

1 demonstrated to my satisfaction that grounds do not presently
2 exist to deny the issuance of an unrestricted real estate
3 salesperson license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that an
6 unrestricted real estate salesperson license be issued to
7 Respondent, RICHARD K. EDLER, after Respondent satisfies the
8 following conditions within one (1) year from the date of
9 this Order:

10 1. Submittal of a completed application and
11 payment of the fee for a real estate salesperson license.

12 2. Submittal of evidence satisfactory to the Real
13 Estate Commissioner that Respondent has, since November 10,
14 1992, taken and successfully completed the continuing
15 education requirements of Article 2.5 of Chapter 3 of the
16 Real Estate Law for renewal of a real estate license.

17 This Order shall become effective immediately.

18 DATED: December 28, 1994.

19 JOHN R. LIBERATOR
20 Interim Commissioner

21 By: Betty R. Ludeman
22 Betty R. Ludeman
23 Assistant Commissioner,
24 Enforcement

25 RICHARD K. EDLER
26 309 Rocky Point Road
27 Palos Verdes, California 90274

Flag Section

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California 90012
3 (213) 897-3937

OCT 21 1992

DEPARTMENT OF REAL ESTATE
BY *Sybil M. M...*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-24906 LA
RICHARD K. EDLER,)
Respondent.)
STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15 It is hereby stipulated by and between RICHARD K. EDLER,
16 hereinafter respondent, and his attorney of record, R. GERALD
17 MARKLE, and the complainant, acting by and through Marjorie P.
18 Marsel, Counsel for the Department of Real Estate, as follows
19 for the purpose of settling and disposing of the Accusation
20 filed on December 30, 1991, in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by complainant and respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 stipulation.

1 2. Respondent has read and understands the Statement
2 to Respondent, the Discovery Provisions of the APA and the
3 Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On January 16, 1992, respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges and understands
10 that by withdrawing said Notice of Defense he will thereby waive
11 his right to require the Commissioner to prove the allegations
12 in the Accusation at a contested hearing held in accordance with
13 the provisions of the APA, and that he will waive other rights
14 afforded to him in connection with the hearing such as the right
15 to present evidence in defense of the allegations in the
16 Accusation and the right to cross-examine witnesses.

17 4. Respondent, subject to the limitations set forth
18 below, hereby admits that the factual allegations set forth in
19 paragraphs I through III and Paragraph V of the Accusation filed
20 on December 30, 1991, and all of the factual allegations as set
21 forth in the Amendment to Accusation filed on January 14, 1992,
22 in this proceeding are true and correct, and that the Real Estate
23 Commissioner shall not be required to provide further evidence of
24 such allegations. Respondent also admits that he made a material
25 misstatement of fact in answering Question 25 on his license
26 Application received June 28, 1991, when he failed to reveal his
27 conviction on February 1, 1989 of violating Section 602(j) of the

1 license ... for himself ... by making [a] material misstatement
2 of fact ..."¹

3
4 1. By way of explanation, respondent's negative answer to
5 Question No. 25 on the license application was based upon the advice of legal
6 counsel. Respondent fully acknowledges that this advice was erroneous and
7 that his negative answer to Question No. 25 constituted a material
8 misstatement of fact.

9 ORDER

10 I

11 The real estate salesperson license and license rights
12 of Respondent under the Real Estate Law (Part 1 of Division 4 of
13 the Business and Professions Code) are hereby revoked, provided,
14 however, Respondent shall be entitled to apply for and be issued
15 a restricted real estate salesperson license if he makes
16 application therefor and pays to the Department of Real Estate
17 the appropriate fee for said license within ninety (90) days of
18 the effective date of the Order herein. The revocation of the
19 real estate salesperson license and license rights as more
20 particularly described in Paragraph I of this Order, shall not
21 be effective any sooner than 60 days from the date this
22 Settlement and Order is adopted by the Real Estate Commissioner.

23 II

24 The restricted real estate salesperson license issued
25 to Respondent shall be subject to all of the provisions of
26 Section 10156.7 of the Business and Professions Code and the
27 following limitations, conditions and restrictions shall be
28 imposed under authority of Section 10156.6 of the Code:

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III

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1. The restricted license shall not confer any property
right in the privileges to be exercised thereunder and the real
Estate Commissioner may by appropriate Order suspend the right of
respondent to exercise any privileges granted under this
restricted license in the event of:

a. The conviction of respondent (including a plea
of nolo contendere) to a crime which bears a substantial
relationship to respondent's fitness or capacity as a real estate
licensee; or

b. 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 attaching to this restricted license.

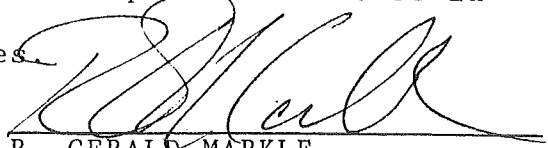
2. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor the removal
of any of the conditions, limitations or restrictions attaching
to the restricted license until one year has elapsed from the
date of issuance of the restricted license to respondent.

3. With the application for license, or with the
application for transfer to a new employer/broker, respondent
shall submit a statement signed by the prospective employing
broker on a form approved by the Department of Real Estate
wherein employing broker shall certify as follows:

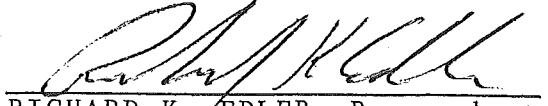
a. That broker has read the Accusation and this
Order which are the basis for the issuance of the restricted
license; and

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges

3 DATED: 9/23/92


R. GERALD MARKLE
Counsel for Respondent

6 DATED: 9/18/92

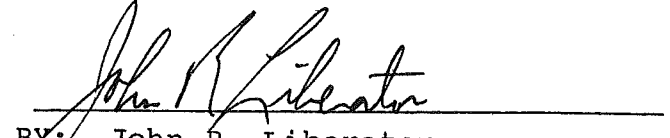

RICHARD K. EDLER, Respondent

8 * * * * *

9 The foregoing Stipulation and Agreement in Settlement
10 and Order is hereby adopted as my Decision and Order and shall
11 become effective at 12 o'clock noon November 10, 1992

12 IT IS SO ORDERED October 13, 1992

14 CLARK WALLACE
15 Real Estate Commissioner

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18 BY: John R. Liberator
19 Chief Deputy Commissioner

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MARJORIE P. MERSEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED

DEC 30 1991

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-24906 LA
RICHARD K. ELDER,)	A C C U S A T I O N
)	
)	
)	
Respondent.)	

The Complainant, Steven J. Ellis a Deputy Real Estate Commissioner of the State of California, for cause of accusation against RICHARD K. ELDER, alleges as follows:

I

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, makes this accusation in his official capacity.

II

RICHARD K. ELDER, (hereinafter referred to as respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

[Handwritten mark]

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At all times herein mentioned, respondent was licensed by the Department of Real Estate of the State of California as a real estate salesperson, or possessed renewal rights for such a license.

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IV

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On or about February 1, 1989, in the Municipal Court Harbor Judicial district County of Orange, State of California, respondent plead guilty to and was convicted of the crime of violating Penal Code Section 602(j) (Trespassing) a crime involving moral turpitude.

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In response to question 25 of the license application, to wit: "Have you ever been convicted of any violation of law? (you may omit any traffic violations where the disposition was a fine and the amount was \$100 or less", respondent marked the answer box denoting "no".

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VI

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The crime of which respondent was convicted on the underlying conduct leading to said conviction, bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

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VII

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Respondent's criminal conviction, is cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of all licenses and license rights of respondent under the Real Estate Law.

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VIII

Respondent's failure to reveal the conviction against him as set forth in Paragraph IV, above, in said application, misrepresentation or deceit, or by making a material misstatement of fact in said application, which is cause for suspension or revocation or respondent's real estate licenses or license rights under Section 490 and/or 10177(a) of the Business and Professions Code of the State of California.

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 licenses and license rights of respondent RICHARD K. ELDER, 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 30th day of December, 1991

STEVEN J. ELLIS

Deputy Real Estate Commissioner

cc: Richard K. Elder
Re/Max Palos Realty
Sacto.
MGS