Commissioner shall not be required to provide further evidence
4 to prove such allegations.

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

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

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any conduct which was not specifically
27

1 alleged to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

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

7 The conduct, acts and/or omissions of Respondents
8 OC ELITE ESCROW GROUP, INC. and STEPHEN MORTENSEN, as set forth
9 in the Accusation, constitute cause for the suspension or
10 revocation of all of the real estate licenses and license rights
11 of Respondents under the provisions of Section 10177(g) of the
12 Business and Professions Code ("Code").
13

14 ORDER

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

21
22 1. Respondent 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 Respondent petitions,
7 the remaining thirty (30) days of said ninety (90) day
8 suspension shall be stayed upon condition that:

9 a. Respondent pays a monetary penalty pursuant to
10 Section 10175.2 of the Business and Professions Code at the rate
11 of \$50 for each day of the suspension for a total monetary
12 penalty of \$1,500 or \$3,000 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 Respondent fails 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 Respondent 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 Respondent pays 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 STEPHEN MORTENSEN shall, within six
9 months from the effective date of this Decision, take and pass
10 the Professional Responsibility Examination administered by the
11 Department including the payment of the appropriate examination
12 fee. If Respondent fails to satisfy this condition, the
13 Commissioner may order suspension of Respondent's licenses until
14 Respondent passes the examination.

15 5. All licenses and licensing rights of Respondent
16 STEPHEN MORTENSEN are indefinitely suspended unless and until
17 Respondent provides proof satisfactory to the Commissioner, of
18 having taken and successfully completed the continuing education
19 course on trust fund accounting and handling specified in
20 paragraph (3) of subdivision (a) of Section 10170.5 of the
21 Business and Professions Code. Proof of satisfaction of this
22 requirement includes evidence that Respondent has successfully
23 completed the trust fund account and handling continuing
24 education course within 120 days prior to the effective date of
25 the Decision in this matter.
26
27

1
2
3
4 DATED: March 17, 2010 James R. Peel
5 JAMES R. PEEL, Counsel for the
6 Department of Real Estate

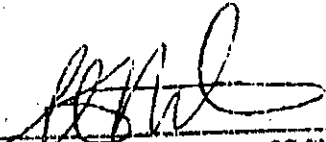
* * *

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

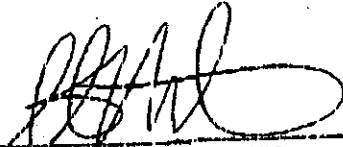
18 Respondent can signify acceptance and approval of the
19 terms and conditions of this Stipulation and Agreement by faxing
20 a copy of the signature page, as actually signed by Respondent,
21 to the Department at the following telephone/fax number:
22 (213) 576-6917. Respondent agrees, acknowledges and understands
23 that by electronically sending to the Department a fax copy of
24 his or her actual signature as it appears on the Stipulation and
25 Agreement, that receipt of the faxed copy by the Department
26 shall be as binding on Respondent as if the Department had
27 received the original signed Stipulation and Agreement.

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

5
 6 DATED: 3-16-10


 OC ELITE ESCROW GROUP, INC.
 Respondent

7
 8
 9
 10
 11 DATED: 3-16-10


 STEPHEN MORTENSEN
 Respondent

12
 13
 14 * * *

15 The foregoing Stipulation and Agreement is hereby
 16 adopted as my Decision and Order in this matter, and shall
 17 become effective at 12 o'clock noon on _____

18 IT IS SO ORDERED _____

19
 20 JEFF DAVI
 Real Estate Commissioner

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

7 DATED: _____

OC ELITE ESCROW GROUP, INC.
Respondent

8
9
10
11 DATED: _____

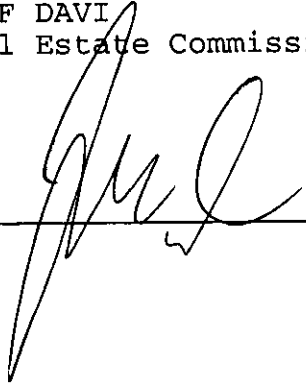
STEPHEN MORTENSEN
Respondent

12
13
14 * * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision and Order in this matter, and shall
17 become effective at 12 o'clock noon on **MAY 17 2010**

18 IT IS SO ORDERED _____ 3/24/2010

19
20 JEFF DAVIS
Real Estate Commissioner

21
22 
23
24
25
26
27

SACD
Flag

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

FILED
JUN 12 2009
DEPARTMENT OF REAL ESTATE
[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
OC ELITE ESCROW GROUP, INC.;)
and STEPHEN MORTENSEN)
individually and as)
designated officer of)
the corporation,)
Respondents)

No. H-36052 LA
A C C U S A T I O N

The Complainant, Joseph Aiu, a Deputy Real Estate
Commissioner of the State of California, for cause of accusation
against OC ELITE ESCROW GROUP, INC. and STEPHEN MORTENSEN
individually and as designated officer of the corporation,
alleges as follows:

I

The Complainant, Joseph Aiu, acting in his official
capacity as a Deputy Real Estate Commissioner of the State of
California, makes this Accusation against OC ELITE ESCROW GROUP,
INC. and STEPHEN MORTENSEN.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

OC ELITE ESCROW GROUP, INC. and STEPHEN MORTENSEN (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 OC ELITE ESCROW GROUP, INC. was licensed as a real estate broker with Respondent STEPHEN MORTENSEN as its designated officer.

IV

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 the meaning of Section 10131 of the Code, and broker escrow activity under the exception set forth in Financial Code Section 17004(a)(4).

V

On or about September 12, 2008, the Department completed an examination of Respondent OC ELITE ESCROW GROUP, INC.'s books and records, pertaining to the activities described in Paragraph IV above, covering a period from November 8, 2007, through June 30, 2008, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

1 VI

2 The examination described in Paragraph V, above,
3 determined that in connection with the activities described in
4 Paragraph IV above, Respondent OC ELITE ESCROW GROUP, INC.
5 accepted or received funds, including funds in trust (hereinafter
6 "trust funds") from or on behalf of principals, and thereafter
7 made deposit or disbursement of such funds.

8 VII

9 In the course of activities described in Paragraphs IV
10 and VI and during the examination period described in Paragraph
11 V, Respondents OC ELITE ESCROW GROUP, INC. and STEPHEN MORTENSEN
12 acted in violation of the Code and the Regulations as follows,
13 and as more specifically set forth in Audit Report No. SD 080009
14 and related exhibits:

15 1. Violated Section 10145(a) of the Code and
16 Regulation 2832.1 in that as of June 30, 2008, the escrow trust
17 account contained a shortage of \$5,131.50.

18 2. Violated Code Section 10176(e) by commingling trust
19 funds collected with the broker's own money or property.

20 3. Violated Code Section 10176(i) by converting funds
21 collected to the broker's own benefit without the knowledge or
22 permission of the owners of the funds.

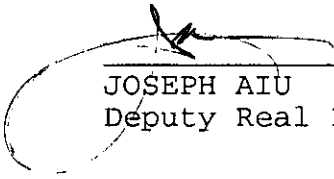
23 4. Violated Regulation 2831 in that the control record
24 for the trust account was inaccurate and incomplete. The record
25 did not reflect a daily balance. There was no record maintained
26 for the period March, 2008, through June, 2008.

27

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 OC
5 ELITE ESCROW GROUP, INC. and STEPHEN MORTENSEN individually and
6 as designated officer of OC Elite Escrow Group, Inc., under the
7 Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 5 day of June, 2009.

12
13
14
15 
16 JOSEPH AIU
17 Deputy Real Estate Commissioner

18 cc: OC Elite Escrow Group, Inc.
19 Stephen Mortensen
20 Joseph Aiu
21 Audit Section
22 Sacto.
23
24
25
26
27