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	8	DEPARTMENT OF REAL ESTATE
	9	STATE OF CALIFORNIA
	10	* * * *
	11	In the Matter of the Accusation of) NO. H-24906 LA
	12	RICHARD K. EDLER
	13	Respondent.
	14	ORDER GRANTING REINSTATEMENT OF LICENSE
	15	On October 13, 1992, a Decision was rendered
	16	herein revoking the real estate salesperson license of
	17	Respondent, RICHARD K. EDLER (hereinafter "Respondent"),
	18	effective November 10, 1992, but granting Respondent the
/	19	right to apply for and be issued a restricted real estate
di La constante de la constante de	20	salesperson license. Said restricted license was issued on
۰: الا	21	or about November 10, 1992.
a a gana ang ang ang ang ang ang ang ang	22	On December 24, 1993, Respondent petitioned for
	23	reinstatement of said real estate salesperson license and the
	24	Attorney General of the State of California has been given
	25	notice of the filing of said petition.
	26	I have considered Respondent's petition and the
	27	evidence and arguments in support thereof. Respondent has
COURT PAPER STATE OF CALIFO STD. 113 (REV.	RNIA 8+72}	

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demonstrated to my satisfaction that grounds do not presently 1 exist to deny the issuance of an unrestricted real estate 2 salesperson license to Respondent. 3 NOW, THEREFORE, IT IS ORDERED that Respondent's 4 petition for reinstatement is granted and that an 5 unrestricted real estate salesperson license be issued to 6 Respondent, RICHARD K. EDLER, after Respondent satisfies the 7 following conditions within one (1) year from the date of 8 this Order: 9 Submittal of a completed application and 1. 10 payment of the fee for a real estate salesperson license. 11 Submittal of evidence satisfactory to the Real 2. 12 Estate Commissioner that Respondent has, since November 10, 13 1992, taken and successfully completed the continuing 14 education requirements of Article 2.5 of Chapter 3 of the 15 Real Estate Law for renewal of a real estate license. 16 17 This Order shall become effective immediately. 18 December 28, 1994 DATED: 19 JOHN R. LIBERATOR Interim Commissioner 20 21 Bv: Ludeman Betty R 22 Assistant Commissioner, Enforcement RICHARD K. EDLER 23 309 Rocky Point Road Palos Verdes, California 90274 24 25 26 27 COURT PAPER 5TATE OF CALIFORNIA STD. 113 (REV. 8-72)

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٤	DEPARTMENT OF REAL ESTATE
	STATE OF CALIFORNIA
10	* $*$ $*$
11	In the Matter of the Accusation of) No. H-24906 LA
12	
1:	Respondent.) <u>IN SETTLEMENT AND ORDER</u>
14)
19	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-

COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72) 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.

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

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

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1 Penal Code.

2 5. It is understood by the parties that the Real Estate Commissioner may adopt the stipulation as his decision in this 3 matter thereby imposing the penalty and sanctions on respondent's 4 5 real estate license and license rights as set forth in the below 6 "Order". In the event that the Commissioner in his discretion 7 does not adopt this stipulation, this stipulation shall be void 8 and of no effect, and respondent shall retain the right to a 9 hearing and proceeding on the Accusation under all the provisions 10 of the APA and shall not be bound by any admission or waiver 11 made herein. 12 The order or any subsequent order of the Real 6. 13 Estate Commissioner made pursuant to this Stipulation shall not

15 administrative or civil proceedings by the Department of Real
16 Estate with respect to any matters which were not specifically
17 alleged to be causes for the Accusation in this proceeding.

constitute an estoppel, merger or bar to any further

18

14

DETERMINATION OF ISSUES

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

The conduct of respondent, as described in Paragraph V of the Accusation is grounds for the suspension or revocation of all of the real estate licenses and license rights of respondent under the provisions of Section 10177(a) of the Business and Professions Code because respondent "procured ... a real estate

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COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72)

. 1	license for himself by making [a] material misstatement
2	of fact"
3	
4	1. By way of explanation, respondent's negative answer to Question No. 25 on the license application was based upon the advice of legal counsel. Respondent fully acknowledges that this advice was erroneous and
5	that his negative answer to Question No. 25 constituted a material misstatement of fact.
6	ORDER
7	Ι
8	The real estate salesperson license and license rights
9	of Respondent under the Real Estate Law (Part 1 of Division 4 of
10	the Business and Professions Code) are hereby revoked, provided,
11	however, Respondent shall be entitled to apply for and be issued
12	a restricted real estate salesperson license if he makes
13	application therefor and pays to the Department of Real Estate
14	the appropriate fee for said license within ninety (90) days of
15	the effective date of the Order herein. The revocation of the
16	real estate salesperson license and license rights as more
17	particularly described in Paragraph I of this Order, shall not
18	be effective any sooner than 60 days from the date this
19	Settlement and Order is adopted by the Real Estate Commissioner.
20	II
21	The restricted real estate salesperson license issued
22	to Respondent shall be subject to all of the provisions of
23	Section 10156.7 of the Business and Professions Code and the
24	following limitations, conditions and restrictions shall be
25	imposed under authority of Section 10156.6 of the Code:
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1 The restricted license shall not confer any property 1. 2 right in the privileges to be exercised thereunder and the real 3 Estate Commissioner may by appropriate Order suspend the right of 4 respondent to exercise any privileges granted under this 5 restricted license in the event of: 6 The conviction of respondent (including a plea а. 7 of nolo contendere) to a crime which bears a substantial 8 relationship to respondent's fitness or capacity as a real estate 9 licensee; or 10 The receipt of evidence that respondent has b. 11 violated provisions of the California Real Estate Law, the 12 Subdivided Lands Law, Regulations of the Real Estate Commissioner 13 or conditions attaching to this restricted license. 14 Respondent shall not be eligible to apply for the 2. 15 issuance of an unrestricted real estate license nor the removal 16 of any of the conditions, limitations or restrictions attaching 17 to the restricted license until one year has elapsed from the 18 date of issuance of the restricted license to respondent. 19 With the application for license, or with the 3. 20 application for transfer to a new employer/broker, respondent 21 shall submit a statement signed by the prospective employing 22 broker on a form approved by the Department of Real Estate 23 wherein employing broker shall certify as follows: 24 That broker has read the Accusation and this а. 25 Order which are the basis for the issuance of the restricted 26 license; and 27

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	1	b. That broker will carefully review all
	2	transaction documents prepared by the restricted licensee and
	3	otherwise exercise close supervision over the licensee's
	4	performance of acts for which a license is required.
	5	4. Respondent shall within six months from the
	6	effective date of the restricted license, take and pass the
	7	Professional Responsibility Examination administered by the
	8	Department including the payment of the appropriate examination
	9	fee. If respondent fails to satisfy this condition, the
	10	Commissioner may order suspension of the restricted license
	11	until respondent passes the examination. Robert & Balon, For
	12	DATED: <u>9-29-97</u> MARJORIE P. MERSEL
	13	Counsel for Complainant
	14	
	15	I have read the Stipulation and Agreement, have
	16	discussed it with my counsel, and its terms are understood by me
	17	and are agreeable and acceptable to me. I understand that I am
	18	waiving rights given to me by the California Administrative
	19	Procedure Act (including but not limited to Sections 11506, 11508,
	20	11509, and 11513 of the Government Code), and I willingly,
	21	intelligently and voluntarily waive those rights, including the
	22	right of requiring the Commissioner to prove the allegations in
	23	the Accusation at a hearing at which I would have the right to
	24	
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COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72)

1 cross-examine witnesses against me and to present evidence in 2 defense and mitigation of the charges. 3 DATED: R. MARKLE GERALD 4 Counsel for Respondent 5 6 DATED: RICHARD Κ. EDLER, Respondent 7 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 10ct IT IS SO ORDERED 9 2 13 14 CLARK WALLACE Real Estate Commissioner 15 16 17 John Ŕ. Liberator 18 Chief Deputy Commissioner 19 20 21 22 مرود در به وم ما اردو مراجع اردو 23 24 25 26 27 -7-COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72)

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FUT	1	
1	2	MARJORIE P. MERSEL, Counsel Department of Real Estate
	3	107 South Broadway, Room 8107 Los Angeles, California 90012
	4	(213) 897-3937
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	8	DEPARTMENT OF REAL ESTATE
	9	STATE OF CALIFORNIA
	10	* * * * *
	11	In the Matter of the Accusation of) No. H-24906 LA
	12	RICHARD K. EDLER,) <u>AMENDMENT TO ACCUSATION</u>
	13	
	14	Respondent.)
	15	
	16	Complainant, hereby amends the Accusation filed herein
	17	December 30, 1991, in recognition that Respondent's name is
	18	"RICHARD K. EDLER, to make the term "Respondent" and all
	19	references to Respondent as used in said Accusation and captions
-	20	refer to the above-stated name, RICHARD K. EDLER, and not
	21	"RICHARD K. ELDER".
	22	
a an	23	Dated at Los Angeles, California
	24	this 13th day of January, 1992.
	25	Deputy Real Estate Commissioner
	26	cc: Richard K. Edler
	27	Re/Max Palos Realty Sacto MGS
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2	MARJORIE P. MERSEL, Counsel
3	107 South Broadway, Room 8107 Los Angeles, California 90012
4	(213) 897-3937 DEPARTMENT OF REAL ESTATE
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8	DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * * *
11	In the Matter of the Accusation of) No. H-24906 LA
12) RICHARD K. ELDER,) <u>ACCUSATION</u>
13	
14) Respondent.)
15)
16	The Complainant, Steven J. Ellis a Deputy Real Estate
	Commissioner of the State of California, for cause of accusation
18	against RICHARD K. ELDER, alleges as follows:
19	I
20	The Complainant, Steven J. Ellis, a Deputy Real Estate
21	Commissioner of the State of California, makes this accusation in
. 22	his official capacity.
23	II II
24	RICHARD K. ELDER, (hereinafter referred to as
	respondent) is presently licensed and/or has license rights under
25	the Real Estate Law (Part 1 of Division 4 of the Business and
26	Professions Code).
27	
COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72)	· · · · · · · · · · · · · · · · · · ·

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2 III At all times herein mentioned, respondent was licensed 3 by the Department of Real Estate of the State of California as a 4 real estate salesperson, or possessed renewal rights for such a 5 license. 6 7 IV On or about February 1, 1989, in the Municipal Court 8 Harbor Judicial district County of Orange, State of California, 9 respondent plead guilty to and was convicted of the crime of 10 violating Penal Code Section 602(j) (Trespassing) a crime 11 involving moral turpitude. 12 13 V In response to question 25 of the license application, 14 to wit: "Have you ever been convicted of any violation of law? 15 (you may omit any traffic violations where the disposition was a 16 fine and the amount was \$100 or less", respondent marked the 17 answer box denoting "no". 18 VI 19 The crime of which respondent was convicted on the 20 underlying conduct leading to said conviction, bears a substantial 21 relationship to the qualifications, functions or duties of a real 22 estate licensee. 23 VII 24 Respondent's criminal conviction, is cause under 25 Sections 490 and 10177(b) of the Business and Professions Code for 26 suspension or revocation of all licenses and license rights of 27 respondent under the Real Estate Law.

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2	2 VIII
	Respondent's failure to reveal the conviction against
· · · ·	him as set forth in Paragraph IV, above, in said application,
ŧ	misrepresentation or deceit, or by making a material misstatement
e	of fact in said application, which is cause for suspension or
7	revocation or respondent's real estate licenses or license rights
8	under Section 490 and/or 10177(a) of the Business and Professions
9	Code of the State of California.
10	WHEREFORE, Complainant prays that a hearing be conducted
11	on the allegations of this Accusation and that upon proof thereof,
12	a decision be rendered imposing disciplinary action against the
13	licenses and license rights of respondent RICHARD K. ELDER, under
14	the Real Estate Law (Part 1 of Division 4 of the Business and
15	Professions Code) and for such other and further relief as may be
16	proper under other applicable provisions of law.
17	Dated at Los Angeles, California
. 18	this 30th day of December, 1991
19	STEVEN J. ELLIS
20	
21	
22	
23	
24	
25	cc: Richard K. Elder
26	Re/Max Palos Realty Sacto.
27	MGS
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