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AUG 21 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	No. H-6860 SF
JACK L. DENT,	)	
	)	
Respondent.	)	
	)	

ORDER DENYING REINSTATEMENT OF LICENSE

On October 21, 1993, a Decision was rendered in Case No. H-6860 SF revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license for a violation of Sections 10177(d), 10137, 10177(g) and 10177(h) of the Business and Professions Code and Sections 2831, 2831.2, 2725(a), 2731 and 2752 of the Regulations of the Real Estate Commissioner. A restricted real estate broker license was issued to Respondent on November 22, 1993. On October 17, 1997, an Order was issued in H-7461 SF suspending the restricted real estate broker license of Respondent for a violation of Sections 10177(d) of the Code and Section 2831.2 of the Regulations.

1           On November 1, 2006, Respondent petitioned for  
2 reinstatement of said real estate broker license, and the  
3 Attorney General of the State of California has been given notice  
4 of the filing of said petition.

5           Between March 9, 2007 and March 23, 2007, The  
6 Department performed an audit of Repondent's real estate resale  
7 brokerage activities during the period from January 1, 2006  
8 through February 28, 2007 to determine whether Respondent handled  
9 and accounted for trust funds and otherwise conducted activities  
10 requiring a real estate license in accordance with the Real  
11 Estate Law and the Commissioner's Regulations. This examination  
12 disclosed:

13           (a) Respondent failed to maintain a columnar record in  
14 chronological order of all trust funds received but not deposited  
15 in a trust account in violation of Section 2831 of the  
16 Commissioner's Regulations, in that Respondent failed to record  
17 earnest money deposit checks in the sum of \$10,000 and \$3,000  
18 collected from buyers for subsequent deposit into escrow.

19           (b) Respondent failed to place earnest money deposit  
20 checks in the sum of \$5,000 and \$3,000 collected from buyers for  
21 subsequent deposit into escrow within three days of acceptance of  
22 the offer, in violation of Section 2832(a) of the Regulations.

23           (c) Respondent failed to have a written agreement with  
24 seven salespersons licensed under Respondent covering material  
25 aspects of the relationship between the parties including  
26 supervision, duties and compensation in violation of Section 2726  
27 of the Regulations.

1 I have considered Respondent's petition and the  
2 evidence and arguments in support thereof. Respondent has failed  
3 to demonstrate to my satisfaction that Respondent has undergone  
4 sufficient rehabilitation to warrant the reinstatement of  
5 Respondent's real estate broker license.

6 The burden of proving rehabilitation rests with the  
7 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A  
8 petitioner is required to show greater proof of honesty and  
9 integrity than an applicant for first time licensure. The proof  
10 must be sufficient to overcome the prior adverse judgment on the  
11 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d  
12 395).

13 The Department has developed criteria in Section 2911  
14 of Title 10, California Code of Regulations (Regulations) to  
15 assist in evaluating the rehabilitation of an applicant for  
16 reinstatement of a license. Among the criteria relevant in this  
17 proceeding are:

18 (a) The passage of not less than two years since the  
19 most recent criminal conviction or act of the applicant that is a  
20 basis to deny the departmental action sought. (A longer period  
21 will be required if there is a history of acts or conduct  
22 substantially related to the qualifications, functions or duties  
23 of a licensee of the department.) In view of the history of acts  
24 and conduct set forth above, a longer period of time is necessary  
25 to establish that Respondent is sufficiently rehabilitated to  
26 receive an unrestricted real estate broker license.  
27

1 (b) Restitution to any person who has suffered monetary  
2 losses through "substantially related" acts or omissions of the  
3 applicant. Respondent has been named as a defendant in Soldofsky  
4 v. Gray, Dent et al., Santa Clara County Superior Court No.  
5 CD802476. The Superior Court action alleges that the plaintiff  
6 has sustained a loss as a result of the unlawful acts of  
7 Respondent and has not been compensated for those losses.  
8 Consequently, Respondent has failed to make restitution to  
9 persons who have suffered monetary losses as a result of  
10 Respondent's acts.

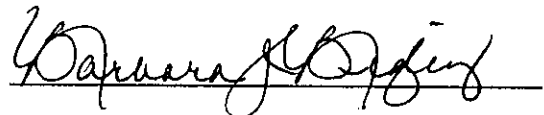
11 Given the fact that Respondent has not established that  
12 he has complied with Sections 2911(a) and (b) of the Regulations,  
13 I am not satisfied that Respondent is sufficiently rehabilitated  
14 to receive an unrestricted real estate broker license.

15 NOW, THEREFORE, IT IS ORDERED that Respondent's  
16 petition for reinstatement of his real estate broker license is  
17 denied.

18 This Order shall become effective at 12 o'clock  
19 noon on SEP 11 2008

20 DATED: 8/17/08

21  
22 Jeff Davi  
23 Real Estate Commissioner

24 

25 BY: Barbara J. Bigby  
26 Chief Deputy Commissioner



1           On December 3, 2001, Respondent petitioned for  
2 reinstatement of said real estate broker license, and the  
3 Attorney General of the State of California has been given  
4 notice of the filing of said petition.

5           I have considered Respondent's petition and the evidence  
6 and arguments in support thereof. Respondent has failed to  
7 demonstrate to my satisfaction that Respondent has undergone  
8 sufficient rehabilitation to warrant the reinstatement of  
9 Respondent's real estate broker license.

10           The burden of proving rehabilitation rests with the  
11 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A  
12 petitioner is required to show greater proof of honesty and  
13 integrity than an applicant for first time licensure. The proof  
14 must be sufficient to overcome the prior adverse judgment on the  
15 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

16           The Department has developed criteria in Section 2911  
17 of Title 10, California Code of Regulations (Regulations) to  
18 assist in evaluating the rehabilitation of an applicant for  
19 reinstatement of a license. Among the criteria relevant in this  
20 proceeding are:

- 21           (a) The passage of not less than two years since the  
22 most recent criminal conviction or act of the  
23 applicant that is a basis to deny the departmental  
24 action sought. (A longer period will be required  
25 if there is a history of acts or conduct  
26 substantially related to the qualifications,  
27 functions, or duties of a licensee of the

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department.) Respondent has a history of acts or conduct requiring a longer period of time.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant. Respondent has been named as a defendant in Soldofsky v. Gray, Dent et al., Santa Clara County Superior Court No. CD802476. The Superior Court action alleges that the plaintiff has sustained a loss as a result of the unlawful acts of Respondent and has not been compensated for those losses. Consequently, Respondent has failed to make restitution to persons who have suffered monetary losses as a result of Respondent's acts.

Given the fact that Respondent has not established that he has complied with Sections 2911(a) and (b) of the Regulations, I am not satisfied that Respondent is sufficiently rehabilitated to receive an unrestricted real estate broker license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of his real estate broker license is denied.

This Order shall be effective at 12 o'clock noon on August 23, 2004.

DATED: June 14, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

FILED

JAN 13 2000

DEPARTMENT OF REAL ESTATE

By Jean Aranda

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
JACK L. DENT, )	No. H-6860 SF
Respondent. )	

ORDER DENYING REINSTATEMENT OF LICENSE

On October 21, 1993, a Decision was rendered in Case No. H-6860 SF revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license for a violation of Sections 10177(d), 10137, 10177(g) and 10177(h) of the Business and Professions Code and Sections 2831, 2831.2, 2725(a), 2731 and 2752 of the Regulations of the Real estate Commissioner. A restricted real estate broker license was issued to Respondent on November 22, 1993. On October 17, 1997, an Order was issued in H-7461 SF suspending the restricted real estate broker license of Respondent a violation of Sections 10177(d) of the Code and Section, 2831.2 of the Regulations.



1 On March 1, 1999, Respondent petitioned for  
2 reinstatement of said real estate broker license, and the  
3 Attorney General of the State of California has been given notice  
4 of the filing of said petition.

5 I have considered Respondent's petition and the  
6 evidence and arguments in support thereof. Respondent has failed  
7 to demonstrate to my satisfaction that Respondent has undergone  
8 sufficient rehabilitation to warrant the reinstatement of  
9 Respondent's real estate broker license.

10 Slightly more than two years has elapsed from the  
11 effective date of the most recent disciplinary action taken  
12 against Respondent's real estate broker license. In view of the  
13 history of acts and conduct set forth above, a longer period of  
14 time is necessary to establish that Respondent is sufficiently  
15 rehabilitated to receive an unrestricted real estate broker  
16 license.

17 NOW, THEREFORE, IT IS ORDERED that Respondent's  
18 petition for reinstatement of his real estate broker license is  
19 denied.

20 This Order shall become effective at 12 o'clock  
21 noon on February 3, 2000 .

22 DATED: December 20, 1999.

23  
24 PAULA REDDISH ZINNEMANN  
25 Real Estate Commissioner  
26  
27

COPY

FILED  
NOV 01 1993

BEFORE THE DEPARTMENT OF REAL ESTATE  
DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

By Victoria Dillon  
Victoria Dillon  
No. H-6860 SF  
OAH N 42945

In the Matter of the Accusation of )  
JACK L. DENT and )  
ROBERT ALDANA, )  
Respondent (s). )

DECISION

The Proposed Decision dated October 4, 1993,  
of the Administrative Law Judge of the Office of Administrative  
Hearings is hereby adopted as the decision of the Real Estate  
Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon  
on November 22, 1993.

IT IS SO ORDERED October 21, 1993.

CLARK WALLACE  
Real Estate Commissioner

John R. Liberator

BY: John R. Liberator  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: ) No. H-6860 SF  
)  
JACK L. DENT and ) OAH No. N 42945  
ROBERT ALDANA, )  
)  
Respondents. )

---

PROPOSED DECISION

On September 15, 1993, in San Francisco, California, Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

John Van Driel, Staff Counsel represented the complainant.

Maxine Monaghan, Attorney at Law, 1960 The Alameda, Suite 200, San Jose, California 95126-1493, represented Jack L. Dent who was present.

Respondent Robert Aldana appeared over a half hour late. Upon his appearance he was allowed to participate in the proceedings.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

. I

Upon proof of compliance with Government Code sections 11505 and 11509, the matter proceeded as a default pursuant to Government Code section 11520. Respondent Aldana did appear late and was allowed to participate.

II

Edward V. Chiolo made the accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

### III

Jack L. Dent (Dent) and Robert Aldana (Aldana) are presently licensed and have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code (Code)).

### IV

At all times mentioned herein, Dent was licensed by the Department as a real estate broker in his individual capacity.

### V

Aldana was licensed by the Department as a real estate salesperson on April 11, 1986. His license expired on April 10, 1990 and was not renewed until January 23, 1991. During the period of April 11, 1990 through January 22, 1991 Aldana was not licensed by the Department.

### VI

A settlement agreement was reached between the Department and Dent. He admits all the allegations in the accusation. His broker license is to be revoked with a right to a restricted broker license upon the terms and conditions set forth below.

### VII

In December of 1990, an investigative audit was made by the Department on Dent's books and records for the period of April 1, 1990 through November 30, 1990.

The following facts were ascertained by the audit for the period ending November 30, 1990.

a. Dent maintained two trust accounts at Bank of America, Sunnyvale, California, for the receipt and disbursement of trust funds, as the term is defined in section 10145 of the Code, designated as accounts #418-02809 (Contempo Realty Trust Account) and #410-09616 (Jack L. Dent Real Estate Broker Trustee Account).

b. Dent failed to maintain a record of all trust funds received and not placed in a trust account as required by section 2831 of Title 10, California Code of Regulations (Regs).

c. Dent failed to reconcile his two trust accounts with the total balances of the subsidiary ledgers for those accounts, as required by section 2831.2 of the Regs.

d. Dent failed to review, initial and date documents which were used in property management and sales transactions

which had a material effect on the rights and obligations of his principals or to delegate his "review and initial" responsibility to a licensed salesperson in writing, as required by the Regs.

e. Dent failed to notify the Department of his use of the fictitious business name "JLD Property Management", as required by the Regs.

#### VIII

During the time that Aldana's salesperson license was expired (April 11, 1990 through January 22, 1991), he performed acts which required a license on behalf of Dent, for and in expectation of compensation, in at least four (4) transactions in violation of the Code, two (2) in April of 1990 and two (2) in May of 1990.

#### IX

In connection with Aldana's 1727 Kennedy Drive transaction in April of 1990, Aldana prepared a Real Estate Purchase Contract and Deposit Receipt (offer) for buyer Martinez and Tran on April 10, 1990. The offer recited that a deposit on the purchase price, in the form of a personal check for \$2,000 payable to Contempo Realty, was received by Aldana and would be held uncashed until acceptance of the offer by the seller, Robert Swart. The offer was followed by one or more counter-offers which were ultimately accepted on April 19, 1990. Once the offer was accepted by Seller, Aldana and Dent held the deposit as agent of Seller.

#### X

The \$2,000 deposit recited in the Kennedy Drive offer was received by Aldana, but he failed to immediately deliver the deposit to Dent, or, if so directed by Dent, place the funds into a neutral escrow depository, or into Dent's trust account.

#### XI

On April 30, 1990, Aldana notified Seller's agent that the buyers wanted to cancel the Kennedy Drive transaction because one of the buyers was being laid off work. After the transaction was canceled, Aldana refused to provide a written cancellation of the purchase contract and disposition of the deposit funds to the Seller. Although the Seller demanded a portion of Buyer's deposit as liquidated damages, Aldana and Dent refunded the deposit to the Buyers without the express permission of the Seller.

#### XII

It was not established that Aldana's representations to Seller's agent concerning the reason for cancellation of the Kennedy Drive transaction was false and untrue.

XIII

During the period of February 1, 1991 through June 18, 1991 Dent employed and compensated Jerome Peter Lutz for activities requiring a real estate license. During that period, Lutz was not registered under Dent's broker license.

XIV

At all times mentioned herein, Dent failed to exercise reasonable supervision and control of the activities of his agents for which a real estate license is required and was negligent and incompetent in performing acts for which a real estate license is required, in that he knew or should have known, all the facts set forth above and that he could have and should have taken steps to assure the full compliance of his employees with the Real Estate Law.

XV

Aldana kept the deposit to return to his clients because he did not want them to lose their deposit if the deal fell through. He now realizes what he did was wrong. Respondent Aldana has a stable family life and is employed at the same office (Caldwell Banker). He now puts all his deposits in trust immediately. He is active in his community helping people in need. He has grown and matured from this experience. It would not be against public interest to issue a restricted salesperson license to respondent Aldana at this time.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Findings V through XI, XIII and XIV, cause for disciplinary action exists against Respondent Dent pursuant to sections 10177(d), 10137, and 10177(g) and (h) and Title 10, sections 2831, 2831.2, 2725(a), 2731 and 2752 of the Regs.

II

By reason of the matters set forth in Findings V, VIII through XI, cause for disciplinary action against Respondent Aldana exists pursuant to sections 10130, 10145(c) and 10177(d) of the Code. By reason of the matters set forth in Finding XII, cause for disciplinary action does not exist pursuant to section 10176(a) and (i). The matters set forth in Finding XV have been considered in making the following order.

ORDER

A. All licenses and licensing rights of respondent Robert Aldana under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
  - a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
  - b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing educa-

tion 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 the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

B. All licenses and licensing rights of respondent Jack Dent under the Real Estate Law are revoked; provided, however, 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 the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.



4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent 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 the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
  
6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

DATED: October 4, 1993

*Ruth S. Astle*

---

RUTH S. ASTLE  
Administrative Law Judge

**COPY**

*May 19 1993*

**FILED**

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

**MAY 19 1993**

**DEPARTMENT OF REAL ESTATE**

*In the Matter of the Accusation of*

JACK L. DENT and  
ROBERT ALDANA,

}

By *Victoria Dillon*  
Victoria Dillon

Case No. H-6860 SF

OAH No. N 42945

Respondents

**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 \_\_\_\_\_

OFFICE OF ADMINISTRATIVE HEARINGS

455 Golden Gate Ave., Room 2248, San Francisco, CA 94102

on September 15, 1993 (1 Day Hearing), at the hour of 9:00 a.m.,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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 Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: May 19, 1993

By *John Van Driel*  
JOHN VAN DRIEL, Counsel

*wd*

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JOHN VAN DRIEL, Counsel  
Department of Real Estate  
185 Berry Street, Room 3400  
San Francisco, CA 94107-1770

Telephone: (415) 904-5917

FILED  
JAN 26 1993

DEPARTMENT OF REAL ESTATE

By Victoria Dillon  
Victoria Dillon

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-6860 SF
JACK L. DENT and )	<u>ACCUSATION</u>
ROBERT ALDANA, )	
Respondents. )	

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JACK L. DENT and ROBERT ALDANA (Respondents) is informed and alleges as follows:

I

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

II

JACK L. DENT (Dent) and ROBERT ALDANA (Aldana) are presently licensed and/or have license rights under the Real

///

1 Estate Law (Part 1 of Division 4 of the Business and Professions.  
2 Code (Code).

3 III

4 At all times mentioned herein, Dent was licensed by the  
5 Department as a real estate broker in his individual capacity.

6 IV

7 Aldana was licensed by the Department as a real estate  
8 salesperson on April 11, 1986. His license expired on April 10,  
9 1990 and was not renewed until January 23, 1991. During the  
10 period of April 11, 1990 through January 22, 1991 Aldana was not  
11 licensed by the Department.

12 V

13 In December 1990, an investigative audit was made by the  
14 Department on Dent's books and records for the period of April 1,  
15 1990 through November 30, 1990.

16 The following facts were ascertained by the audit for  
17 the period ending November 30, 1990.

18 a. Dent maintained two trust accounts at Bank of  
19 America, Sunnyvale, California, for the receipt and disbursement  
20 of trust funds, as that term is defined in Section 10145 of the  
21 Code, designated as accounts #418-02809 (Contempo Realty Trust  
22 Account) and #410-09616 (Jack L. Dent Real Estate Broker Trustee  
23 Account).

24 b. Dent failed to maintain a record of all trust funds  
25 received and not placed in a trust account as required by Section  
26 2831 of Title 10, California Code of Regulations (Regulations).

27 ///

1 c. Dent failed to reconcile his two trust accounts  
2 with the total balances of the subsidiary ledgers for those  
3 accounts, as required by Section 2831.2 of the Regulations.

4 d. Dent failed to review, initial and date documents  
5 which were used in property management and sales transactions  
6 which had a material effect on the rights and obligations of his  
7 principals or to delegate his "review and initial" responsibility  
8 to a licensed salesperson in writing, as required by Section 2725  
9 of the Regulations.

10 e. Dent failed to notify the Department of his use of  
11 the fictitious business name "JLD Property Management", as  
12 required by Section 2731 of the Regulations.

13 VI

14 During the time that Aldana's salesperson license was  
15 expired (4-11-90 through 1-22-91), he performed acts which  
16 required a license on behalf of Dent, for or in expectation of  
17 compensation, in at least the following transactions, in violation  
18 of Section 10130 of the Code.

19	<u>Date</u>	<u>Property</u>
20	4/90	1727 Kennedy Drive
21	4/90	1163 Stellar Way
22	5/90	2655 Yerba Cliff
23	5/90	4666 Capay Drive

24  
25 VII

26 In connection with Aldana's 1727 Kennedy Drive  
27 transaction, Aldana prepared a Real Estate Purchase Contract and

1 Deposit Receipt (the offer) for buyers Martinez and Tran on  
2 approximately April 10, 1990. The offer recited that a deposit on  
3 the purchase price, in the form of a personal check for \$2,000  
4 payable to Contempo Realty, was received by Aldana and would be  
5 held uncashed until acceptance of the offer by the seller, Robert  
6 Swart. The offer was followed by one or more counter-offers which  
7 were ultimately accepted on approximately April 19, 1990. Once  
8 the offer was accepted by Seller, Aldana and Dent held the deposit  
9 as agent of Seller.

10 VIII

11 The \$2,000 deposit recited in the Kennedy Drive offer  
12 was never received by Aldana from the buyers. In the alternative,  
13 if the deposit was received by Aldana, he failed to immediately  
14 deliver the deposit to Dent, or, if so directed by Dent, place the  
15 funds into a neutral escrow depository, or into Dent's trust  
16 account.

17 IX

18 On or about April 30, 1990 Aldana notified Seller's  
19 agent that the buyers wanted to cancel the Kennedy Drive  
20 transaction because one of the buyers was being laid off work.  
21 After the transaction was canceled, Aldana refused to provide a  
22 written cancellation of the purchase contract and disposition of  
23 the deposit funds to the Seller. Although the Seller demanded a  
24 portion of Buyer's deposit as liquidated damages, Aldana and Dent,  
25 if a deposit check had been received by either of them, refunded  
26 the deposit to Buyers without the express permission of the  
27 Seller.

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X

Aldana's representations to Seller's agent concerning the reason for cancellation of the Kennedy Drive transaction (as set out in paragraph IX) was false and untrue. On or about April 26, 1990 Aldana prepared a second offer for the same buyers on the property located at 1163 Stellar Way. As a part of the buyers' personal information submitted to North American Title Company in connection with the Stellar Way escrow, both buyers represented to escrow that they were continuously employed from at least April through June 1990.

XI

During the period of approximately February 1, 1991 through June 18, 1991 Dent employed and/or compensated Jerome Peter Lutz for activities requiring a real estate license. During that period, Lutz was not registered under Dent's broker license.

XII

At all times mentioned herein, Dent failed to exercise reasonable supervision and control of the activities of his agents for which a real estate license is required and was negligent or incompetent in performing acts for which a real estate license is required, in that he knew or should have known all the facts alleged above and that he could have and should have taken steps to assure the full compliance of his employees with the Real Estate Law.

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XIII

The acts and/or omissions of Dent and Aldana alleged in this Accusation violate Sections of the Code (BPC) and the Regulations (Reg.) and are grounds for disciplinary action under the provisions of the Code as follows:

<u>Paragraph</u>	<u>Respondent</u>	<u>Violation</u>	<u>Cause for Discipline</u>
V b.	Dent	Reg. 2831	BPC 10177(d)
c.	Dent	Reg. 2831.2	BPC 10177(d)
d.	Dent	Reg. 2725(a)	BPC 10177(d)
e.	Dent	Reg. 2731	BPC 10177(d)
VI	Dent		BPC 10137
	Aldana	BPC 10130	BPC 10177(d)
VII & VIII	Aldana	Reg. 2785(a)(6)	BPC 10176(a)(i)
		<u>OR</u>	BPC 10145(c)
IX & X	Aldana		BPC 10176(a)(i)
XI	Dent	Reg. 2752	BPC 10177(d)
III thru XII	Dent		BPC 10177(g)(h)

WHEREFORE, the Complainant prays that a hearing be conducted on the allegations of the Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and

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1 Professions Code) and for such other and further relief as may be  
2 proper under other applicable provisions of law.

*Edward V. Chiole*

EDWARD V. CHIOLO  
Deputy Real Estate Commissioner

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6 Dated at San Francisco, California,  
7 this 8<sup>th</sup> day of JANUARY, 1993.

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