

FILED
JAN 7 1998
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
) NO. H-7453 SF
RASKIN REAL ESTATE, INC., and)
HERMAN BENJAMIN RASKIN,)
)
Respondents.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE
AS TO HERMAN BENJAMIN RASKIN ONLY

On April 4, 1997, an Accusation was filed in this matter against Respondent HERMAN BENJAMIN RASKIN.

By Declaration signed October 30, 1997, Respondent HERMAN BENJAMIN RASKIN petitioned the Commissioner to voluntarily surrender his real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent HERMAN BENJAMIN RASKIN'S petition for voluntary surrender of his real estate broker license(s) is accepted based upon the understanding and

1 agreement expressed in Respondent's Declaration dated
2 October 30, 1997 (attached hereto as Exhibit "A").

3 This Order shall become effective at 12 o'clock noon
4 on January 27, 1998.

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6 DATED: 12/16/97

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8 JIM ANTT, JR.
Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	
RASKIN REAL ESTATE, INC., and	)	NO. H-7453 SF
HERMAN BENJAMIN RASKIN,	)	
	)	
Respondents.	)	

DECLARATION

My name is HERMAN BENJAMIN RASKIN.

I am one of the Respondents in the above-entitled
Accusation. I am represented in that matter by John C. Moran,
Attorney at Law.

I wish to voluntarily surrender my real estate
license(s) issued by the Department pursuant to Business and
Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my real
estate license(s), I agree to the following:

FILED
JAN 9 1998

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	
RASKIN REAL ESTATE, INC and.	)	
HERMAN BENJAMIN RASKIN	)	NO. H-7453 SF
	)	
	)	OAH NO. N- 1997090205
Respondents.	)	
_____	)	

DECISION

The Proposed Decision dated December 5, 1997, 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 January 29, 1998.

IT IS SO ORDERED

1/8/98

JIM ANTT, JR.
Real Estate Commissioner

J. Antt Jr.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)		
	)	
RASKIN REAL ESTATE, INC. and)	)	Case No. H-7453 SF
HERMAN BENJAMIN RASKIN,)	)	
	)	OAH No. N-1997090205
	)	
Respondents.)	)	
	)	

PROPOSED DECISION

This matter was heard before Cheryl R. Tompkin, Administrative Law Judge, State of California, Office of Administrative Hearings, on October 27, 1997, in Oakland, California.

Complainant was represented by Deidre L. Johnson, Counsel.

Respondents Raskin Real Estate, Inc. and Herman Benjamin Raskin (who did not appear) were represented by John C. Moran, Attorney at Law, 400 South El Camino Real, Suite 1450, San Mateo, California 94402.

Prior to hearing, complainant and respondent Herman Benjamin Raskin entered into a tentative agreement in settlement of the subject accusation. It was stipulated by the parties that upon complainant's receipt of the signed settlement agreement from Herman Benjamin Raskin, his case would be bifurcated from that of respondent Raskin Real Estate, Inc. The record was held open to permit finalization of the settlement agreement. The record was also held open to permit respondent Raskin Real Estate, Inc. to submit additional trust account records.

On November 5, 1997, respondent Raskin Real Estate, Inc.'s records were received and marked as Exhibit B for identification. The original signed settlement agreement from Herman Benjamin Raskin (which was mistakenly sent to the Office of Administrative Hearings) was also received on November 5, 1997. It was forwarded to Deidre L. Johnson, counsel for the complainant. On November 7, 1997, a letter was received from attorney Johnson, and marked as Exhibit 8 in evidence. In the letter Johnson moved to bifurcate Herman Benjamin Raskin's case from that of Raskin Real Estate, Inc. The motion was granted based upon the stipulation of the parties. Johnson also indicated she did not object to

admission of the documents submitted by Raskin Real Estate, Inc. Whereupon Exhibit B was admitted in evidence. This matter, which now pertains only to Raskin Real Estate, Inc., was deemed submitted on November 7, 1997.

FINDINGS OF FACT

1. Complainant Les R. Bettencourt made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Raskin Real Estate, Inc. (respondent) stipulated to Paragraphs II through XI of the accusation as follows:

"II

Respondents RASKIN REAL ESTATE, INC., and HERMAN BENJAMIN RASKIN are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereafter the Code).

III

At all times mentioned herein, Respondent RASKIN REAL ESTATE, INC. (hereafter RRE) was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker corporation by and through designated broker officer HERMAN BENJAMIN RASKIN (hereafter RASKIN).

IV

At all times mentioned, Respondent RASKIN was and is licensed by the Department as a real estate broker, and also as the designated broker officer of RRE.

V

At least within the last three years, RRE engaged in activities for which a real estate license is required, and leased or rented, offered to lease or rent, solicited prospective tenants, and/or collected rents on, and managed certain real properties in California on behalf of others, for or in expectation of compensation.

VI

Beginning in November of 1995, the Department conducted an audit of RRE's business. During the course of the property management activities described above, Respondents RRE and RASKIN received and disbursed funds

in trust on behalf of others, and deposited the trust funds into bank accounts at California Federal Bank, San Francisco, California, as follows:

- (a) Account No. 036-0502636-3 in the name of 'Richard B. Raskin or Mark E. Raskin or H.B. Steven Raskin Property Management Trust Account,' used for the receipt of rents and security deposits, hereafter Trust Account #1; and
- (b) Account No. 036-502611-2 in the name of 'Richard B. Raskin or Mark E. Raskin or H.B. Steven Raskin or Linda Raskin DBA Raskin Real Estate,' used for one-time rental/lease properties, hereafter Bank Account #2.

VII

Within the past three years, RRE and RASKIN authorized withdrawals to be made from Trust Account #1 and Bank Account #2 on one signature only. The authorized signatories on Trust Account #1 included Lee Ann Turner, and the authorized signatories on Bank Account #2 included Linda Raskin. At no time was Lee Ann Turner or Linda Raskin licensed by the Department as either a real estate broker or a real estate salesperson; and neither person was duly bonded with sufficient fidelity bond insurance coverage at least equal to the maximum amount of trust funds to which Turner or Raskin had access, as required by Section 2834 of Title 10, California Code of Regulations (hereafter the Regulations).

VIII

In connection with the collection and disbursement of the above trust funds, Respondents RRE and RASKIN failed to deposit and maintain the trust funds in the trust bank account, or in a neutral escrow depository, or to deliver them into the hands of the owners of the funds, in such a manner that as of October 10, 1995, there was a trust fund shortage in the approximate sum of \$42,020.48 as to Trust Account #1.

IX

As of October 10, 1995, most or all of the trust shortage alleged above was caused by negative balances.

X

In connection with the receipt and disbursement of trust

funds as above alleged, Respondents RRE and RASKIN:

- (a) Failed to maintain a written control record of all trust funds received and disbursed for each bank account containing all information required by Section 2831 of the Regulations;
- (b) Failed to deposit trust funds into trust accounts in the name of Respondent RASKIN REAL ESTATE, INC. as trustee at a bank or other financial institution, in conformance with Section 2830 of the Regulation, in that Trust Account #1 was not in the name of the broker as trustee, and Bank Account #2 was not a trust account and was not in the name of the broker as trustee;
- (c) Failed to reconcile the balance of separate beneficiary or transaction records with the control records of trust funds received and disbursed at least once a month for each bank account, and failed to maintain a record of such reconciliation as required by Section 2831.2 of the Regulations.
- (d) Failed to obtain the prior written consent of the principals for the reduction of the aggregate balance of trust funds in Trust Account #1 to an amount less than existing aggregate trust fund liability to the owners of said funds, in conformance with Section 2832.1 of the Regulations.

XI

Respondents RRE and RASKIN failed to have a written employment agreement with real estate salesperson Richard Raskin, covering material aspects of the relationship as required by Section 2726 of the Regulations."

3. Respondent is owned by Richard Raskin (R. Raskin), the son of Herman Benjamin Raskin (H.B. Raskin). At the time of the Department of Real Estate (Department) audit, R. Raskin, who was then a real estate salesperson, was responsible for the daily business operations of respondent. It was R. Raskin who met with and assisted the auditor. R. Raskin does not contest the deficiencies identified by the auditor. He suggests the shortage and other deficiencies were the result of lack of knowledge or negligence and not any intentional wrongdoing. R. Raskin claims he has now corrected the identified deficiencies.

4. The Department auditor determined the trust account

shortage of \$42,020.48 consisted of \$2,305.27 in negative balances on property accounts managed by respondent, \$10,845.86 in checks written by respondent prior to deposit of the rents, and outstanding checks which exceeded respondent's bank balance by \$28,869.35. R. Raskin claimed respondent had a policy of printing checks then holding them until the rents were received. However, the auditor was unable to verify the checks were held because respondent did not have any records showing when the checks were mailed.

R. Raskin believes the shortage was the result of their method of bookkeeping rather than an actual shortage of funds. Although the audit revealed a shortage, no check presented for payment against Trust Account #1 or Bank Account #2 during the audit period bounced. Since the audit R. Raskin has implemented a new policy to avoid shortages. Property owners are now required to maintain reserve capital of \$250 to \$350 on deposit in their accounts to cover any potential shortages.

5. R. Raskin concedes that during the audit period Linda Raskin and Lee Ann Turner were unlicensed, unbonded employees who were listed as signatories on Trust Account #1 and Bank Account #2, and that these accounts permitted withdrawals to be made on one signature only. R. Raskin explained, however, that these employees were only backup signatories who were used when two signatures were required on a check and that neither employee ever actually signed a check which required only one signature. He also claimed he did not realize the signatory designation authorized either L. Raskin or Turner to withdraw funds based upon either's individual signature. According to R. Raskin, after the audit all unlicensed, unbonded employees were removed as signatories from Trust Account #1 and Bank Account #2, and only he and H.B. Raskin remained as signatories.

6. R. Raskin also acknowledges respondent failed to maintain trust funds in properly designated trust accounts during the audit period. After the audit Trust Account #1 and Bank Account #2 were changed to the "Herman B. Raskin Property Management Trust Account" and the "Raskin Trust Account Herman B.," respectively. On April 14, 1997, after he obtained his broker's license and became the designated broker of respondent (see Finding 8), R. Raskin opened two new trust accounts. The first account was designated as the "Richard B. Raskin Property Management Trust Account" and the second as the "Richard B. Raskin Trust Account." Each account listed Richard Raskin as the sole signatory. R. Raskin maintains all unlicensed, unbonded signatories were removed from the trust accounts when he became the sole signatory effective April 14, 1997.

7. R. Raskin additionally acknowledges that at the time of the audit respondent lacked a proper control system, failed to maintain proper records reconciling respondent's trust and bank

accounts, and failed to obtain the prior written consent of each owner of funds in the trust accounts to reduce the trust account balances below the existing aggregate trust fund liability. He claims respondent now periodically reconciles accounts and maintains a written control record of all trust funds received and disbursed for each bank account. R. Raskin acknowledges, however, that respondent's current control system does not keep a daily running balance for the trust funds accounts and does not reconcile account balances every month. These are two functions the Department recommends each control system contain. R. Raskin testified he did not realize these components were required by the Department as part of a control system and that they will be added to respondent's system. R. Raskin also indicated the control system will help prevent reduction of trust funds below aggregate trust fund liability.

8. As previously mentioned, at the time of the Department audit, R. Raskin was a real estate salesperson. R. Raskin initially told the auditor he had an oral agreement with his father H.B. Raskin to run respondent. On December 1, 1995, H.B. Raskin provided R. Raskin with written authorization to act on his behalf "in conjunction with the operation and control of Raskin Real Estate, Inc." Apart from this authorization, there was no written document which authorized R. Raskin to operate respondent prior to December 1, 1995. Nor was there ever an employment agreement between respondent and R. Raskin covering R. Raskin's employment as a salesperson by respondent.

On February 5, 1997, R. Raskin obtained his broker's license. On March 30, 1997, H.B. Raskin was cancelled as designated broker of respondent. On March 31, 1997, R. Raskin became the designated broker of respondent. Respondent's license is currently scheduled to expire on May 8, 1998.

DETERMINATION OF ISSUES

1. Cause for disciplinary action against respondent exists under section 2834 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code section 10177, subdivision (d), by reason of the matters set forth in Findings 2(VII) and 5.

2. Cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 10145 in conjunction with Business and Professions Code section 10177, subdivision (d) by reason of the matters set forth in Findings 2 (VIII and IX) and 4.

3. Cause for disciplinary action against respondent exists under section 2831 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code

section 10177, subdivision (d) by reason of the matters set forth in Findings 2(X(a)) and 7.

4. Cause for disciplinary action against respondent exists under section 2830 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code section 10177, subdivision (d) by reason of the matters set forth in Findings 2(X(b)) and 6.

5. Cause for disciplinary action against respondent exists under section 2831.2 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code section 10177, subdivision (d) by reason of the matters set forth in Findings 2(X(c)) and 7.

6. Cause for disciplinary action against respondent exists under section 2832.1 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code section 10177, subdivision (d) by reason of the matters set forth in Findings 2(X(d)) and 7.

7. Cause for disciplinary action against respondent exists under section 2726 of Title 10, California Code of Regulations, in conjunction with Business and Professions Code section 10177, subdivision (d), by reason of the matters set forth in Findings 2(XI) and 8.

8. The evidence demonstrated that during the audit period respondent had a trust fund shortage and that its trust fund records were not maintained in compliance with applicable law. In mitigation, the shortage appeared to be the result of poor accounting methods and/or poor record keeping rather than theft or conversion. In addition, respondent, through its owner/designated broker R. Raskin, has attempted to correct deficiencies identified by the audit and expresses a current, ongoing willingness to take whatever steps are necessary to bring respondent's operations into compliance with applicable requirements. Considering all of the evidence, it is determined that it would not be against the public interest to permit respondent to continue to hold a broker's license upon specific terms and conditions.

ORDER

All real estate licenses and licensing rights issued to respondent Raskin Real Estate, Inc. under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fees for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent

shall be subject to all of 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:

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 licenses 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 licenses.
3. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent (through its designated broker) has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted licenses until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
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 accounting of trust funds in the custody and control of respondent and periodic summaries of salient information

concerning each real estate transaction in which respondent engaged during the period covered by the report.

5. Pursuant to section 10148 of the Business and Professions Code, respondent shall pay the Commissioner's reasonable cost for an audit to determine if respondents have corrected the trust fund violation(s) found in paragraphs 1, 2, 3, 4 and 5 of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

6. 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 two (2) years have elapsed from the effective date of this Decision.

DATED: 12/5/97


CHERYL R. TOMPKIN
Administrative Law Judge

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 18 1997

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Accusation of

RASKIN REAL ESTATE INC.,
HERMAN BENJAMIN RASKIN

Case No. H-7453 SF

OAH No. N1997090205

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, World Savings Tower,

1970 Broadway, Second Floor, Oakland, CA 94612

on Monday -- October 27, 1997, at the hour of 10:00 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.

DEPARTMENT OF REAL ESTATE

Dated: September 18, 1997

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

Flag

DEIDRE L. JOHNSON, Counsel
Department of Real Estate.
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
APR - 4 1997
DEPARTMENT OF REAL ESTATE

By Emily Jakobs

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	
	)	NO. H-7453 SF
RASKIN REAL ESTATE, INC., and	)	
HERMAN BENJAMIN RASKIN,	)	<u>ACCUSATION</u>
	)	
Respondents.	)	
	)	
	)	

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, for causes of Accusation against RASKIN REAL ESTATE, INC., and HERMAN BENJAMIN RASKIN, is informed and alleges as follows:

FIRST CAUSE OF ACTION

I

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity and not otherwise.

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II

Respondents RASKIN REAL ESTATE, INC., and HERMAN BENJAMIN RASKIN are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter the Code).

III

At all times herein mentioned, Respondent RASKIN REAL ESTATE, INC. (hereafter RRE) was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker corporation by and through designated broker officer HERMAN BENJAMIN RASKIN (hereafter RASKIN).

IV

At all times herein mentioned, Respondent RASKIN was and is licensed by the Department as a real estate broker, and also as the designated broker officer of RRE.

V

At least within the last three years, RRE engaged in activities for which a real estate license is required, and leased or rented, offered to lease or rent, solicited prospective tenants, and/or collected rents on, and managed certain real properties in California on behalf of others, for or in expectation of compensation.

VI

Beginning in November of 1995, the Department conducted an audit of RRE's business. During the course of the property management activities described above, Respondents RRE and RASKIN received and disbursed funds in trust on behalf of



1 others, and deposited the trust funds into bank accounts at
2 California Federal Bank, San Francisco, California, as follows:

- 3 (a) Account No. 036-0502636-3 in the name of "Richard B.
4 Raskin or Mark E. Raskin or H.B. Steve Raskin Property
5 Management Trust Account," used for the receipt of rents
6 and security deposits, hereafter Trust Account #1; and
7 (b) Account No. 036-502611-2 in the name of "Richard B.
8 Raskin or Mark E. Raskin or H.B. Steve Raskin or Linda
9 Raskin DBA Raskin Real Estate," used for one-time
10 rental/lease properties, hereafter Bank Account #2.

11 VII

12 Within the past three years, RRE and RASKIN authorized
13 withdrawals to be made from Trust Account #1 and Bank Account #2
14 on one signature only. The authorized signatories on Trust
15 Account #1 included Lee Ann Turner, and the authorized signatories
16 on Bank Account #2 included Linda Raskin. At no time was
17 Lee Ann Turner or Linda Raskin licensed by the Department as
18 either a real estate broker or a real estate salesperson; and
19 neither person was duly bonded with sufficient fidelity bond
20 insurance coverage at least equal to the maximum amount of trust
21 funds to which Turner or Raskin had access, as required by
22 Section 2834 of Title 10, California Code of Regulations
23 (hereafter the Regulations).

24 VIII

25 In connection with the collection and disbursement of
26 the above trust funds, Respondents RRE and RASKIN failed to
27 deposit and maintain the trust funds in the trust bank account, or



1 in a neutral escrow depository, or to deliver them into the hands
2 of the owners of the funds, in such a manner that as of
3 October 10, 1995, there was a trust fund shortage in the
4 approximate sum of \$42,020.48 as to Trust Account #1.

5 IX

6 As of October 10, 1995, most or all of the trust
7 shortage alleged above was caused by negative balances.

8 X

9 In connection with the receipt and disbursement of trust
10 funds as above alleged, Respondents RRE and RASKIN:

11 (a) Failed to maintain a written control record of all trust
12 funds received and disbursed for each bank account
13 containing all information required by Section 2831 of
14 the Regulations;

15 (b) Failed to deposit trust funds into trust accounts in the
16 name of Respondent RASKIN REAL ESTATE, INC. as trustee
17 at a bank or other financial institution, in conformance
18 with Section 2830 of the Regulations, in that Trust
19 Account #1 was not in the name of the broker as trustee,
20 and Bank Account #2 was not a trust account and was not
21 in the name of the broker as trustee;

22 (c) Failed to reconcile the balance of separate beneficiary
23 or transaction records with the control records of trust
24 funds received and disbursed at least once a month for
25 each bank account, and failed to maintain a record of
26 such reconciliations as required by Section 2831.2 of
27 the Regulations.



1 (d) Failed to obtain the prior written consent of the
2 principals for the reduction of the aggregate balance of
3 trust funds in Trust Account #1 to an amount less than
4 the existing aggregate trust fund liability to the
5 owners of said funds, in conformance with Section 2832.1
6 of the Regulations.

7 XI

8 Respondents RRE and RASKIN failed to have a written
9 employment agreement with real estate salesperson Richard Raskin,
10 covering material aspects of the relationship as required by
11 Section 2726 of the Regulations.

12 XII

13 The acts and/or omissions of Respondents RRE and RASKIN
14 as alleged above constitute grounds for disciplinary action under
15 the following provisions:

16 (a) As to Paragraph VII, under Section 2834 of the
17 Regulations, in conjunction with Section 10177(d) of the
18 Code.

19 (b) As to Paragraphs VIII and IX, under Section 10145 of the
20 Code in conjunction with Section 10177(d) of the Code.

21 (c) As to Paragraph X(a), under Section 2831 of the
22 Regulations in conjunction with Section 10177(d) of the
23 Code.

24 (d) As to Paragraph X(b), under Section 10145 of the Code
25 and Section 2830 of the Regulations in conjunction with
26 Section 10177(d) of the Code.

27 ///



1 (e) As to Paragraph X(c), under Section 2831.2 of the
2 Regulations in conjunction with Section 10177(d) of the
3 Code.

4 (f) As to Paragraphs X(d), under Section 2832.1 of the
5 Regulations in conjunction with Section 10177(d) of the
6 Code.

7 (g) As to Paragraphs XI, under Section 2726 of the
8 Regulations in conjunction with Section 10177(d) of the
9 Code.

10 SECOND CAUSE OF ACTION

11
12 XIII

13 All of the allegations contained in the First Cause of
14 Action above are incorporated herein as though fully set forth at
15 this point.

16 XIV

17 At all times above mentioned, RASKIN was responsible, as
18 the designated broker officer of RRE, for the supervision and
19 control of the activities conducted on behalf of RRE by its
20 officers and employees, and failed to so exercise reasonable
21 supervision and control. RASKIN was negligent and/or incompetent
22 in performing acts for which a real estate license is required, in
23 that he knew or should have known all the facts set forth in the
24 above allegations, and in that he could have and should have taken
25 steps to assure RRE's full compliance with the Real Estate Law and
26 failed to do so.

27 ///



The above acts and/or omissions of RASKIN constitute grounds for disciplinary action under the provisions of Sections 10177(g) and 10177(h) 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 Respondents, 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.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California,
this 27th day of March, 1997.