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OCT-1 1990

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY *[Signature]*

* * *

In the Matter of the Accusation of)
)
 ROBERT BURKE ANDERSON,)
 individually and as)
 designated officer of)
 Belmar Realty, Inc.; and)
 BELMAR REALTY, INC., a)
 California corporation,)
)
 Respondents.)

NO. H-22594 LA

DECISION

The Proposed Decision dated August 29, 1990,
 of Randolph Brendia, Regional Manager, Department of Real
 Estate, State of California, 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 October 23, _____, 1990.

IT IS SO ORDERED 9-20, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

[Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-22594 LA
)
ROBERT BURKE ANDERSON,)
individually and as)
designated officer of)
Belmar Realty, Inc.; and)
BELMAR REALTY, INC., a)
California corporation,)
)
Respondents.)
)

PROPOSED DECISION

This matter was presided over by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California on August 29, 1990.

Complainant was represented by Marjorie P. Mersel, Counsel. Respondents ROBERT BURKE ANDERSON and BELMAR REALTY, INC. were not present, having signed a Waiver of Appearance after consultation with counsel.

The matter was submitted upon a written Stipulation entered into by and between the parties hereto. Pursuant to the said Stipulation, the following Decision and Order are proposed, certified and recommended for adoption.

FINDINGS OF FACT

I

The complainant, Randolph Brendia, then acting Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

ROBERT BURKE ANDERSON (hereinafter referred to as respondent ANDERSON) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

III

At all times herein mentioned, respondent ANDERSON was and now is licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

BELMAR REALTY, INC. (hereinafter referred to as respondent BELMAR), is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

V

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

VI

On or about March 10, 1983, Hiram K. Cho (hereinafter referred to as Cho), as the owner of real property located at 145 West Jay Street, Carson, California (hereinafter referred to as the Property), executed an \$88,350 first deed of trust on the Property with Unified Mortgage Company. On or about May 2, 1983, Unified Mortgage Company assigned the above-mentioned deed of trust to Uptown Federal Savings and Loan Association.

VII

On or about May 10, 1983, Cho sold the Property to respondent ANDERSON.

VIII

Shortly thereafter, respondent ANDERSON sold the Property to Fido Santiago and Maria G. Santiago (hereinafter referred to as Buyers) for a purchase price of \$102,000 with a down payment of \$10,000.

IX

On or about May 10, 1983, escrow was opened on the Property, Escrow No. 782-534, at S & A Escrow Co., 22619 South Figueroa Street, Carson, California. Escrow instructions provided for ANDERSON and Buyers to execute Stewart Title Company's long form Land Contract with Power of Sale in the amount of \$92,000, payable in monthly installments of \$800.31 per month. The terms of the long form Land Contract provided: "Vendor shall make payments of any installments on existing first, second and third deeds of trust..." Escrow closed on July 13, 1983.

X

Respondent ANDERSON through respondent BELMAR collected monthly payments from the Buyers starting in or about July, 1983 until in or about July, 1984. Payments by the Buyers on the above-mentioned contract from July, 1983 to August, 1984 were approximately \$13,310.31.

XI

On or about May 10, 1984, Uptown Federal Savings and Loan Association recorded a Notice of Default showing that \$10,406.56 was past due as of April 6, 1984, on the first deed of trust.

XII

Respondents BELMAR and ANDERSON had actually collected monthly payments from the Buyers from July, 1983 to August, 1984; however, he did not make the payments in a timely manner on the first trust deed, as Anderson's accountant had mistakenly placed said payments in an account which was not a trust account held in Respondent's name.

Although the Buyers were forced to bring the note with Uptown Federal Savings current with their own monies, ANDERSON made restitution to the Buyers and the note is now current.

XIII

On or about November 17, 1989, the Department completed an audit of BELMAR and ANDERSON's books and records pertaining to their activities as real estate licensees. The results of that examination are set forth in Finding XIV.

XIV

BELMAR and ANDERSON failed to keep columnar records of all trust funds received pertaining to activities requiring a real estate license not placed into a trust account.

ANDERSON failed to notify the Department of a change in his principal place of business from 22619 South Figueroa, Carson, California, to 21915 S. Figueroa Street, Carson, California.

DETERMINATION OF ISSUES

I

The acts and omissions of ANDERSON, as set forth in Findings VI through XIV, constitute a violation of Sections 2715, 2830 and 2831 of Chapter 6, Title 10, California Code of Regulations, and also constitute a lack of supervision over the acts of

BELMAR requiring a real estate license and are bases for the revocation or suspension of the licenses and license rights of ANDERSON under Section 10177(d) of the Code.

2.

The acts and omissions of BELMAR, as set forth in Findings VI through XIV constitute a violation of Sections 2830 and 2831 of Chapter 6, Title 10, California Code of Regulations and are bases for the revocation or suspension of the licenses and license rights of BELMAR under Section 10177(d) of the Code.

ORDER

1

A. The corporate real estate broker licenses and all other license rights of Respondents BELMAR REALTY, INC., and ROBERT BURKE ANDERSON under the Real Estate Law are hereby revoked.

B. However, Respondents BELMAR and ANDERSON shall be entitled to apply for and be issued restricted corporate or individual real estate broker licenses pursuant to Section 10156.5 of the Code if said Respondents make application therefor and pay to the Department of Real Estate the appropriate fee for said license within one (1) year from the effective date of the Decision herein.

C. The restricted license issued to Respondents BELMAR and ANDERSON 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:

1. The restricted licenses shall not confer any property right in the privileges to be exercised thereunder and the Real Estate Commissioner may by appropriate order suspend, prior to hearing, the rights of Respondents BELMAR and ANDERSON to exercise any privileges granted under the restricted licenses in the event of:

(a) The conviction of either Respondent BELMAR or ANDERSON (including a plea of nolo contendere) of a crime which bears a significant relation to either Respondents' fitness or capacity as a real estate license.

(b) The receipt of evidence satisfactory to the Real Estate Commissioner that either Respondent BELMAR or ANDERSON has violated provisions of the California Real Estate law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to said restricted licenses.

2. Respondents BELMAR and ANDERSON shall submit to the Department of Real Estate a Trust Funds Position Statement as of the last day of each March, June, September and December for so long as said restricted licenses shall remain in effect. The Position Statement shall consist of the following:

(a) A schedule of trust fund accountability with the following information concerning funds held by Respondents as agent or trustee to the owner(s) of said funds:

- (1) Account numbers and depositories.
- (2) Names of principals or beneficiaries.
- (3) Trust fund liability to (2).

(b) A report of trust funds in the custody and control of Respondents as of the accounting date consisting of:

- (1) A copy of Respondents' trust accounts bank statements (listed above as (a) (1)) showing the balance of funds in the accounts as of the accounting date.
- (2) A schedule of uncleared checks drawn on the accounts adjusting the accounts to their true balance as of the accounting date.

(c) A copy of Respondents' (i) trust fund records maintained pursuant to Section 2831, Regulations, (ii) separate records maintained pursuant to Section 2831.1, Regulations, and reconciliation prepared pursuant to Regulation 2831.2.

(d) A statement explaining any discrepancy between the total liability shown under (a) above and the adjusted trust accounts' balances shown under (b) above.

The Trust Funds Position Statement shall be submitted by Respondents to the Los Angeles Office of the Department of Real Estate not later than 60 days after each accounting date. If Respondents have no trust fund liability as of accounting date, their report to the Department shall so state.

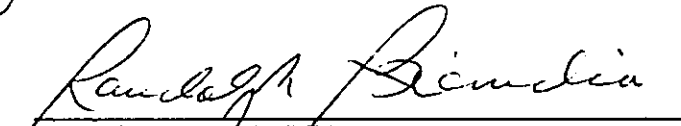
Both Respondents shall certify under penalty of perjury the completeness and accuracy of each Position Statement submitted by either Respondent.

3. Respondents shall not be eligible to apply for the issuance of any unrestricted real estate licenses nor the removal of any of the conditions, limitations or restrictions attaching to the restricted licenses until at least one (1) year has elapsed from the date of issuance of the restricted licenses to Respondents.

4. Respondent ANDERSON shall, within 12 months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he 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 Real Estate Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent ANDERSON shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent passes the examination.

DATED: 29 August 1990.



RANDOLPH BRENDIA
Regional Manager
Department of Real Estate

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV 18 1988

DEPARTMENT OF REAL ESTATE
BY *Sybil Wilens*

In the Matter of the Accusation of
ROBERT BURKE ANDERSON, ET AL,

}

Case No. H-22594 LA

OAH No. L-37784

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
OFFICE OF ADMINISTRATIVE HEARINGS, 314 W. First St., Los Angeles, CA
on the 16th day of December, 1988, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: November 18, 1988

By *Marjorie P. Mersel*
MARJORIE P. MERSEL, Counsel

cc: Robert Burke Anderson
Belmar Realty, Inc.
John P. Walker, Esq.
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 26 1988

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

In the Matter of the Accusation of

ROBERT BURKE ANDERSON, et al.

}

Case No. H-22594 LA

OAH No. L-37784

Respondent(s)

NOTICE OF HEARING ON ACCUSATION
(AMENDED)

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, 314 West First Street, Los Angeles, CA, on the 21st day of March, 19 88, 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.

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JAMES A. EDMONDS, JR.
DEPARTMENT OF REAL ESTATE

By *[Signature: Marjorie P. Mersel]*
MARJORIE P. MERSEL, Counsel

Dated: January 26, 1988

cc: Robert Burke Anderson
Belmar Realty, Inc.
John P. Walker, Esq.
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

NOV 19 1987

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

In the Matter of the Accusation of

ROBERT BURKE ANDERSON, et al.

Case No. H-22594 LA

OAH No. L-37784

Respondent(s)

NOTICE OF HEARING ON ACCUSATION
(AMENDED)

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, 314 West First Street, Los Angeles, CA,
on the 25th day of January, 19 88, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

JAMES A. EDMONDS, JR.
DEPARTMENT OF REAL ESTATE

By *[Signature: Marjorie P. Mersel]*
MARJORIE P. MERSEL, Counsel

Dated: November 19, 1987

cc: Robert Burke Anderson
Belmar Realty, Inc.
John P. Walker, Esq.
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FILED

DEPARTMENT OF REAL ESTATE

FEB 19 1987

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY *[Signature]*

In the Matter of the Accusation of)
)
ROBERT BURKE ANDERSON, et al,)
)
Respondents.)

Case No. H-22594 LA
L-37784

AMENDED NOTICE OF HEARING ON ACCUSATION

TO THE ABOVE-NAMED RESPONDENTS:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on the 19th day of May, 1987, 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: February 19, 1987 .

JAMES A. EDMONDS, JR.
DEPARTMENT OF REAL ESTATE

cc: Robert Burke Anderson
Belmar Realty, Inc.
John P. Walker, Esq.
Sacto.
OAH
AS

By: *[Signature]*
MARJORIE P. MERSEL
Counsel

1 MARJORIE P. MERSEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012

5 (213) 620-4790

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DEPARTMENT OF REAL ESTATE

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12 ROBERT BURKE ANDERSON,)
13 individually and as)
14 designated officer of)
15 Belmar Realty, Inc.; and)
16 BELMAR REALTY, INC., a)
California corporation,)
Respondents.)

No. H-22594 LA

A C C U S A T I O N

17 The complainant, Randolph Brendia, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against ROBERT BURKE ANDERSON, individually and as designated
20 officer of Belmar Realty, Inc.; and BELMAR REALTY, INC., a
21 California corporation, alleges as follows:

22 I

23 The complainant, Randolph Brendia, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation in
25 his official capacity.
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II

ROBERT BURKE ANDERSON (hereinafter referred to as respondent ANDERSON) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

III

At all times herein mentioned, respondent ANDERSON was and now is licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

BELMAR REALTY, INC. (hereinafter referred to as respondent BELMAR), is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

V

At all times herein mentioned, respondent BELMAR was and now is licensed by the Department of Real Estate of the State of California as a corporate real estate broker.

VI

On or about March 10, 1983, Hiram K. Cho (hereinafter referred to as Cho), as the owner of real property located at 145 West Jay Street, Carson, California (hereinafter referred to as the Property), executed an \$88,350 first deed of trust on the Property with Unified Mortgage Company. On or about May 2, 1983, Unified Mortgage Company assigned the above-mentioned deed of trust to Uptown Federal Savings and Loan Association.

/

1 VII

2 On or about May 10, 1983; Cho sold the Property to
3 respondent ANDERSON.

4 VIII

5 On or about May 9, 1983, respondent ANDERSON sold the
6 Property to Fido Santiago and Maria G. Santiago (hereinafter
7 referred to as Buyers) for a purchase price of \$102,000 with a
8 down payment of \$10,000.

9 IX

10 On or about May 10, 1983, escrow was opened on the
11 Property, Escrow No. 782-534, at S & A Escrow Co., 22619 South
12 Figueroa Street, Carson, California. Escrow instructions provided
13 for Sellers and Buyers to execute Stewart Title Company's long
14 form Land Contract with Power of Sale in the amount of \$92,000,
15 payable in monthly installments of \$800.31 per month. The terms
16 of the long form Land Contract provided: "Vendor shall make
17 payments of any installments on existing first, second and third
18 deeds of trust..." Escrow closed on July 13, 1983.

19 X

20 Respondent ANDERSON through respondent BELMAR collected
21 monthly payments from the Buyers starting in or about July, 1983
22 until in or about July, 1984. Payments by the Buyers on the
23 above-mentioned contract from July, 1983 to July, 1984 were
24 approximately \$12,610.31.

25 XI

26 On or about May 10, 1984, Uptown Federal Savings and
27 Loan Association recorded a Notice of Default showing that

1 \$10,406.56 was past due as of April 6, 1984, on the first deed of
2 trust.

3 XII

4 Respondent ANDERSON had collected monthly payments from
5 the Buyers from July, 1983 to July, 1984; however, he did not make
6 the payments on the first trust deed, but used the money for his
7 own purposes instead.

8 XIII

9 The conduct of respondent ANDERSON as alleged
10 hereinabove constitutes fraud or dishonest dealing, and is
11 grounds for the suspension or revocation of his real estate
12 license and/or license rights under the provisions of Section
13 10177(j) of the Business and Professions Code.

14 SECOND CAUSE OF ACCUSATION

15 XIV

16 The complainant, Randolph Brendia, a Deputy Real Estate
17 Commissioner of the State of California, for a Second Cause of
18 Accusation alleges as follows:

19 XV

20 Complainant repleads and realleges Paragraphs I through
21 XII of the First Cause of Accusation.

22 XVI

23 From on or about July 13, 1977, respondent BELMAR became
24 incorporated in the State of California by filing Articles of
25 Incorporation with the Secretary of State. On or about
26 February 1, 1984, the corporate powers, rights and privileges of
27 respondent BELMAR were suspended pursuant to the provisions of

1 Section 23302 of the California Revenue and Taxation Code.

2 XVII.

3 Respondent ANDERSON failed to obtain reinstatement of
4 respondent BELMAR's corporate powers before continuing to operate
5 in respondent BELMAR's name.

6 XVIII

7 Respondent ANDERSON failed to submit the Certificate
8 Status Qualification or Good Standing of respondent BELMAR as
9 required by Section 2742 of Title 10, Chapter 6, California
10 Administrative Code. The conduct of respondent ANDERSON, as
11 described hereinabove, is grounds for the suspension or revocation
12 of his real estate licenses and license rights and the real estate
13 licenses and license rights of respondent BELMAR under the
14 provisions of Sections 10177(d) and (f) of the Business and
15 Professions Code for violating Section 2742 of Title 10,
16 Chapter 6, California Administrative Code.

17 PRIOR ADMINISTRATIVE ACTION

18 On or about July, 1976, the Department issued a Desist
19 and Refrain Order against BELMAR and ROBERT B. ANDERSON for
20 violation of Sections 10177(d) of the Business and Professions
21 Code and Sections 2725 and 2726, Chapter 6, Title 10, California
22 Administrative Code.

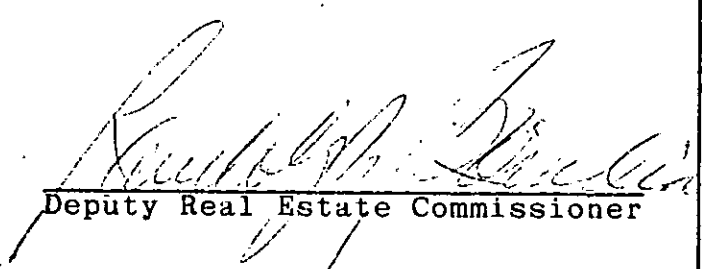
23 In or about July 1985, the Department issued a Desist and
24 Refrain Order against ROBERT B. ANDERSON for violation of Sections
25 11010 and 11018.2 of the Business and Professions Code.

26 /

27 /

1 WHEREFORE, complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of respondents ROBERT
5 BURKE ANDERSON, individually and as designated officer of Belmar
6 Realty, Inc.; and BELMAR REALTY, INC., a California corporation,
7 under the Real Estate Law (Part 1 of Division 4 of the Business
8 and Professions Code) and for such other and further relief as may
9 be proper under other applicable provisions of law.

10 Dated at Los Angeles, California,
11 this 16th day of June, 1986.


Deputy Real Estate Commissioner

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25 cc: Robert Burke Anderson
26 Belmar Realty, Inc.
27 Sacto.
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