

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
JUN 23 2006

DEPARTMENT OF REAL ESTATE

By Amey Skawer

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-2337 SD

12 AJPROP.COM INC. and JAMES)
13 PATRICK BURRELL,)

14 Respondents.)

15 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: JAMES PATRICK BURRELL, Respondent

17 On March 23, 1998, a restricted real estate broker
18 license was issued by the Department of Real Estate to
19 Respondent on the terms, conditions and restrictions set forth
20 in the Real Estate Commissioner's Order of February 24, 1998,
21 in Case No. H-2337 SD. This Order provided that the right to a
22 restricted real estate broker license was subject to the
23 provisions of Section 10156.6 of the Business and Professions
24 Code (Code).

25 \\\

26 \\\

1 On April 21, 2006, in Case No. H-3497 SD, an
2 Accusation by a Deputy Real Estate Commissioner of the State of
3 California was filed charging Respondent with a violation of
4 Sections 10145 and 10177(d) of the Code and Sections 2832.1,
5 2832, and 2831 of Chapter 6, Title 10, California Code of
6 Regulations, for the suspension or revocation of all licenses
7 and license rights of Respondent under the Real Estate Law.

8 NOW, THEREFORE, IT IS ORDERED under authority of
9 Section 10156.7 of the Business and Professions Code of the
10 State of California that the restricted real estate broker
11 license heretofore issued to Respondent and the exercise of any
12 privileges thereunder is hereby suspended pending a final
13 determination made after the hearing on the aforesaid
14 Accusation.

15 IT IS FURTHER ORDERED that all license certificates
16 and identification cards issued by the Department of Real
17 Estate which are in possession of Respondent be immediately
18 surrendered by personal delivery or by mailing in the enclosed
19 self-addressed envelope to:

20 Department of Real Estate
21 ATTN: Flag Section
22 P.O. Box 187007
Sacramento, CA 95818-7007

23 This Order is effective at 12 o'clock noon on August
24 25, 2006.

25 DATED: 6-22-06

26 JEFF DAVIS
27 Real Estate Commissioner

FILED
APR 22 1998

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-2337 SD
JAMES PATRICK BURRELL,)	OAH No. L-1997070580
Respondent.)	

ORDER DENYING RECONSIDERATION

On February 24, 1998, a Decision was rendered adopting the Stipulation and Agreement in the above-entitled matter. The Decision as to Respondent JAMES PATRICK BURRELL only is to become effective April 22, 1998.

On March 23, 1998, Respondent JAMES PATRICK BURRELL petitioned for reconsideration of the Decision of February 24, 1998.

I have given due consideration to the petition of Respondent BURRELL. I find no good cause to reconsider the Decision of February 24, 1998 and reconsideration is hereby denied.

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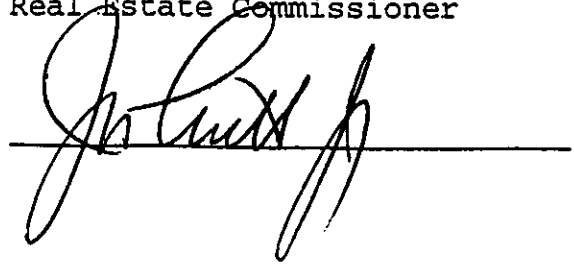
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IT IS HEREBY ORDERED

4/21

, 1998.

JIM ANTT, JR.
Real Estate Commissioner





FILED
MAR 23 1998
DEPARTMENT OF REAL ESTATE

Lucie A. Zair

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
CAROL DIANE BAKER and)
JAMES PATRICK BURRELL)
Respondents.)

NO. H-2337 SD
OAH NO. L-1997070580

ORDER STAYING EFFECTIVE DATE

On February 24, 1998, a Stipulation and Agreement was rendered in the above-entitled matter to become effective March 23, 1998.

IT IS HEREBY ORDERED that the effective date of the Stipulation and Agreement of February 24, 1998 as to Respondent JAMES PATRICK BURRELL only is stayed for a period of thirty (30) days.

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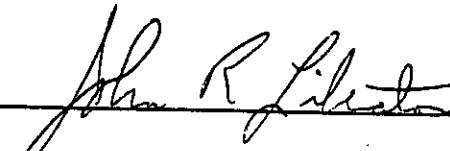
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1 The Stipulation and Agreement of February 24, 1998 as to
2 Respondent JAMES PATRICK BURRELL only shall become effective at
3 12 o'clock noon on April 22, 1998.

4 DATED: March 23, 1998

5 JIM ANTT, JR.
6 Real Estate Commissioner

7 
8
9 BY: John R. Liberator
10 Chief Deputy Commissioner
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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
MAR 3 1998
DEPARTMENT OF REAL ESTATE

Lucie A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-2337 SD
12)
12 CAROL DIANE BAKER and) OAH NO. L-1997070580
12 JAMES PATRICK BURRELL,)
13)
13 Respondents.) STIPULATION AND AGREEMENT
14)

15 It is hereby stipulated by and between Respondents
16 CAROL DIANE BAKER (hereinafter "BAKER") and JAMES PATRICK BURRELL
17 (hereinafter "BURRELL"), individually and by and through
18 DAVID S. BRIGHT, ESQ., attorney of record herein for Respondents
19 BAKER and BURRELL (hereinafter "Respondents"), and the
20 Complainant, acting by and through James L. Beaver, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on July 10, 1997 in
23 this matter (hereinafter "the Accusation"):

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondents
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

4 2. Respondents have received, read and understand the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department of Real Estate in this
7 proceeding.

8 3. On July 23, 1997, Respondents each filed a Notice
9 of Defense pursuant to Section 11505 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notices of Defense. Respondents acknowledge that Respondents
13 understand that by withdrawing said Notices of Defense Respondents
14 will thereby waive Respondents' right to require the Commissioner
15 to prove the allegations in the Accusation at a contested hearing
16 held in accordance with the provisions of the APA and that
17 Respondents will waive other rights afforded to Respondents in
18 connection with the hearing such as the right to present evidence
19 in defense of the allegations in the Accusation and the right to
20 cross-examine witnesses.

21 4. Respondents, pursuant to the limitations set forth
22 below, for purposes of these proceedings only, and any subsequent
23 proceedings to which the Department is a party, hereby admit that
24 the factual allegations in Paragraphs I through XIII of the
25 Accusation are true and correct and the Real Estate Commissioner
26 shall not be required to provide further evidence to prove such
27 allegations.

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CAROL DIANE BAKER and
JAMES PATRICK BURRELL

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

11 6. Except for any cause for Accusation against
12 Respondent BURRELL for violating Sections 10130, 10159.5, or 10163
13 of the California Business and Professions Code (hereinafter "the
14 Code"), or Sections 2731, 2830, 2830.1, 2831, 2831.1, 2831.2,
15 2832, 2832.1, or 2834 of Chapter 6, Title 10, California Code of
16 Regulations (hereinafter "the Regulations"), during the period
17 commencing January 1, 1995 and ending July 31, 1996, the Order or
18 any subsequent Order of the Real Estate Commissioner made pursuant
19 to this Stipulation and Agreement shall not constitute an
20 estoppel, merger or bar to any further administrative or civil
21 proceedings by the Department of Real Estate with respect to any
22 matters which were not specifically alleged to be causes for
23 accusation in this proceeding.

24 7. Respondent BAKER understands that by agreeing to
25 this Stipulation and Agreement, the findings set forth below in
26 the Determination Of Issues become final, and that the
27 Commissioner may charge Respondent BAKER for the costs of any

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 audit conducted pursuant to Section 10148 of the Code to determine
2 if the violations have been corrected. The maximum costs of said
3 audit will not exceed \$9,000.00.

4 DETERMINATION OF ISSUES

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

9 I

10 The acts and omissions of Respondent CAROL DIANE BAKER
11 described in Paragraphs VIII through XI, inclusive, of the
12 Accusation are grounds for the suspension or revocation of the
13 licenses and license rights of Respondent BAKER under the Code
14 and/or the Regulations:

15 (a) As to Paragraph VIII, under Section 10145 of the
16 Code and Section 2832.1 of the Regulations in conjunction with
17 Section 10177(d) of the Code;

18 (b) As to Paragraph IX(b), under Section 10145 of the
19 Code and Section 2830.1 of the Regulations in conjunction with
20 Section 10177(d) of the Code;

21 (c) As to Paragraph IX(c), under Section 2831 of the
22 Regulations in conjunction with Section 10177(d) of the Code;

23 (d) As to Paragraph IX(d), under Section 2831.1 of the
24 Regulations in conjunction with Section 10177(d) of the Code;

25 (e) As to Paragraph IX(e) under Section 2831.2 of the
26 Regulations in conjunction with Section 10177(d) of the Code;

27 ///

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 (f) As to Paragraph IX(f), under Section 10145(a) of
2 the Code and Section 2832 of the Regulations in conjunction with
3 Section 10177(d) of the Code;

4 (g) As to Paragraph X(b), under Section 10163 of the
5 Code in conjunction with Sections 10165 and 10177(d) of the Code;
6 and

7 (h) As to Paragraph XI, under Section 10177(h) of the
8 Code.

9 II

10 The acts and omissions of Respondent JAMES PATRICK
11 BURRELL described in Paragraphs XII and XIII of the Accusation are
12 grounds for the suspension or revocation of the licenses and
13 license rights of Respondent BURRELL under the provisions of
14 Section 10130 of the Code in conjunction with Section 10177(d) of
15 the Code.

16 ORDER

17 I

18 All licenses and licensing rights of Respondent CAROL
19 DIANE BAKER under the Real Estate Law are revoked; provided,
20 however, a restricted real estate broker license shall be issued
21 to said Respondent pursuant to Section 10156.5 of the Business and
22 Professions Code if, within ninety (90) days from the effective
23 date of the Decision entered pursuant to this Order (hereinafter
24 "the Decision"):

25 (a) Respondent provides proof satisfactory to the Real
26 Estate Commissioner that, as of December 31, 1997, there is on
27 deposit in one or more trust bank accounts for the use and benefit

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CAROL DIANE BAKER and
JAMES PATRICK BURRELL



1 of all owners of funds entrusted to said Respondent an amount or
2 amounts equal to the individual and aggregate trust fund liability
3 of said Respondent to such owners; and

4 (b) Respondent makes application for the restricted
5 license and pays to the Department of Real Estate the appropriate
6 fee therefor.

7 The restricted license issued to Respondent shall be
8 subject to all of the provisions of Section 10156.7 of the
9 Business and Professions Code and to the following limitations,
10 conditions and restrictions imposed under authority of Section
11 10156.6 of that Code:

12 1. The restricted license issued to Respondent may be
13 suspended prior to hearing by Order of the Real Estate
14 Commissioner in the event of Respondent's conviction or plea of
15 nolo contendere to a crime which is substantially related to
16 Respondent's fitness or capacity as a real estate licensee.

17 2. The restricted license issued to Respondent may be
18 suspended prior to hearing by Order of the Real Estate
19 Commissioner on evidence satisfactory to the Commissioner that
20 Respondent has violated provisions of the California Real Estate
21 Law, the Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner or conditions attaching to the restricted license.

23 3. Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license nor for the
25 removal of any of the conditions, limitations or restrictions of a
26 restricted license until one (1) year has elapsed from the
27 effective date of this Decision.

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CAROL DIANE BAKER and
JAMES PATRICK BURRELL



1 4. Respondent shall, within nine (9) months from the
2 issuance of the restricted license, present evidence satisfactory
3 to the Real Estate Commissioner that Respondent has, since the
4 most recent issuance of an original or renewal real estate
5 license, taken and successfully completed the continuing education
6 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
7 for renewal of a real estate license. If Respondent fails to
8 satisfy this condition, the Commissioner may order the suspension
9 of the restricted license until the Respondent presents such
10 evidence. The Commissioner shall afford Respondent the
11 opportunity for a hearing pursuant to the Administrative Procedure
12 Act to present such evidence.

13 5. Respondent shall, within six (6) months from the
14 issuance of the restricted license, take and pass the Professional
15 Responsibility Examination administered by the Department
16 including the payment of the appropriate examination fee. If
17 Respondent fails to satisfy this condition, the Commissioner may
18 order the suspension of the restricted license until Respondent
19 passes the examination.

20 6. Pursuant to Section 10148 of the Business and
21 Professions Code, Respondent shall pay the Commissioner's
22 reasonable cost, not exceeding \$9,000.00, for an audit to
23 determine if Respondent has corrected the trust fund violation(s)
24 found in paragraph I of the Determination of Issues. In
25 calculating the amount of the Commissioner's reasonable cost, the
26 Commissioner may use the estimated average hourly salary for all
27 persons performing audits of real estate brokers, and shall

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CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 include an allocation for travel time to and from the auditor's
2 place of work. Respondent shall pay such cost within 45 days of
3 receiving an invoice from the Commissioner detailing the
4 activities performed during the audit and the amount of time spent
5 performing those activities. The Commissioner may suspend the
6 restricted license issued to respondent pending a hearing held in
7 accordance with Section 11500, et seq., of the Government Code, if
8 payment is not timely made as provided for herein, or as provided
9 for in a subsequent agreement between the Respondent and the
10 Commissioner. The suspension shall remain in effect until payment
11 is made in full or until Respondent enters into an agreement
12 satisfactory to the Commissioner to provide for payment, or until
13 a decision providing otherwise is adopted following a hearing held
14 pursuant to this condition.

15 7. Any restricted real estate broker license issued to
16 Respondent may be suspended or revoked for a violation by
17 Respondent of any of the conditions attaching to the restricted
18 license.

19 II

20 All licenses and licensing rights of Respondent
21 JAMES PATRICK BURRELL under the Real Estate Law are revoked;
22 provided, however, a restricted real estate broker license shall
23 be issued to said Respondent pursuant to Section 10156.5 of the
24 Business and Professions Code if, within ninety (90) days from the
25 effective date of the Decision entered pursuant to this Order:

26 ///

27 ///

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 (a) Respondent provides proof satisfactory to the Real
2 Estate Commissioner that, as of December 31, 1997, there is on
3 deposit in one or more trust bank accounts for the use and benefit
4 of all owners of funds entrusted to said Respondent an amount or
5 amounts equal to the individual and aggregate trust fund liability
6 of said Respondent to such owners; and

7 (b) Respondent makes application for the restricted
8 license and pays to the Department of Real Estate the appropriate
9 fee therefor.

10 The restricted license issued to Respondent shall be
11 subject to all of the provisions of Section 10156.7 of the
12 Business and Professions Code and to the following limitations,
13 conditions and restrictions imposed under authority of Section
14 10156.6 of that Code:

15 1. Any restricted real estate license issued to
16 Respondent pursuant to the Decision entered pursuant to this Order
17 shall be suspended for thirty (30) days from the date of issuance
18 of said restricted license; provided however, that if Respondent
19 petitions, said suspension (or a portion thereof) shall be stayed
20 upon condition that Respondent pays a monetary penalty pursuant to
21 Section 10175.2 of the Code at the rate of \$100.00 for each day of
22 the suspension for a total monetary penalty of \$3,000.00, and upon
23 condition that no further cause for disciplinary action against
24 the real estate license of Respondent occurs within one year from
25 the effective date of the Decision in this matter. Any stay
26 granted pursuant to this paragraph shall be subject to the
27 following terms:

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 (a) Said monetary penalty payment shall be in the form
2 of a cashier's check or certified check made payable to the
3 Recovery Account of the Real Estate Fund. Said check must be
4 delivered to the Department prior to the effective date of the
5 Decision in this matter.

6 (b) The Commissioner may, if a final subsequent
7 determination is made, after hearing or upon stipulation, that
8 cause for disciplinary action occurred during the one (1) year
9 period following the effective date of the Decision in this
10 matter, vacate and set aside the stay and order the immediate
11 execution of all or any part of the stayed suspension, in which
12 event the Respondent shall not be entitled to any repayment nor
13 credit, prorated or otherwise, for money paid to the Department
14 under the terms of this Order.

15 (c) If Respondent pays the monetary penalty and if no
16 order vacating the stay is made pursuant to Paragraph (b), above,
17 the stay granted pursuant to this Decision shall become permanent.

18 2. The restricted license issued to Respondent may be
19 suspended prior to hearing by Order of the Real Estate
20 Commissioner in the event of Respondent's conviction or plea of
21 nolo contendere to a crime which is substantially related to
22 Respondent's fitness or capacity as a real estate licensee.

23 3. The restricted license issued to Respondent may be
24 suspended prior to hearing by Order of the Real Estate
25 Commissioner on evidence satisfactory to the Commissioner that
26 Respondent has violated provisions of the California Real Estate

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H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL



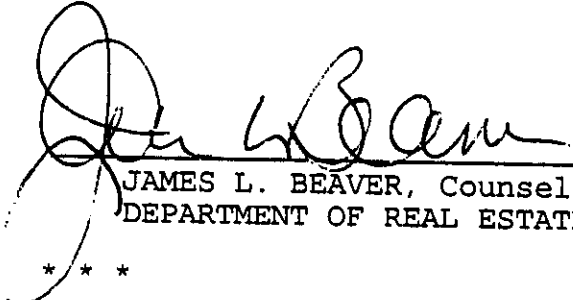
1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 4. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of a
6 restricted license until one (1) year has elapsed from the
7 effective date of this Decision.

8 5. Respondent shall, within six (6) months from the
9 issuance of the restricted license, take and pass the Professional
10 Responsibility Examination administered by the Department
11 including the payment of the appropriate examination fee. If
12 Respondent fails to satisfy this condition, the Commissioner may
13 order the suspension of the restricted license until Respondent
14 passes the examination.

15 6. Any restricted real estate broker license issued to
16 Respondent may be suspended or revoked for a violation by
17 Respondent of any of the conditions attaching to the restricted
18 license.

19 February 9, 1998
20 DATED

21 
22 JAMES L. BEAVER, Counsel
DEPARTMENT OF REAL ESTATE

23 I have read the Stipulation and Agreement and have
24 discussed its terms with my attorney and its terms are understood
25 by me and are agreeable and acceptable to me. I understand that
26 I am waiving rights given to me by the California Administrative
27 Procedure Act (including but not limited to Sections 11506,

H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

1 11508, 11509, and 11513 of the Government Code), and I willingly,
2 intelligently, and voluntarily waive those rights, including the
3 right of requiring the Commissioner to prove the allegations in
4 the Accusation at a hearing at which I would have the right to
5 cross-examine witnesses against me and to present evidence in
6 defense and mitigation of the charges.

7 1/21/98
8 DATED

Carol Diane Baker
CAROL DIANE BAKER
Respondent

9
10 1/29/98

11 DATED

James Patrick Burrell
JAMES PATRICK BURRELL
Respondent

12
13 I have reviewed the Stipulation and Agreement as to form
14 and content and have advised my clients accordingly.

15 2-2-98
16 DATED

David S. Bright
DAVID S. BRIGHT, ESQ.
Attorney for Respondents

17 * * *

18
19 The foregoing Stipulation and Agreement for Settlement
20 is hereby adopted by the Real Estate Commissioner as his Decision
21 and Order and shall become effective at 12 o'clock noon on

22 March 23, 1998.

23 IT IS SO ORDERED 2/24, 1998.

24 JIM ANTT, JR.
Real Estate Commissioner

Carol Diane Baker and James Patrick Burrell

25
26
27 H-2337 SD

CAROL DIANE BAKER and
JAMES PATRICK BURRELL

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 10 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CAROL DIANE BAKER, and
JAMES PATRICK BURRELL,

}

Case No. H-2337 SD

OAH No. L-1997070580

By Laurie A. Zain

Respondent

FIRST AMENDED
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 the
Office of Administrative Hearings, 1350 Front Street, Room 6022,
San Diego, CA 92101

on Tuesday and Wednesday, January 20 & 21, 1998, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: October 10, 1997

DEPARTMENT OF REAL ESTATE

By

James L. Beaver
JAMES L. BEAVER

Counsel

FILED
AUG 12 1997

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

In the Matter of the Accusation of

CAROL DIANE BAKER, and
JAMES PATRICK BURRELL,

Case No. H-2337 SD

OAH No. L-1997070580

Respondent

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 the
Office of Administrative Hearings, 1350 Front Street, Room 6022,
San Diego, CA 92101

on Thursday and Friday, October 9 & 10, 1997, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: August 12, 1997

DEPARTMENT OF REAL ESTATE

By

James L. Beaver
JAMES L. BEAVER

Counsel

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)
7

FILED
JUL 10 1997
DEPARTMENT OF REAL ESTATE

Laurie A. Zane

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

11 In the Matter of the Accusation of)
12 CAROL DIANE BAKER, and)
13 JAMES PATRICK BURRELL,)
14 Respondents.)

NO. H-2337 SD

ACCUSATION

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against CAROL DIANE BAKER (hereinafter "BAKER") and JAMES PATRICK
18 BURRELL (hereinafter "BURRELL"), is informed and alleges as
19 follows:

20 I

21 The Complainant, J. Chris Graves, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 his official capacity.

24 II

25 At all times herein mentioned, Respondents were and now
26 are licensed and/or have license rights under the Real Estate Law

27 ///

1 (Part 1 of Division 4 of the Business and Professions Code)
2 (hereinafter "the Code").

3 III

4 At all times herein mentioned, Respondent BAKER was and
5 now is licensed by the Department of Real Estate of the State of
6 California as a real estate broker.

7 IV

8 At all times herein mentioned to and until March 26,
9 1997, Respondent BURRELL was licensed by the Department as a real
10 estate salesperson in the employ of Respondent BAKER. At all
11 times herein mentioned from and after March 26, 1997, Respondent
12 BURRELL was and now is licensed by the Department of Real Estate
13 of the State of California as a real estate broker.

14 V

15 At all times herein mentioned, Respondents engaged in
16 the business of, acted in the capacity of, advertised, or assumed
17 to act as real estate brokers within the State of California
18 within the meaning of Section 10131(b) of the Code, including the
19 operation and conduct of a property management business with the
20 public wherein, on behalf of others, for compensation or in
21 expectation of compensation, Respondents leased or rented and
22 offered to lease or rent, and placed for rent, and solicited
23 listings of places for rent, and solicited for prospective tenants
24 of real property or improvements thereon, and collected rents from
25 real property or improvements thereon.

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VI

In so acting as real estate brokers, as described in Paragraph V above, Respondents accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said funds.

VII

Said trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts (hereinafter "trust fund accounts") maintained by Respondents for the handling of trust funds, including but not necessarily limited to:

(a) The "A & J Property Management" account, Account Number 0838-020204, maintained by Respondents at the San Diego, California, branch of Wells Fargo Bank (hereinafter "Trust Account #1");

(b) The "James Burrell Alicia Burrell dba A & J Property Management Client Trust" account, Account Number 6838-739365, maintained by Respondents at the San Diego, California, branch of Wells Fargo Bank (hereinafter "Trust Account #2"); and

(c) the "James Burrell or Alicia Burrell dba A & J Property Management Trust" account, Account Number 0502753525, maintained by Respondents at the San Diego, California, branch of Pacific Crest Investment and Loan (hereinafter "Trust Account #3").



VIII

Between on or about March 1, 1996 and July 31, 1996, in connection with the collection and disbursement of said trust funds, Respondent BAKER caused, suffered or permitted the balance of funds in the said trust fund accounts to be reduced to an amount which, as of July 30, 1996, was approximately \$9,704.42 less than the aggregate liability of Respondent to all owners of such funds, without the prior written consent of the owners of such funds.

IX

Between on or about March 1, 1996 and July 31, 1996, in connection with the collection and disbursement of said trust funds in said trust fund accounts, Respondent BAKER:

(a) Failed to deposit trust funds entrusted to Respondents into a trust fund account in the name of Respondent BAKER as trustee at a bank or other financial institution, in conformance with Section 2830 of Title 10, California Code of Regulations (hereinafter "the Regulations"), in that Respondent BAKER deposited such funds into Trust Accounts #1, #2, and #3, which accounts were not maintained in the name of Respondent BAKER as trustee;

(b) Failed to conform to the requirements of Section 10145(d) of the Code with respect to the deposit and maintenance of trust funds belonging to several different principals in Trust Accounts #2 and #3, both interest-bearing accounts, in that Trust Accounts #2 and #3 were not in the name of Respondent BAKER as trustee, and Respondent BAKER failed to keep funds in the interest

1 bearing-account belonging to each principal separate, distinct and
2 apart from funds belonging to Respondent BAKER and funds belonging
3 to other persons for whom Respondent BAKER held funds in trust;

4 (c) Failed to keep a record in columnar form of all
5 trust funds deposited into and disbursed from Trust Accounts #1,
6 #2, and #3, as required by Section 2831 of the Regulations;

7 (d) Failed to maintain a separate record for each
8 beneficiary or transaction, accounting therein for all said trust
9 funds received, deposited into, and disbursed from Trust Accounts
10 #1, #2, and #3, in the manner required by Regulation 2831.1;

11 (e) Failed to reconcile, at least once a month, the
12 balance of all separate beneficiary or transaction records with
13 the record of all trust funds received into and disbursed from
14 Trust Accounts #1, #2, and #3;

15 (f) Failed to comply with the requirements of Section
16 10145(a) of the Code and Section and Section 2832 of the
17 Regulations with respect to the timely deposit of trust funds in
18 Trust Accounts #1 and #2, in that Respondent BAKER failed to place
19 trust funds received on behalf of another into the hands of the
20 owner of the funds, into a neutral escrow depository, or into a
21 trust fund account prior to the end of the next business day
22 following receipt of the funds by Respondent BAKER or by
23 Respondent's salesperson;

24 (g) Caused, suffered or permitted Alicia Burrell, an
25 unlicensed employee without any fidelity bond coverage, to make
26 withdrawals from Trust Accounts #1, #2, and #3, in violation of
27 the provisions of Section 3834(b) of the Regulations.



1 (h) Caused, suffered or permitted Respondent BAKER's
2 own money to be deposited into Trust Accounts #1, #2, and #3,
3 thereby commingling Respondent BAKER's own money or property with
4 trust funds received on behalf of others and deposited into said
5 trust accounts; and

6 (i) Converted the sum of \$144.41, constituting interest
7 earned on trust funds deposited into Trust Account #2, to
8 Respondent BAKER's own use or benefit or to purposes not
9 authorized by the rightful owners of said funds.

10 X

11 Between on or about March 1, 1996 and July 31, 1996, in
12 the course of the real estate brokerage activities described in
13 Paragraph V, above, Respondent BAKER:

14 (a) Used the fictitious business name "A & J Property
15 Management" without obtaining a license bearing such fictitious
16 name, in violation of Section 2731(a) of the Regulations in
17 conjunction with Section 10159.5 of the Code; and

18 (b) Failed to apply for and procure a branch office
19 license for the place of business maintained by Respondent BAKER
20 at 3358 30th Street, San Diego, California.

21 XI

22 Between on or about March 1, 1996 and July 31, 1996, in
23 the course of the real estate brokerage activities described in
24 Paragraph V, above, Respondent BAKER failed to exercise reasonable
25 supervision over the activities of BURRELL, a real estate
26 salesperson then licensed under Respondent, in that Respondent

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1 BAKER failed to provide reasonable review, oversight, inspection,
2 and management of:

3 (a) The handling of trust funds by said real estate
4 salesperson;

5 (b) Transactions requiring a real estate license
6 conducted by said real estate salesperson; and

7 (c) Documents which may have a material effect upon the
8 rights or obligations of a party to such transactions and in
9 particular failed to comply with the requirements of Section
10 2725(a) of the Regulations in that Respondent failed to review,
11 initial and date instruments, having a material effect upon the
12 rights or obligations of a party to a transaction, which were
13 prepared or signed in connection with transactions for which a
14 license is required by said real estate salesperson.

15 XII

16 Between on or about March 1, 1996 and July 31, 1996,
17 Respondent BAKER permitted Respondent BURRELL to operate and
18 control the property management business described in Paragraph V,
19 above. Respondent BURRELL, who was then licensed as a real estate
20 salesperson, acted as a real estate broker in conducting said
21 business. Respondent BURRELL did or caused all of the acts and
22 omissions described in Paragraphs VIII and IX, above, in that
23 Respondent BURRELL actually owned, operated and controlled such
24 property management business, directed employees of the business,
25 deposited and/or withdrew trust funds or caused such deposits
26 and/or withdrawals to be made.

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XIII

In acting as described in Paragraph XII, above,
Respondent BURRELL violated Section 10130 of the Code.

XIV

The facts alleged above are grounds for the suspension
or revocation of the licenses and license rights of Respondent
BAKER under the following provisions of the Code and/or the
Regulations:

(a) As to Paragraph VIII, under Section 10145 of the
Code and Section 2832.1 of the Regulations in conjunction with
Section 10177(d) of the Code;

(b) As to Paragraph IX(a), under Section 10145 of the
Code and Section 2830 of the Regulations in conjunction with
Section 10177(d) of the Code;

(c) As to Paragraph IX(b), under Section 10145 of the
Code and Section 2830.1 of the Regulations in conjunction with
Section 10177(d) of the Code;

(d) As to Paragraph IX(c), under Section 2831 of the
Regulations in conjunction with Section 10177(d) of the Code;

(e) As to Paragraph IX(d), under Section 2831.1 of the
Regulations in conjunction with Section 10177(d) of the Code;

(f) As to Paragraph IX(e), under Section 2831.2 of the
Regulations in conjunction with Section 10177(d) of the Code;

(g) As to Paragraph IX(f), under Section 10145(a) of
the Code and Section 2832 of the Regulations in conjunction with
Section 10177(d) of the Code;

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1 (h) As to Paragraph IX(g), under Section 2834(a) of the
2 Regulations in conjunction with Section 10177(d) of the Code;

3 (i) as to Paragraph IX(h), under Section 10176(e) of
4 the Code;

5 (j) As to Paragraph IX(i), under Section 10176(i) of
6 the Code;

7 (k) As to Paragraph X(a), under Section 10159.5 of the
8 Code and Section 2731(a) of the Regulations in conjunction with
9 Section 10177(d) of the Code;

10 (l) As to Paragraph X(b), under Section 10163 of the
11 Code in conjunction with Sections 10165 and 10177(d) of the Code;
12 and

13 (m) As to Paragraph XI, under Section 10177(g) of the
14 Code.

15 XV

16 The facts alleged in Paragraph XII and XIII, above, are
17 grounds for the suspension or revocation of the licenses and
18 license rights of Respondent BURRELL under the provisions of
19 Section 10177(d) of the Code.

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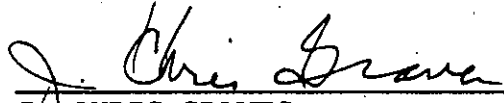
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1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of Respondents under the Real Estate
5 Law (Part 1 of Division 4 of the Business and Professions Code),
6 and for such other and further relief as may be proper under other
7 provisions of law.

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9 
10 J. CHRIS GRAVES
Deputy Real Estate Commissioner

11 Dated at San Diego, California
12 this 30 day of June, 1997.
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