

FILED
JUN 07 2006

DEPARTMENT OF REAL ESTATE

By Jean Arum

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-1204 SA
JENNY ELAINE MC LEAN,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On August 6, 1992, 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 or about February 16, 1993
and Respondent has operated as a restricted licensee without
cause for disciplinary action against Respondent since that
time.

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1 On January 29, 1998, Respondent petitioned for
2 reinstatement of her real estate broker license. An Order
3 Denying Reinstatement was issued on October 20, 1998. Said
4 Order denied Respondent's petition application pursuant to
5 Section 2911(a), Title 10, Chapter 6, California Code of
6 Regulations (Regulations).
7

8 On or about November 21, 2005, Respondent again
9 petitioned for reinstatement of her real estate broker license
10 and the Attorney General of the State of California has been
11 given notice of the filing of said petition.

12 I have considered the petition of Respondent and
13 the evidence and arguments in support thereof. Respondent
14 has demonstrated to my satisfaction that Respondent meets
15 the requirements of law for the issuance to Respondent of
16 an unrestricted real estate broker license and that it would
17 not be against the public interest to issue said license to
18 Respondent.

19 NOW, THEREFORE, IT IS ORDERED that Respondent's
20 petition for reinstatement is granted and that a real estate
21 broker license be issued to Respondent if Respondent satisfies
22 the following conditions within nine (9) months from the date
23 of this Order:

24 1. Submittal of a completed application and payment
25 of the fee for a real estate broker license.

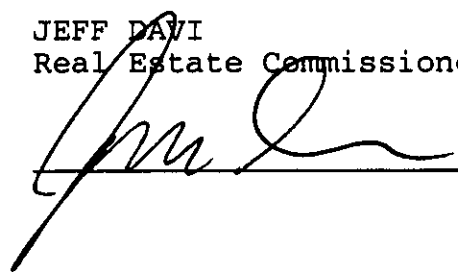
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2 2. Submittal of evidence of having, since the most
3 recent issuance of an original or renewal real estate license,
4 taken and successfully completed the continuing education
5 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
6 for renewal of a real estate license.

7 This Order shall become effective immediately.

8 DATED: _____

9 JEFF DAVI
10 Real Estate Commissioner
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25 cc: Jenny E. McLean
26 1048 N. Andreas Palms
27 Palm Springs, CA 92264

By K. Niederholt

STATE OF CALIFORNIA

* * * *

ORDER DENYING REINSTATEMENT OF LICENSE

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that she has

1 undergone sufficient rehabilitation to warrant the
2 reinstatement of her real estate broker license at this time.
3 This determination has been made in light of Respondent's
4 history of acts and conduct which are substantially related
5 to the qualifications, functions and duties of a real estate
6 licensee. That history includes:

7 I

8 In the Decision and Order which revoked her real
9 estate broker's license effective August 31, 1992, there was a
10 Determination of Issues made that there was sufficient cause
11 to revoke the license of Respondent pursuant to Section
12 10177(d) of the California Business and Professions Code
13 (Code) for her violations of Section 10145 of the Code and
14 Sections 2831, 2831.1, 2831.2 and 2832.1 of Title 10, Chapter
15 6 of the California Code of Regulations (Regulations). Later,
16 in a Decision and Order effective April 2, 1996, in Case No.
17 H- 1844 SA, Respondent's license was suspended for a period
18 of 60 days (stayed upon her payment of \$2500.00 to the Real
19 Estate Recovery Fund and payment of \$797.44 to a former
20 tenant named Joseph Wilson) based upon a Determination of
21 Issues that Respondent had been in violation of Section 10137
22 of the Code.

23 II

24 Due to very serious nature of these previous
25 violations not enough time has passed to establish that
26 Respondent is now fully rehabilitated. This is cause to deny
27 her petition pursuant to Section 2911(a) of the Regulations.

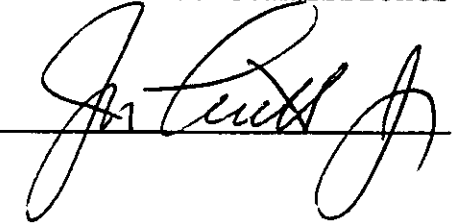


1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of her real estate broker's
3 license is denied.

4 This Order shall become effective at 12
5 o'clock noon on November 17, 1998.

6 DATED; 10/20/98
7

8
9 JIM ANTT, JR.
10 Real Estate Commissioner

11 
12

13 JENNY ELAINE MCLEAN
14 1048 N. Andreas Palms
15 Palm Springs, California 92264
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SAC

AUG 20 1992

DEPARTMENT OF REAL ESTATE

BY C. Berry

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-1204 SA
JENNY ELAINE McLEAN,) L-55208
Respondent.)

ORDER STAYING EFFECTIVE DATE

On August 6, 1992, a Decision was rendered in the above-entitled matter to become effective August 31, 1992.

IT IS HEREBY ORDERED that the effective date of the Decision of August 6, 1992, is stayed for a period of 30 days.

The Decision of August 6, 1992, shall become effective at 12 o'clock noon on September 30, 1992.

DATED: August 20 1992

CLARK WALLACE
Real Estate Commissioner

By: Randolph Brendia
RANDOLPH BRENDIA
Regional Manager
by Steven J. Ellis by S.E.

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012

4 Telephone: (213) 897-3937

FILED

AUG 11 1992

DEPARTMENT OF REAL ESTATE

BY C. Bay

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of) DRE No. H-1204 SA
13 JENNY ELAINE McLEAN,) OAH No. L-55208
14 Respondent.)

15 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

16 I

17 STIPULATION

18 It is hereby stipulated by and between Respondent JENNY
19 ELAINE McLEAN (herein "McLEAN"), and the Complainant acting by and
20 through James L. Beaver, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of
22 the Accusation filed on June 27, 1991, in this matter as amended
23 on February 26, 1992 (hereinafter "the Accusation"):

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1
2 A. All issues which were to be contested and all
3 evidence which was to be presented by Complainant and Respondent
4 at a formal hearing on the Accusation, which hearing was to be
5 held in accordance with the provisions of the Administrative
6 Procedure Act (APA), shall instead and in place thereof be
7 submitted solely on the basis of the provisions of this
8 Stipulation.

9 B. Respondent has received, read and understands the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate in this
12 proceeding.

13 C. On July 16, 1991, Respondent filed a Notice of
14 Defense pursuant to Section 11505 of the Government Code for the
15 purpose of requesting a hearing on the allegations in the
16 Accusation. Respondent hereby freely and voluntarily withdraws
17 said Notice of Defense. Respondent acknowledges that Respondent
18 understands that by withdrawing said Notice of Defense, Respondent
19 will thereby waive Respondent's right to require the Commissioner
20 to prove the allegations in the Accusation at a contested hearing
21 held in accordance with the provisions of the APA and that
22 Respondent will waive other rights afforded to Respondent in
23 connection with the hearing such as the right to present evidence
24 in defense of the allegations in the Accusation and the right to
25 cross-examine witnesses.

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2 D. Respondent admits the factual allegations in
3 Paragraphs I through VIII, inclusive, of the Accusation and
4 stipulates, subject to the limitations set forth below, that the
5 Real Estate Commissioner shall not be required to provide further
6 evidence of such allegations.

7 E. It is understood by the parties that the Real
8 Estate Commissioner may adopt the Stipulation And Agreement In
9 Settlement and Order as his decision in this matter thereby
10 imposing the penalty and sanctions on Respondent's real estate
11 licenses and license rights as set forth in the "Order" below. In
12 the event that the Commissioner in his discretion does not adopt
13 the Stipulation And Agreement In Settlement and Order, the
14 Stipulation And Agreement In Settlement and Order shall be void
15 and of no effect, and Respondent shall retain the right to a
16 hearing and proceeding on the Accusation under all the provisions
17 of the APA and shall not be bound by any admission or waiver made
18 herein.

19 F. The Order or any subsequent Order of the Real
20 Estate Commissioner made pursuant to this Stipulation shall not
21 constitute an estoppel, merger or bar to any further
22 administrative or civil proceedings by the Department of Real
23 Estate with respect to any matters which were not specifically
24 alleged to be causes for accusation in this proceeding.

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2 II

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and
5 waivers and solely for the purpose of settlement of the pending
6 Accusation without a hearing, it is stipulated and agreed that the
7 following determination of Issues shall be made:

8 A. The acts and omissions of Respondent described in Paragraph
9 VIII of the Accusation violated the Code and Regulations as
10 set forth below:

11 SUB
12 PARAGRAPH

PROVISION
13 VIOLATED

14 VIII (a) Sec. 10145 (d) of the Code;
15 VIII (b) Sec. 2831 of the Regulations;
16 VIII (c) Sec. 2831.1 of the Regulations;
17 VIII (d) Sec. 2831.2 of the Regulations;
18 VIII (e) Sec. 2832.1 of the Regulations.

19 Each of the foregoing violations separately constitutes cause
20 for the suspension or revocation of all licenses and license
21 rights of Respondent McLEAN under the provisions of Section
22 10177 (d) of the Code.

23 III

24 ORDER

25 WHEREFORE, THE FOLLOWING ORDER is hereby made:

26 A. JENNY ELAINE McLEAN

- 27 1. The license and license rights of Respondent JENNY
ELAINE McLEAN under the provisions of Part 1 of Division 4 of the
Business and Professions Code are hereby revoked;
2. A restricted real estate broker license shall be
issued to Respondent McLEAN if, within 90 days after the effective

1
2 date of the Decision entered herein said Respondent:

- 3 (a) Makes application for said license and pays to the Department
4 of Real Estate the appropriate fee for said license; and
5 (b) Submits proof satisfactory to the Real Estate Commissioner
6 that Respondent has disbursed the sum of \$5,256.44 in
7 interest accrued on entrusted funds to the persons or
8 entitites entitled thereto.

9 3. The restricted license issued to Respondent McLEAN
10 shall be suspended for the sixty (60) day period commencing upon
11 issuance thereof. However, up to 60 days of the 60-day suspension
12 period shall be permanently stayed if, prior to the effective date
13 of the Decision herein, said Respondent petitions pursuant to
14 Section 10175.2 of the Code and pays to the Real Estate Recovery
15 Account \$83.33 for each day stayed for a maximum of \$5,000.00. The
16 adoption of this provision in the Decision of the Real Estate
17 Commissioner shall constitute a determination that it would not be
18 against the public interest to permit said Respondent to pay a
19 monetary penalty. Payment of the monetary penalty shall be by
20 certified or cashier's check made payable to the Department of
21 Real Estate.

22 4. The restricted license issued to Respondent McLEAN
23 shall be subject to all of the provisions of Section 10156.7 of
24 the Business and Professions Code and to the following
25 limitations, conditions and restrictions imposed under authority
26 of Section 10156.6 of the Code:

- 27 (a) For so long as said restricted license shall remain in
28 effect, Respondent shall submit to the Department of Real
29 Estate a Quarterly Trust Funds Position Statement as of the
30 last day of each fiscal quarter. The Position Statement shall
31 cover all trust funds subject to the provisions of Section
32 10145 of the Code held by Respondent as agent or as trustee.
33 The Position Statement shall be submitted to the District

1 Manager of the Department's Santa Ana office not later than
2 60 days following the last day of each such calendar quarter.

3 (b) Respondent shall, within six (6) months after the effective
4 date of the Decision herein, take and pass the Professional
5 Responsibility Examination administered by the Department
6 including the payment of the appropriate examination fee. If
7 Respondent fails to satisfy this condition, the Commissioner
8 may order suspension of the restricted license until
9 Respondent passes the examination.

10 (c) Respondent shall, within six (6) months after the effective
11 date of the Decision herein, present evidence satisfactory to
12 the Real Estate Commissioner that Respondent has, since the
13 most recent issuance to Respondent of a real estate broker
14 license, 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. If
17 Respondent fails to satisfy this condition, the Commissioner
18 may order the suspension of the restricted license until the
19 Respondent presents such evidence. The Commissioner shall
20 afford Respondent the opportunity for a hearing pursuant to
21 the Administrative Procedure Act to present such evidence.

22 (d) The restricted license may be suspended, prior to a hearing
23 by Order of the Real Estate commissioner, in the event of
24 Respondent's conviction or plea of nolo contendere to a crime
25 which bears a substantial relation to Respondent's fitness or
26 capacity as a real estate licensee, or upon receipt of
27 evidence satisfactory to the Real Estate Commissioner that
28 Respondent has violated provisions of the Real Estate Law of
29 the State of California, the Subdivided Lands Act, the Real
30 Estate Regulations of the State of California, or any of the
31 conditions attached to the restricted license.

32 (e) Respondent shall not be eligible to apply for the issuance of
33 an unrestricted real estate license nor the removal of any of
34 the restrictions, conditions or limitations set forth herein
35 until one (1) year has elapsed from the date of issuance of
36 the restricted license to Respondent.

37 B. QUARTERLY TRUST FUND REPORTS

38 Each Trust Fund Position Statement referred to in this
39 Order shall include the information and documents specified herein
40 and be verified as true and accurate by the reporting Respondent
41 under penalty of perjury. If such Respondent has no trust fund
42 liability as of the last day of the fiscal quarter, the Position
43 Statement shall so state.

44 1. The Position Statement shall consist of the
45 following information covering the Respondent's fiscal quarter for
46 each trust fund bank account:

- 1 (a) A statement identifying the account number and the name and
2 address of each trust fund depository.
- 3 (b) A schedule of trust fund accountability as of the last day of
4 the Respondent's fiscal quarter which states the trust fund
5 liability relating to each beneficiary or transaction and
6 states the aggregate trust fund liability as of that day.
- 7 (c) A statement explaining any discrepancy as of the last day of
8 the fiscal quarter between the aggregate trust fund liability
9 and the balance of the trust fund bank account adjusted for
10 any uncleared checks drawn on the account.

11 2. The position statement shall be accompanied by the
12 following supporting documentation covering the fiscal quarter for
13 each trust fund bank account:

- 14 (a) A copy of the bank statement covering the last day of the
15 fiscal quarter, a schedule of uncleared checks drawn on the
16 account as of that day, and a schedule of uncleared deposits
17 as of that day.
- 18 (b) For each trust fund bank account, a copy of the record of
19 reconciliations covering the fiscal quarter generated in
20 compliance with Section 2831.2 of the Regulations.

21 IV

22 EXECUTION OF STIPULATION

23 I have read the Stipulation And Agreement In Settlement
24 and its terms are understood by me and are agreeable and
25 acceptable to me. I understand that I am waiving rights given to
26 me by the California Administrative Procedure Act (including but
27 not limited to Sections 11506, 11508, 11509 and 11513 of the
Government Code), and I willingly, intelligently and voluntarily
waive those rights, including the right of requiring the
Commissioner to prove the allegations in the Accusation at a
hearing at which I would have the right to cross-

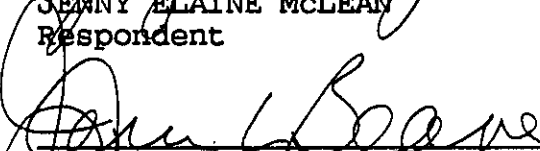
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2 examine witnessess against me and to present evidence in defense
3 and mitigation of the charges.

4 DATED: 7/23/92


JENNY ELAINE MCLEAN
Respondent

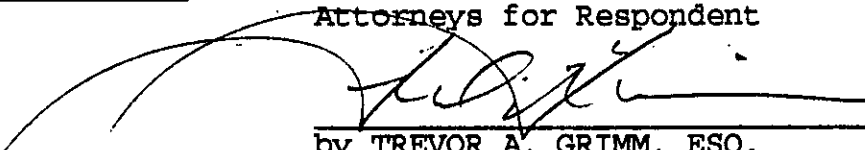
6 DATED: 7/23/92


JAMES L. BEAVER, Counsel
Department of Real Estate

8 APPROVED AS TO FORM.

9 DATED: 7-23-92

KAPLANIS AND GRIMM
Attorneys for Respondent


by TREVOR A. GRIMM, ESQ.

13 V

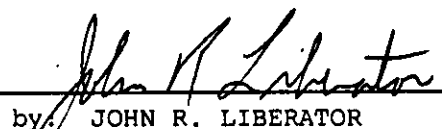
14 DECISION

15 The foregoing Stipulation And Agreement In Settlement
16 and Order is hereby adopted as the Decision and Order of the Real
17 Estate Commissioner in the above entitled matter.

18 This Decision shall become effective at 12 o'clock noon
19 on August 31, 1992.

20 IT IS SO ORDERED: August 6, 1992

22 CLARK WALLACE
Real Estate Commissioner

23
24 
25 by JOHN R. LIBERATOR
26 Chief Deputy Commissioner
27

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FILED

BEFORE THE DEPARTMENT OF REAL ESTATE JUN 30 1992
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY C. Beav

In the Matter of the Accusation of

JENNY ELAINE MCLEAN,

} Case No. H-1204 SA

} OAH No. L-55208

Respondent

RESUMED
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, 314 W. First Street, Los Angeles, CA 90012

on Thursday, July 23, 1992, 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.

Dated: June 30, 1992

cc: Jenny Elaine McLean
Trevor Grimm, Esq.

✓ Sacto.

OAH

SR

RE 501 (1/92)

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel

ceb

Joe

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937

FILED

FEB 26 1992

DEPARTMENT OF REAL ESTATE
BY C. Bay

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1204 SA
12 JENNY ELAINE McLEAN,) AMENDMENT TO ACCUSATION
13)
14 Respondent.)
_____)

15 Complainant hereby amends the Accusation filed herein
16 June 27, 1991, by changing the date in paragraph VIII to read
17 "May 1, 1990" in place of May 1, 1991.
18 Dated at Santa Ana, California
19 this 26th day of February, 1992.
20

21 THOMAS MCCRADY
22 Deputy Real Estate Commissioner

23
24
25
26 cc: Jenny Elaine McLean
27 ✓ Sacto.
SR
OAH
L.A. Audits

500

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

FILED

JAN 27 1992

DEPARTMENT OF REAL ESTATE

BY C. Berg

In the Matter of the Accusation of

JENNY ELAINE McLEAN,

Case No. H-1204 SA

OAH No. L-55208

Respondent(s)

**CONTINUED
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, 314 W. First Street, Los Angeles, CA 90012

on the 8th day of May, 1992, 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.

Dated: January 27, 1992

cc: Jenny Elaine McLean

✓ Sacto.
OAH
SR

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel

SAC

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

OCT 30 1991

DEPARTMENT OF REAL ESTATE

BY C. Berry

In the Matter of the Accusation of

JENNY ELAINE MCLEAN,

Case No. H-1204 SA

OAH No. L-55208

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 Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012

on the 4th day of May, 19 92, 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

BY James L. Beaver
JAMES L. BEAVER, Counsel

Dated: October 30, 1991

cc: Jenny Elaine McLean

✓ Sacto.

OAH

SR

SACTO
FLAG

James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012

(213) 620-4790

JUL 27 1991

DEPT. OF REAL ESTATE
BY *Sybil Weems*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of	)	H- 1204	SA
JENNY ELAINE McLEAN,	)	<u>ACCUSATION</u>	
Respondent.	)		

The Complainant, THOMAS C. McCRADY, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JENNY ELAINE McLEAN (hereinafter "McLEAN" or "Respondent") is informed and alleges as follows:

I

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 (hereinafter "the Code").

II

The Complainant, THOMAS C. McCRADY, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

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III

At all times herein mentioned, Respondent McLEAN was and now is licensed by the Department of Real Estate of the State of California (hereinafter the "Department") as a real estate broker.

IV

All further references herein to "Respondent" include Respondent McLEAN, and also include the employees, agents and real estate licensees employed by or associated with McLEAN and who at all times herein mentioned were engaged in the furtherance of the business or operations of McLEAN and who were acting within the course and scope of their authority and employment.

V

At all times mentioned herein Respondent engaged in the business of, acted in the capacity of, and assumed to act as a real estate broker as defined by Section 10131(b) of the Code, operating and conducting a property management business with the public wherein, for or in expectation of compensation, for another or others, Respondent offered to lease or rent, solicited for prospective tenants of, or collected rents from real property..

VI

At all times mentioned herein, in connection with Respondent's activities operating and conducting a property management business, as described above, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of the owners of real property, and thereafter made disposition of such funds. These trust funds were maintained in bank accounts, including but not necessarily limited to account

1 number 039-810652-1, an interest bearing account, and account 039-
2 813795-5 (hereinafter "the trust accounts"), located at Great
3 Western Bank, in the city of Palm Springs, California.
4

5 VII

6 On or about November 9 1990, the Department completed an
7 examination of the records pertaining to the property management
8 business and trust fund handling activities described in
9 Paragraphs V and VI, above, for the period from on or about May 1,
10 1990 through on or about October 15, 1990, which examination
11 revealed violations of the Code and Chapter 6, of Title 10,
12 California Code of Regulations (hereinafter "the Regulations") as
13 set forth below.

14 VIII

15 Between on or about May 1, 1991 and on or about October
16 15, 1990, in course of the property management business and trust
17 fund handling activities described in Paragraphs V and VI, above,
18 Respondent acted in violation of the Code and the Regulations in
19 that:

20 (a) Respondent placed funds belonging to many
21 beneficiaries into a single interest bearing account, the interest
22 bearing trust account identified above, failing thereby to keep
23 funds in the account belonging to each specified beneficiary
24 separate, distinct and apart from funds in such account belonging
25 to other beneficiaries;

26 (b) Respondent failed to maintain a formal book
27 receipts journal and a formal book disbursements journal or other
records of the receipt and disposition of said trust funds in the

1 manner prescribed by Section 2831 of the Regulations, in that the
2 record of trust funds received and disbursed by Respondent did not
3 set forth the date trust funds were deposited, or the daily
4 balance of the account of receipts and disbursements;
5

6 (c) Respondent failed to maintain adequate separate
7 records for each beneficiary or transaction, in columnar form,
8 showing the date of deposit, date of the checks, amount of
9 interest earned, and the balance of the account in the manner
10 required by Section 2831.1 of the Regulations;

11 (d) Respondent failed to perform a monthly
12 reconciliation of the receipt and disposition of all trust funds
13 received by Respondent against the balance of all separate
14 beneficiary or transaction records, as required by Section 2831.1
15 of the Regulations;

16 (e) Respondent caused or permitted the withdrawal or
17 disbursement of trust funds from the trust account, thereby
18 reducing the account balances to an amount which, on October 15,
19 1990, were approximately \$27,365.35 less than Respondent's
20 aggregate trust fund liability to all owners of the trust funds
21 without the prior written consent of all said owners.

22 IX

23 The acts and omissions of Respondent described in
24 Paragraph VIII, above, violated the Code and Regulations as set
25 forth below:

26 ///

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SUB
PARAGRAPH

PROVISION
VIOLATED

VIII(a)	Sec. 10145(d)	of the Code;
VIII(b)	Sec. 2831	of the Regulations;
VIII(c)	Sec. 2831.1	of the Regulations;
VIII(d)	Sec. 2831.2	of the Regulations;
VIII(e)	Sec. 2832.1	of the Regulations.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all licenses and license rights of Respondent McLEAN under the provisions of Section 10177(d) of the Code.

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 all licenses and license rights of Respondent 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 provisions of law.

THOMAS McCRADY

THOMAS C. McCRADY
Deputy Real Estate Commissioner

Dated at Santa Ana, California
this 27th day of June, 1991.