

FILED
NOV 4 1997

DEPARTMENT OF REAL ESTATE

By Shelly Ely

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JERRY MILTON SAYLOR,)	NO. H-851 FRESNO
Respondent.)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 1, 1987, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on January 7, 1988, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On September 30, 1996, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

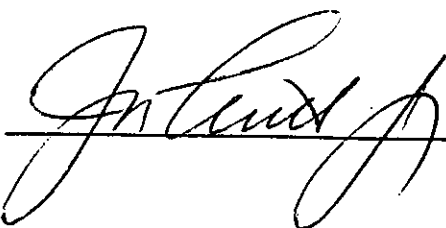
8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for reinstatement is granted and that a real estate broker license
10 be issued to Respondent, if Respondent satisfies the following
11 conditions within six months from the date of this Order:

- 12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.
- 14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: 10/17, 1997.

21 JIM ANTT, JR.
22 Real Estate Commissioner

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FIRST CAUSE OF ACCUSATION

III

On or about November 1, 1984, Joseph M. Szerwo, Jr. (hereinafter "Szerwo") advised respondent that Szerwo was interested in selling certain real property owned by Szerwo commonly known as 471 N. Larkin, Fresno, California (hereinafter "the Property"). Said property was encumbered by a first deed of trust held by Home Savings & Loan Association (hereinafter "Home Savings") in the approximate amount of \$46,000, and a second deed of trust held by Great American First Savings Bank (hereinafter "Great American") in the approximate amount of \$24,000.

IV

On or about November 1, 1984, Szerwo told respondent that Szerwo wanted to sell the Property, provided Szerwo did not have to pay any money for the sale, and provided Szerwo would be free of any further responsibility for the existing loans on the Property.

V

On or about November 28, 1984, respondent for compensation or in expectation of compensation negotiated the purchase of the Property by John Garrettson and Beatrice Garrettson (hereinafter "the Garrettsons"). During said negotiations the Garrettsons told respondent they were concerned about their ability to assume the existing loans on the Property based upon the Garrettson's previous credit problems including a prior bankruptcy.

VI

On or about December 7, 1984, respondent in connection with negotiating the purchase of the Property by the Garrettsons solicited and obtained from the Garrettsons \$500 in the form of a check and \$1,000 in the form of a promissory note as respondent's fee for arranging the assumption of the aforementioned loans on the Property by the Garrettsons.

VII

The check and promissory note referred to in Paragraph VI above, are "Advance Fees" as that term is defined in Section 10026 of the Business and Professions Code (hereinafter "Code").

VIII

Said advance fees referenced in Paragraph VII above, are trust funds pursuant to Section 10146 of the Code. Respondent failed to deposit and maintain said trust funds as required by Section 10146 of the Code.

IX

On or about December 7, 1984, respondent claimed and collected said advance fees from and entered into an advance fee contract with the Garrettsons without first submitting all advance fee advertising materials and contract forms to the Real Estate Commissioner (hereinafter "Commissioner") as required by Section 10085 of the Code and Section 2970 of Title 10, California Administrative Code (hereinafter "Regulations").

SECOND CAUSE OF ACCUSATION

X

On or about December 7, 1984, the respondent caused a written purchase offer on the Property to be signed by the Garrettsons, wherein the Garrettsons agreed to purchase the Property from Szerwo on the following terms and conditions among others:

1. a purchase of \$69,500 (loan balance), and
2. buyer to take subject to existing loans.

XI

In the course of negotiating the sale of the Property and in order to induce the Garrettsons to enter into the agreement described in Paragraph X above, respondent represented to the Garrettsons that respondent would arrange for the Garrettsons to assume the existing loans on the Property. In reliance upon said representations the Garrettsons signed a real estate purchase contract and receipt for deposit agreeing to purchase the Property.

XII

Respondent's representations described in Paragraph X above, were false and misleading and were known by respondent to be false or misleading when made or were made by respondent with no reasonable grounds for believing said representations to be true.

XIII

Respondent failed to arrange for the loan assumptions by the Garrettsons.

XIV

On or about December 10, 1984, respondent in order to induce Szerwo into signing a grant deed conveying the Property to the Garrettsons represented to Szerwo that by signing the grant deed Szerwo would have no further responsibility for the Property.

XV

In reliance upon the representation of respondent described in Paragraph XIV above, Szerwo signed the grant deed and forwarded it to respondent.

XVI

Respondent's representations described in Paragraph XIV above, was false and misleading and was known by respondent to be false or misleading when made or was made by respondent with no reasonable ground for believing said representations to be true. In truth and in fact the loan assumptions by the Garrettsons had not been arranged by respondent.

XVII

Respondent failed to disclose to Szerwo the fact that respondent had not arranged the loan assumptions for the Garrettsons.

THIRD CAUSE OF ACCUSATION

XVIII

Beginning on or before December 1, 1984, respondent, acting on behalf of another or others and in expectation of compensation, managed certain rental properties located in or near Fresno, California.

XIX

During the course of the property management activities described in Paragraph XVIII above, respondent received and disbursed funds held in trust on behalf of another or others.

XX

Beginning on, before or after December 1, 1984, respondent failed to deposit and maintain said trust funds in the amount of \$300 in said bank account and commingled with his own money the trust funds of others which were received and held by respondent.

PRIOR DISCIPLINARY ACTION

On or about October 29, 1985, in Case No. H-708 Fresno, the Commissioner issued his Decision suspending the real estate broker license of respondent for a period of five days all time stayed for violation of Section 10177(g) of the Code.

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DETERMINATION OF ISSUES

I

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

FIRST CAUSE OF ACCUSATION

II

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code Sections 10146 and 10085 in conjunction with 10177(d) of the Code and Section 2970 of Title 10, California Administrative Code (hereinafter "Regulations") in conjunction with 10177(d) of the Code.

SECOND CAUSE OF ACCUSATION

III

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code Sections 10176(a), 10176(i), 10177(j), and 10177(g).

THIRD CAUSE OF ACCUSATION

IV

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code Sections 10176(e) and 10145 in conjunction with 10177(d) of the Code and Section 2830 of the Regulations in conjunction with Section 10177(d) of the Code.

ORDER

I

The real estate broker license and all license rights of respondent are hereby revoked.

II

A restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within 90 days from the effective date of the Decision herein.

III

The restricted license issued to respondent shall be subject to all the provisions of Section 10156.7 of the Business

and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

(A) The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

- (1) The conviction of respondent (including a plea of nolo contendere) to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee; or
- (2) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions to this restricted license.

(B) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to respondent.

IV

Respondent's restricted real estate broker license will be suspended for a period of twenty-four (24) days from the effective date of this decision.

V

Four (4) days of said suspension shall be stayed upon condition that:

- (A) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$250 for each of four (4) days of said suspension for a total monetary penalty of \$1,000.
- (B) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter.
- (C) If respondent fails to pay the monetary penalty in accordance with the terms and conditions of the

Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(D) If respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of respondent occurs within one year from the effective date of the Decision the stay hereby granted shall become permanent.

VI

Respondent shall within six (6) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

VII

Respondent shall prior to the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has paid restitution in the amount of \$500 to John and Beatrice Garrettson.


VIII

Respondent shall prior to the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has discharged the promissory note in the amount of \$1,000 obtained by the respondent on or about December 7, 1984, from John and Beatrice Garrettson.

IX

The restricted license may be suspended or revoked for a violation by respondent of any of the conditons attaching to the restricted license.

DATED: 11-16-87


ROBERT E. McCABE
Regional Manager
Department of Real Estate

FILED
SEP 18 1987

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

In the Matter of the Accusation of
JERRY MILTON SAYLOR,

}

Case No. H-851 Fresno

OAH No. N-29858

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at FRESNO

STATE BUILDING, 2250 Mariposa Mall, Room 1027, Fresno, California

on the 5th day of January, 19 88, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: September 18, 1987

By David A. Peters
DAVID A. PETERS Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 160009
4 Sacramento, CA 95816

5 (916) 739-3607

FILED
JUL 02 1987

DEPARTMENT OF REAL ESTATE

By Laura Beck

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12	In the Matter of the Accusation of)	
13	JERRY MILTON SAYLOR)	NO. H-851 Fresno
14	dba Sayland Property Management,)	<u>ACCUSATION</u>
15	Respondent.)	

16 The Complainant, Robert E. McCabe, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JERRY MILTON SAYLOR dba Sayland Property Management
19 (hereinafter "respondent"), is informed and alleges as follows:

20 FIRST CAUSE OF ACCUSATION

21 I

22 The Complainant, Robert E. McCabe, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 his official capacity.

25 II

26 Respondent is presently licensed and/or has license
27 rights under the Real Estate Law (Part 1 of Division 4 of the
28 California Business and Professions Code (hereinafter "Code").

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III

At all times herein mentioned, respondent was licensed as a real estate broker.

IV

On or about November 1, 1984, Joseph M. Szerwo, Jr. (hereinafter "Szerwo") advised respondent that Szerwo was interested in selling certain real property owned by Szerwo commonly known as 471 N. Larkin, Fresno, California (hereinafter "the Property"). Said property was enumerated by a first deed of trust held by Home Savings & Loan Association (hereinafter "Home Savings") in the approximate amount of \$46,000, and a second deed of trust held by Great American First Savings Bank (hereinafter "Great American") in the approximate amount of \$24,000.

V

On or about November 1, 1984, Szerwo told respondent that Szerwo wanted to sell the Property, provided Szerwo did not have to pay any money for the sale, and provided Szerwo would be free of any further responsibility for the existing loans on the Property.

VI

On or about November 28, 1984, respondent for compensation or in expectation of compensation negotiated the purchase of the Property by John Garrettson and Beatrice Garrettson (hereinafter "the Garrettsons"). During said negotiations the Garrettsons told respondent they were concerned about their ability to assume the existing loans on the Property based upon the Garrettson's previous credit problems including a prior bankruptcy.

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VII

On or about December 7, 1984, respondent in connection with negotiating the purchase of the Property by the Garrettsons solicited and obtained from the Garrettsons \$500 in the form of a check and \$1,000 in the form of a promissory note as respondent's fee for arranging the assumption of the aforementioned loans on the Property by the Garrettsons.

VIII

The check and promissory note referred to in Paragraph VII above, are "Advance Fees" as that term is defined in Section 10026 of the Business and Professions Code (hereinafter "Code").

IX

Said advance fees referenced in Paragraph VIII above, are trust funds pursuant to Section 10146 of the Code. Respondent failed to deposit and maintain said trust funds as required by Section 10146 of the Code.

X

On or about December 7, 1984, respondent claimed and collected said advance fees from and entered into an advance fee contract with the Garrettsons without first submitting all advance fee advertising materials and contract forms to the Real Estate Commissioner (hereinafter "Commissioner") as required by Section 10085 of the Code and Section 2970 of Title 10, California Administrative Code (hereinafter "Regulations").

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XI

The acts and omissions of respondent, as alleged in Paragraph IX above, constitute violation of Section 10146 of the Code, and are cause under Section 10177(d) of the Code for suspension or revocation of all license and license rights of respondent under the Real Estate Law.

XII

The acts or omissions of respondent, as alleged in Paragraph X above, constitute violation of Section 10177(d) in conjunction with Section 10085 of the Code and Section 2970 of the Regulations.

SECOND CAUSE OF ACCUSATION

XIII

There is hereby incorporated in this second, spearate and distinct cause of accusation, all of the allegations contained in Paragraphs I, II, III, IV, V, VI and VII of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XIV

On or about December 7, 1984, the respondent caused a written purchase offer on the Property to be signed by the Garrettsons, wherein the Garrettsons agreed to purchase the Property from Szerwo on the following terms and conditions among others:

- 1. a purchase of \$69,500 (loan balance), and
- 2. buyer to take subject to existing loans.

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XV

In the course of negotiating the sale of the Property and in order to induce the Garrettsons to enter into the agreement described in Paragraph XIV above, respondent represented to the Garrettsons that respondent would arrange for the Garrettsons to assume the existing loans on the Property. In reliance upon said representations the Garrettsons signed a real estate purchase contract and receipt for deposit agreeing to purchase the Property.

XVI

Respondent's representations described in Paragraph XIV above, were false and misleading and were known by respondent to be false or misleading when made or were made by respondent with no reasonable grounds for believing said representations to be true.

XVII

Respondent failed to arrange for the loan assumptions by the Garrettsons.

XVIII

On or about December 10, 1984, respondent in order to induce Szerwo into signing a grant deed conveying the Property to the Garrettsons represented to Szerwo that by signing the grant deed Szerwo would have no further responsibility for the Property.

XIX

In reliance upon the representation of respondent described in Paragraph XVIII above, Szerwo signed the grant deed and forwarded it to respondent.

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XX

Respondent's representations described in Paragraph XVIII above, was false and misleading and was known by respondent to be false or misleading when made or was made by respondent with no reasonable ground for believing said representations to be true. In truth and in fact the loan assumptions by the Garrettsons had not been arranged by respondent.

XXI

Respondent failed to disclose to Szerwo the fact that respondent had not arranged the loan assumptions for the Garrettsons.

XXII

The acts or omissions of respondent described above are grounds for the suspension or revocation of the license and/or license rights of respondent under Sections 10176(a), 10176(i), 10177(j) and 10177(g) of the Code.

THIRD CAUSE OF ACCUSATION

XXIII

There is hereby incorporated in this third, separate and distinct cause of accusation, all of the allegations contained in Paragraphs I, II and III of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XXIV

Beginning on or before December 1, 1984, respondent, acting on behalf of another or others and in expectation of compensation, managed certain rental properties located in or near Fresno, California.

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

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ROBERT E. McCABE
Deputy Real Estate Commissioner

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12 Dated at Fresno, California

13 this 24th day of June, 1987.

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