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MAY 19 1994

DEPARTMENT OF REAL ESTATE
BY Baker

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-21679 LA
MICHAEL EMIL KLASNO, SR.)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On August 30, 1983, a Decision was rendered herein revoking the real estate broker license of MICHAEL EMIL KLASNO, SR. (hereinafter referred to as Respondent), effective September 21, 1983. Respondent was given the right to apply for and receive a restricted real estate broker license which was issued to Respondent on October 17, 1983.

On December 17, 1992, Respondent filed a petition for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said Petition.

I have considered the petition of Respondent and the

1 evidence submitted in support thereof. Respondent has failed
2 to demonstrate to my satisfaction that he has undergone
3 sufficient rehabilitation to warrant the reinstatement of his
4 real estate broker license at this time. This determination has
5 been made in light of Respondent's history of acts and conduct
6 which are substantially related to the qualifications, functions
7 and duties of a real estate licensee. That history includes:

8 1. One of the conditions attaching to Respondent's
9 present restricted license is that his license could be revoked
10 or suspended on evidence satisfactory to the Real Estate
11 Commissioner that Respondent violated any of the provisions of
12 the Real Estate Law.

13 2. On January 11, 1993, the Department of Real Estate
14 completed an audit of the books and records of Respondent
15 pertaining to his activities requiring a real estate license for
16 the period of time from January 1, 1992 to December 31, 1992.
17 This audit revealed that Respondent was in violation of Sections
18 2715, 2731 and 2831.1 of Chapter 6, Title 10, California Code of
19 Regulations. In addition, Respondent was in violation of Section
20 10137 of the California Business and Professions Code (Code) by
21 employing and/or compensating an unlicensed person named Mike
22 Cloyd to conduct activities at a branch office not licensed to
23 Respondent and in violation of Section 10240 of the Code by
24 failing to provide Mortgage Loan Disclosure Statements to
25 borrowers where appropriate. This indicates a lack of
26 rehabilitation on the part of the Respondent and is cause to
27

1 deny his petition for reinstatement of license pursuant to
2 Sections 10177(d) and 10177(k) of the Code.
3

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement of his real estate broker license is
6 hereby denied.

7 This order shall become effective at 12 o'clock noon
8 on 6-17-94.

9
10 DATED: 5/17/94
11

12
13 CLARK WALLACE
14 Real Estate Commissioner

15
16 
17

18 MICHAEL EMIL KLASNO, SR.
19 21013 Donora #B
20 Torrance, California 90503
21
22
23
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26
27

1 I have considered the petition of respondent and the
2 evidence and arguments in support thereof, including his record as
3 a restricted licensee. Respondent has demonstrated to my satis-
4 faction that he meets the requirements of law for the issuance to
5 him of an unrestricted real estate broker license and that it
6 would not be against the public interest to issue said license to
7 him.

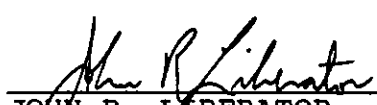
8 NOW, THEREFORE, IT IS ORDERED that respondent's
9 petition for reinstatement is granted and that a real estate
10 broker license be issued to him after he satisfies the
11 following conditions within six (6) months from the date of
12 this Order:

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

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

20 This Order shall become effective immediately.

21 DATED: April 25, 1991

22
23 
24 JOHN R. LIBERATOR
25 Chief Deputy Real Estate
26 Commissioner
27

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

152-1110
Paula B. O'Connell

In the Matter of the Accusation of)
)
SAMUEL SYDNEY THOMAS and)
MICHAEL EMIL KLASNO, SR.,)
)
Respondents.)

No. H-21679 LA
L-27713

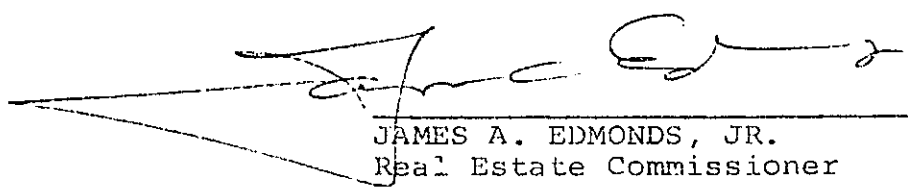
DECISION

The Proposed Decision herein dated August 2, 1983, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter except as follows:

The ORDER of the Proposed Decision insofar as it purports to revoke license rights of respondent Samuel Sydney Thomas is not adopted inasmuch as Samuel Sydney Thomas does not now have any license rights under Part 1 of Division 4 of the Business and Professions Code.

This Decision shall become effective at 12 o'clock noon on September 21, 1983.

IT IS SO ORDERED August 30, 1983.



JAMES A. EDMONDS, JR.
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
SAMUEL SYDNEY THOMAS and) NO. H-21679 LA
MICHAEL EMIL KLASNO, SR.)
) L-27713
Respondents.)
_____)

PROPOSED DECISION

This matter came on regularly for hearing before P. M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on July 27, 1983, at the hour of 9:00 a.m.

Complainant was represented by Thomas S. Roche, staff counsel. Michael Emil Klasno, Sr., appeared personally without counsel. Samuel Sydney Thomas did not appear nor did anyone appear on his behalf.

After having been advised of his hearing rights under the Administrative Procedure Act and the federal and state constitutions, respondent Michael Emil Klasno admitted certain facts as indicated below. Mr. Klasno was also advised as to the legal effect of such admissions.

Evidence, both oral and documentary, was presented and the matter was submitted for decision. The Administrative Law Judge makes his findings of fact as follows:

I

The Complainant, Randolph Brendia is a Deputy Real Estate Commissioner of the State of California and filed the Accusation solely in his official capacity.

II

Samuel Sydney Thomas (hereinafter respondent Thomas), 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.)

III

During the period October 6, 1980 through June 16, 1981, respondent Thomas was licensed by the Department of Real Estate

of the State of California (hereinafter the Department) as a real estate salesperson employed by broker Michael Emil Klasno. On June 16, 1981, respondent Thomas' license expired and has at no time herein mentioned been renewed by respondent Thomas. Notwithstanding the expiration of such license, the Department retains jurisdiction to impose discipline, if warranted, and after notice and hearing, by operation of law.

IV

Michael Emil Klasno (hereinafter respondent Klasno), is presently licensed and/or has license rights under the Real Estate Law.

V

At all times herein mentioned, respondent Klasno was licensed by the Department as a real estate broker, individually and dba Sam's Realty.

VI

Complainant has timely filed and served upon respondents all pleadings, notices and other papers as required by law. Jurisdiction for these proceedings exists.

VII

Mr. Klasno made a knowing and intelligent waiver of his hearing rights and freely and voluntarily admitted the facts indicated as his admissions hereinbelow.

VIII

Mr. Klasno admits that on September 29, 1980, he agreed in writing with respondent Thomas to perform supervisory responsibilities over the real estate brokerage activities of respondent Thomas' office known as Sam's Realty located at 9438 South Western Avenue, Los Angeles, California. On October 6, 1980, respondent Klasno notified the Department that he was adding a fictitious business name of Sam's Realty to his broker license, but failed to notify the Department of his branch office address of 9438 South Western Avenue.

IX

During the period September 29, 1980 through the date of the filing of this Accusation, respondent Klasno has made no attempt to supervise the activities of the office known as Sam's Realty.

X

Mr. Klasno admitted that on January 15, 1982, after reasonable notice, the Department requested that he produce bank

statements and disbursement checks on the broker's trust account into which he had alleged that the deposit monies from buyers had been placed. Respondent Klasno at all times herein mentioned failed to produce the said bank statements and disbursement checks. Mr. Klasno was unable to do so because he did not maintain such records.

XI

On August 1, 1981, respondent Thomas accepted a \$1,000 check from Leo L. and Rosa May Moore (hereinafter the Buyers) as a deposit and prepared for them a written offer to purchase certain real property located at 3512 10th Avenue, Los Angeles, California (hereinafter the Property) which was listed for sale with respondent Thomas's real estate office.

XII

The offer was accepted by the seller August 1, 1981 and escrow was opened August 5, 1981.

XIII

The duty of respondent Thomas with respect to the disposition of the \$1,000 deposit was, by the close of the following day, either to deposit it into a broker trust account, to deposit it into a neutral escrow, or to place it into the hands of his principal, the seller.

XIV

Respondent Thomas deposited the \$1,000 into a general operating account of his real estate office, Sam's Realty, of which respondent Thomas was the sole owner and for which account respondent Thomas was the sole signatory, thereby converting the said funds to his own use and benefit and commingling said funds with respondent Thomas' own funds.

XV

On September 15, 1981, at the request of respondent Thomas, the Buyers gave respondent Thomas an additional check in the amount of \$6,000 to cover the remainder of the down payment and closing costs for the purchase of the Property. Respondent Thomas told the Buyers that the check would be deposited in escrow.

XVI

Respondent Thomas deposited \$4,000 of the said check into the general operating account of Sam's Realty, and took the remaining \$2,000 in cash, thereby converting the said funds to his own use and benefit.

XVII

All acts of respondent Thomas above mentioned were done for a compensation or in expectation of a compensation for performing acts for which a real estate license is required.

XIX

At no time, despite repeated demands of Buyers, has respondent Thomas returned any of the \$7,000 taken from the buyers.

XX

Eventually respondent Klasno became aware of what had occurred between Mr. Thomas and Mr. and Mrs. Rose. He then repeatedly attempted to collect their money from Thomas but was unable to do so.

XXI

Mr. Klasno's business reputation has been severely damaged by Mr. Thomas' wrongdoing.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists for discipline of respondent Klasno's license for violations of law as set forth below:

<u>Violation</u>	<u>Finding</u>
Section <u>2715</u> , Title 10* and Section <u>10177(d)</u>	VIII
Section <u>10177(h)</u>	IX
Sections <u>10148</u> and <u>10177(d)</u>	X

2. Cause exists for discipline of respondent Thomas' license for a violation of law set forth below:

*California Administrative Code; all other references are to the Code.

Violation

Findings

Section 2832,*

XI through XVI

Section 10176(e), 10177(d)

XI through XVI

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Any and all real estate license rights of respondent Samuel Sydney Thomas are hereby revoked.

2. The real estate broker's license of respondent Michael Emil Klasno, Sr., is hereby revoked.

A restricted real estate broker's 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 fee for said license within forty-five days from the effective date of the Decision herein.

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 said Code:

- A. Said restricted license 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee.
- B. Said restricted license 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 this restricted license.
- C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until two years has elapsed from the date of issuance of the restricted license to respondent.

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

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

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter, as a result of the hearing had before me on July 27, 1983, at Los Angeles, California, and recommend its adoption as the decision of the Real Estate Commissioner.

DATED: Aug. 2, 1983

[Signature]
W. M. HOGAN
Administrative Law Judge
Office of Administrative Hearings

PMH:mh

Sacto
OAH

BEFORE THE DEPARTMENT OF REAL ESTATE -2 1983

STATE OF CALIFORNIA

BY Laura B. Olson

In the Matter of the Accusation of
SAMUEL SIDNEY THOMAS, et al.,

Case No. H-21679 LA
L-27713

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 314 West First Street, Los Angeles, CA 90012.

on the 27th & 28th day of July, 1983, 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.

DATED: May 2, 1983.

cc: Samuel Sidney Thomas
Michael Emil Klasno, Sr.
Sacto.
OAH
WEM

DEPARTMENT OF REAL ESTATE
BY Thomas S. Roche
Counsel

Accts

BEFORE THE DEPARTMENT OF REAL ESTATE

JAN 26 1983

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY *W. Jerome Thomas*

In the Matter of the Accusation of
SAMUEL SIDNEY THOMAS, et al.,

Case No. H-21679 LA
L-27713

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 314 West First Street, Los Angeles, California 90012

on the 21st & 22nd day of April, 1983, 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.

DATED: January 26, 1983

cc: Samuel Sidney Thomas
Michael Emil Klasno, Sr.
Sacto
OAH
WEM

W. JEROME THOMAS
DEPARTMENT OF REAL ESTATE
By *W. Jerome Thomas* Counsel

SACTO
ETAB

1 THOMAS S. ROCHE, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012
5
6
7
8
9
10 (213) 620-4790

AUG 20 1992

DEPARTMENT OF REAL ESTATE
BY Jana B. Olson

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

11	In the Matter of the Accusation of)	NO. H-21679 LA
12	SAMUEL SIDNEY THOMAS and)	<u>A C C U S A T I O N</u>
13	MICHAEL EMIL KLASNO, SR.)	
14	Respondents.)	
15)	

16 The Complainant, Randolph Brendia, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against SAMUEL SIDNEY THOMAS and MICHAEL EMIL KLASNO, SR. alleges
19 as follows:

20 I

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

24 II

25 SAMUEL SIDNEY THOMAS (hereinafter respondent THOMAS),
26 is presently licensed and/or has license rights under the Real
27 Estate Law (Part 1 of Division 4 of the Business and Professions

1 Code, hereinafter the Code.)

2 III

3 During the period October 6, 1980 through June 16, 1981,
4 respondent THOMAS was licensed by the Department of Real Estate
5 of the State of California (hereinafter the Department) as a
6 real estate salesperson employed by broker MICHAEL EMIL KLASNO.
7 On June 16, 1981, respondent THOMAS' license expired and has at
8 no time herein mentioned been renewed by respondent THOMAS.

9 IV

10 MICHAEL EMIL KLASNO (hereinafter respondent KLASNO), is
11 presently licensed and/or has license rights under the Real Estate
12 Law.

13 V

14 At all times herein mentioned, respondent KLASNO was
15 licensed by the Department as a real estate broker, individually
16 and dba Sam's Realty.

17 VI

18 On or about September 29, 1980, respondent KLASNO agreed
19 in writing with respondent THOMAS to perform supervisory
20 responsibilities over the real estate brokerage activities of
21 respondent THOMAS' office known as Sam's Realty located at 9438
22 South Western Avenue, Los Angeles, California. On October 6,
23 1980, respondent KLASNO notified the Department that he was adding
24 a fictitious business name of Sam's Realty to his broker license,
25 but failed to notify the Department of his branch office address
26 of 9438 South Western Avenue.

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VII

The said failure to notify the Department is a violation of Section 2715 of Title 10, California Administrative Code (hereinafter referred to as the Regulations) thereby subjecting respondent KLASNO'S real estate license and license rights to suspension or revocation under Section 10177(d) of the Code.

VIII

During the period September 29, 1980 through the date of the filing of this Accusation, respondent KLASNO has made no attempt to supervise the activities of the office known as Sam's Realty. Real Estate salespersons working there were not notified that KLASNO was the broker, but were told by THOMAS that THOMAS was the broker. The Department was not notified when two salespersons Lois Beason and Gladys Hill, went to work for Sam's Realty. Respondent KLASNO has continually absented himself from the office, and has failed to review, initial and date written instruments materially affecting the rights and obligations of parties. The failure of respondent KLASNO to supervise to said office is a violation of Section 10177(h) of the Code, thereby subjecting his real estate license and license rights to suspension or revocation.

IX

On or about January 15, 1982, after reasonable notice, the Department requested that respondent KLASNO produce bank statements and disbursement checks on the broker's trust account into which respondent KLASNO had alleged that the deposit monies from buyers had been placed. Respondent KLASNO at all times

1 herein mentioned failed to produce the said bank statements and
2 disbursement checks, in violation of Section 10148 of the Code,
3 thereby subjecting his real estate license and license rights
4 to suspension or revocation under Section 10177(d) of the Code.

5 X

6 On or about March 15, 1982, respondent KLASNO appeared
7 at the offices of the Department in response to a subpoena, but
8 failed to produce bank statements and disbursement checks relative
9 to his broker's trust account. The failure to produce said
10 records after subpoena is a violation of Section 10148 of the
11 Code thereby subjecting respondent KLASNO'S real estate license
12 and license rights to suspension or revocation under Section
13 10177(d) of the Code.

14 XI

15 On or about August 1, 1981, respondent THOMAS accepted a
16 \$1,000 check from Leo L. and Rosa May Moore (hereinafter the
17 Buyers) as a deposit and prepared for them a written offer to
18 purchase certain real property located at 3512 10th Avenue,
19 Los Angeles, California, (hereinafter the Property) which was
20 listed for sale with respondent THOMAS'S real estate office.

21 XII

22 The offer was accepted by the seller August 1, 1981 and
23 escrow was opened August 5, 1981.

24 XIII

25 The duty of respondent THOMAS with respect to the
26 disposition of the \$1,000 deposit was, by the close of the
27 following day, either to deposit it into a broker trust account,

1 to deposit it into a neutral escrow, or to place in into the
2 hands of his principal, the seller.

3 XIV

4 Respondent THOMAS deposited the \$1,000 into a general
5 operating account of his real estate office, Sam's Realty,
6 of which respondent THOMAS was the sole owner and for which
7 account respondent THOMAS was the sole signatory, thereby
8 converting the said funds to his own use and benefit and
9 commingling said funds with respondent THOMAS' own funds.

10 XV

11 The said act of respondent THOMAS is a violation of
12 Section 2832 of the Regulations and of Section 10145 of the Code,
13 thereby subjecting his real estate license and license rights
14 to suspension or revocation under Section 10177(d) of the Code.
15 The said act also constitutes commingling and is therefore a
16 basis for suspension or revocation of respondent THOMAS' license
17 under Section 10176(e) of the Code.

18 XVI

19 On or about September 15, 1981, at the request of
20 respondent THOMAS, the Buyers gave respondent THOMAS an
21 additional check in the amount of \$6,000 to cover the remainder
22 of the down payment and closing costs for the purchase of the
23 Property. Respondent THOMAS told the Buyers that the check would
24 be deposited in escrow.

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XVII

Respondent THOMAS deposited \$4,000 of the said check into the general operating account of Sam's Realty, and took the remaining \$2,000 in cash, thereby converting the said funds to his own use and benefit.

XVIII

The said action of respondent THOMAS constitutes commingling, a violation of Section 2832 of the Regulations and of Section 10145 of the Code, thereby subjecting his real estate license and license rights to suspension or revocation under Sections 10176(e) and 10177(d) of the Code.

XIX

All acts of respondent THOMAS above mentioned were done for a compensation or in expectation of a compensation for performing acts for which a real estate license is required.

XX

At no time, despite repeated demands of Buyers, has respondent THOMAS returned any of the \$7,000 taken from the buyers, which constitutes conversion, fraud and dishonest dealing, thereby subjecting his real estate license and license rights to suspension or revocation under Section 10176(i) of the Code.

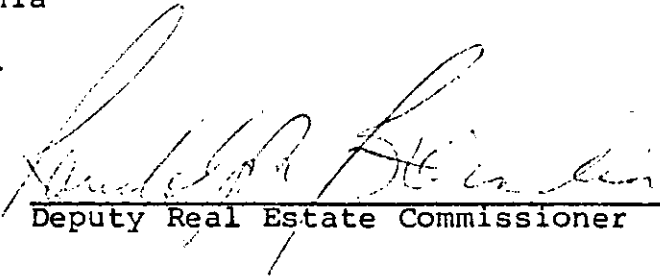
XXI

The actions of respondent THOMAS in soliciting an offer from the Buyers for the purchase of the Property, in negotiating terms of the purchase with the Buyers and in taking their earnest money deposit in connection with the said offer for or on behalf of another and in expectation of a compensation, after the

1 expiration of his real estate salesperson's license, constitute
2 acting as a real estate broker as defined in Section 10131(a) of
3 the Code. By so acting, without first having obtained a real
4 estate broker's license, respondent THOMAS has violated Section
5 10130 of the Code, thereby subjecting his real estate license
6 and license rights to suspension or revocation under Section
7 10177(d) of the Code.

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

17 Dated at Los Angeles, California
18 this 20th day of August, 1982.


Deputy Real Estate Commissioner

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20
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22
23
24 cc: Samuel Sidney Thomas
25 Michael Emil Klasmo, Sr.
26 Sacto.
27 OAH
~~WEM.~~

lbc