

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
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FILED

FEB 19 2009

DEPARTMENT OF REAL ESTATE
By *L. Frost*

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13) NO. H-10496 SF

14 EDWARD KHOSROW ETEMAD dba)
15 ALLIANCE REAL ESTATE,)

STIPULATION AND AGREEMENT

16 Respondents.)
17)

18 It is hereby stipulated by and between Respondent EDWARD KHOSROW
19 ETEMAD doing business under the fictitious name of ALLIANCE REAL ESTATE
20 (hereinafter referred to as "Respondent"), acting in pro per, and the Complainant, acting by and
21 through Michael B. Rich, Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on August 8, 2008, in this matter
23 (hereinafter "the Accusation"):

24 1. All issues which were to be contested and all evidence which was to be
25 presented by Complainant and Respondent at a formal hearing on the Accusation, which
26 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
27 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of

DRE No. H-10496 SF

EDWARD KHOSROW ETEMAD

1 this Stipulation and Agreement.

2 2. Respondent has received, read and understands the Statement to
3 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
4 of Real Estate in this proceeding.

5 3. On August 15, 2008, Respondent filed a Notice of Defense pursuant to
6 Section 11505 of the Government Code for the purpose of requesting a hearing on the
7 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
8 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
9 Notice of Defense Respondent will thereby waive Respondent's right to require the
10 Commissioner to prove the allegations in the Accusation at a contested hearing held in
11 accordance with the provisions of the APA and that Respondent will waive other rights
12 afforded to Respondent in connection with the hearing such as the right to present evidence in
13 defense of the allegations in the Accusation and the right to cross-examine witnesses.

14 4. Respondent, pursuant to the limitations set forth below, hereby admits that
15 the factual allegations in the Accusation pertaining to Respondent are true and correct and
16 stipulates and agrees that the Real Estate Commissioner shall not be required to provide further
17 evidence of such allegations.

18 5. It is understood by the parties that the Real Estate Commissioner may
19 adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the
20 penalty and sanctions on Respondent's real estate license and license rights as set forth in the
21 "Order" below. In the event that the Commissioner in his discretion does not adopt the
22 Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the
23 right to a hearing and proceeding on the Accusation under all the provisions of the APA and
24 shall not be bound by any admission or waiver made herein.

25 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
26 bar to any further administrative or civil proceedings by the Department of Real Estate with
27 respect to any matters which were not specifically alleged to be causes for accusation in this

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EDWARD KHOSROW ETEMAD

1 Commissioner may in his or her discretion indefinitely suspend all license and licensing rights
2 of Respondent under the Real Estate Law until payment is made in full or until Respondent
3 enters into an agreement satisfactory to the Commissioner to provide for payment. Upon
4 payment in full, any indefinite suspension provided in this paragraph shall be stayed.

5 D. Respondent shall pay the Commissioner's costs, not to exceed \$3,537.92 of
6 any audit conducted pursuant to Section 10148 of the Business and Professions Code to
7 determine if Respondent has corrected the violations described in Paragraph I of the
8 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
9 cost, the Commissioner may use the estimated average hourly salary for all persons performing
10 audits of real estate brokers, and shall include an allocation for travel time to and from the
11 auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an
12 invoice therefor from the Commissioner detailing the activities performed during the audit and
13 the amount of time spent performing those activities. If Respondent fails to pay such cost
14 within the sixty (60) days, the Commissioner may in his or her discretion indefinitely suspend
15 all license and licensing rights of Respondent under the Real Estate Law until payment is made
16 in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide
17 for payment. Upon payment in full, the indefinite suspension provided in this paragraph shall be
18 stayed.

19 E. Respondent shall, within six (6) months from the effective date of this
20 Decision, take and pass the Professional Responsibility Examination administered by the
21 Department including the payment of the appropriate examination fee. If Respondent fails to
22 satisfy this condition, the Commissioner may order suspension of Respondent's license until
23 Respondent passes the examination.

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2 1/22/09
3 DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

4 * * *

5 I have read the Stipulation and Agreement and its terms are understood by
6 me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
7 by the California Administrative Procedure Act (including but not limited to Sections 11506,
8 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
9 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
10 allegations in the Accusation at a hearing at which I would have the right to cross-examine
11 witnesses against me and to present evidence in defense and mitigation of the charges.

12
13 1/20/09
14 DATED

Edward Khosrow Etemad
EDWARD KHOSROW ETEMAD
Respondent In Pro Per

15 * * *

16
17 The foregoing Stipulation and Agreement is hereby adopted by me as my
18 Decision in this matter as to Respondent EDWARD KHOSROW ETEMAD and shall become
19 effective at 12 o'clock noon on MAR 11 2009

20 IT IS SO ORDERED 2-11, 2009.

21
22 JEFF DAVI
Real Estate Commissioner

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27 Jeff Davi

1 JOHN VAN DRIEL, Counsel (SBN 84056)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0805 (Direct)

FILED

AUG - 8 2008

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 EDWARD KHOSROW ETEMAD,)
13 Respondent.)

NO. H-10496 SF

ACCUSATION

14
15 The Complainant, E.J. Haberer II a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against EDWARD KHOSROW ETEMAD (Respondent), is informed and
18 alleges as follows:

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20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereafter the Code) as a real
23 estate broker doing business under the fictitious name "Alliance
24 Real Estate".

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26 The Complainant makes this Accusation against
27 Respondents in his official capacity.

At all times herein mentioned, Respondent engaged in the business of and acted in the capacity of a real estate broker in the State of California within the meaning of Sections 10131(b) of the Code by operating a property management business wherein Respondent leased or rented or offered to lease or rent real property, or solicited listings of places for rent, for or in expectation of compensation.

In April 2008, an audit was done by the Department on Respondent's books and records. The following facts were ascertained by the audit for the period of January 1, 2007 through March 31, 2008:

A. As of March 31, 2008, Respondent managed 21 properties for the benefit of 20 property owners.

B. Respondent maintained the following bank accounts at Wells Fargo Bank, Portland, Oregon.

(1) Account #100-6648891 designated as "Alliance Real Estate Trust Account" (Trust #1).

(2) Account #100-6648883 designated as "Alliance Real Estate Operating Account" (Bank #2).

C. As of March 31, 2008, when the adjusted bank balance and the total balance of the beneficiary records in Trust #1 were compared, there was a \$2.00 shortage in Trust #1 attributable to a monthly service charge imposed by the Bank on March 31, 2008. This shortage is not alleged herein as a violation.

1 D. Trust funds in the form of "advance fees", as
2 that term is used in Section 10146 of the Code, were commingled
3 with Respondent's funds held in Bank #2.

4 E. Respondent collected advance fees from principals
5 without prior submission to and approval by the Department of
6 the materials used by Respondent to advertise, promote, solicit
7 and negotiate an advance fee agreement.

8 F. Respondent failed to provide property owners with
9 a quarterly statement documenting how their advance fees were
10 expended.

11 G. Respondent failed to maintain adequate records of
12 trust funds received and paid out, and separate beneficiary
13 records, and failed to reconcile those two sets of records
14 monthly.

15 H. Respondent allowed an unlicensed and unbonded
16 person to be an authorized signer on Trust #1.

17 5

18 The acts and/or omissions of Respondent as alleged
19 above violate Sections of the Code (BPC) and Regulations (Reg.)
20 and constitute grounds for disciplinary action under the
21 provisions set out below:

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1	PARAGRAPH	VIOLATION	GROUND FOR DISCIPLINE
2	4D	REG. 2835	BPC 10176(e)
3	4E	BPC 10146; REGS.	BPC 10177(d)
4		2970, 2972	
5	4F	BPC 10146	BPC 10177(d)
6	4G	REGS. 2831,	BPC 10177(d)
7		2831.1, 2831.2	

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of the Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and license rights of Respondent
12 under the Real Estate Law (Part 1 of Division 4 of the Business
13 and Professions Code) and for such other and further relief as
14 may be proper under other applicable provisions of law.

15
16 
17 E.J. HABERER II
18 Deputy Real Estate Commissioner

18 Dated at Oakland, California
19 this 31st day of July, 2008.