

FILED  
AUG 29 1990  
DEPARTMENT OF REAL ESTATE

*Kathleen Contreras*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
BEN ARTHUR ENNIS, )  
ENNIS REALTY, INC., )  
et al., )  
Respondents. )

H-941 FRESNO;  
NO. H-908 FRESNO; and  
H-895 FRESNO  
N 32650 and  
N 33834

DECISION

The Proposed Decision dated July 27, 1990,  
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 September 18, 1990.

IT IS SO ORDERED August 27, 1990.

JAMES A. EDMONDS, JR.  
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 Amended | ) |                              |
| Accusations Against:         | ) | Nos. H-941 FRESNO            |
|                              | ) | H-908 FRESNO                 |
| BEN ARTHUR ENNIS,            | ) | H-895 FRESNO                 |
| ENNIS REALTY, INC., et al.   | ) |                              |
|                              | ) | OAH Nos. N-32650 and N-33834 |
|                              | ) |                              |
| Respondents.                 | ) |                              |
|                              | ) |                              |

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PROPOSED DECISION

On May 10, 1990, in Sacramento, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, conducted a settlement conference in these matters.

Complainant was represented by Roland Adickes, Counsel, Department of Real Estate.

Respondents Ben Arthur Ennis and Ennis Realty, Inc., appeared and were represented by Steven J. Balfrey, Attorney at Law.

Settlement stipulations were entered into and based on them the matters were submitted for decision on May 29, 1990.

FINDINGS OF FACT

I

Jerry E. Fiscus made the amended accusations in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

On April 27, 1990, complainant filed Amended Accusation No. H-941 FRESNO, incorporated herein by reference, against Ben Arthur Ennis as a real estate broker and Ennis Realty, Inc., as a corporate real estate broker, Ben Arthur Ennis as designated broker-officer, charging respondents with violations of section 10176(i) or 10177(j) (dishonest dealing by competing with principal), section 10176(a) (substantial misrepresentations to principal through non-disclosure

of material facts including conflicts of interest), and section 10177(g) (negligence in representing the interest of the principal in activity for which a real estate license is required) of the Business and Professions Code. On said date, complainant also filed Amended Accusation No. H-908 FRESNO, incorporated herein by reference, against respondents (and other individuals), charging respondents with violations of section 10177(g) and (h), and section 10177(d) of the Business and Professions Code in conjunction with regulations 2725, 2832, 2831, and section 10148 of the Business and Professions Code; and violations of sections 10176(a), 10176(i), and/or section 10177(g), and section 10177(d) of said Code in conjunction with regulation 2795(a)(9). On June 8, 1988, complainant filed Amended Accusation No. H-895 FRESNO, incorporated herein by reference, against respondents (and other individuals), charging them with violations of section 10177(d) in conjunction with section 11018.2 of the Business and Professions Code.

### III

Respondents do not admit the truth of the allegations contained in the above amended accusations. Pursuant to stipulation, however, said allegations may be used as the basis for revoking respondent Ben Arthur Ennis' real estate brokers license and as the basis for revoking, with the right to apply for a restricted real estate brokers license, the corporate real estate broker license of respondent Ennis Realty, Inc., as set forth in the following order.

### ORDER

#### I

#### BEN ARTHUR ENNIS

All real estate licenses and licensing rights issued to respondent Ben Arthur Ennis by the Department of Real Estate are revoked.

#### II

#### ENNIS REALTY, INC.

All corporate real estate licenses and licensing rights issued to respondent Ennis Realty, Inc., by the Department of Real Estate are revoked; provided, however, a restricted real estate license shall be issued to said respondent pursuant to section 10156.5 of the Business and Professions Code if said respondent makes application therefor prior to or within 90 days of the effective date of this decision using the form provided by the Department and paying the appropriate fee. The restricted license issued to said respondent shall be issued for four years and 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 that code and the parties' stipulation herein:

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 report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and period summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

### III

If respondent Ennis Realty, Inc., makes application for full reinstatement of its corporate real estate broker license after one year has elapsed from the date of issuance of its restricted license, the Department agrees not to raise the issue of restitution to Ronald L. Jenkins in determining whether to reinstate the license.

This decision shall be published by the Commissioner in the quarterly bulletin of the Department of Real Estate, authorized by section 10083 of the Business and Professions Code, however, the

Department shall not issue a press release concerning this decision. The Department shall comply with and be free to answer all inquiries regarding the public record in this matter respecting this decision.

No restricted license shall be issued to respondent Ennis Realty, Inc., prior to payment of restitution to Union Oil Company in the amount of \$5,000.

Dated: \_\_\_\_\_

*July 27, 1990*

*John D. Wagner*  
\_\_\_\_\_  
JOHN D. WAGNER

Administrative Law Judge

Office of Administrative Hearings