

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

No. H-24164 LA

MICHAEL CHARLES McADAMS,

Respondent(s))

DECISION

The Proposed Decision dated May 14, 1991,
of Randolph Brendia, Regional Manager, Department of Real Estate,
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 July 2, 1991.

IT IS SO ORDERED June 4, 1991.

JOHN R. LIBERATOR
Chief Deputy Real Estate
Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) H- 24164 LA
)
MICHAEL CHARLES McADAMS,)
)
Respondents.)
)
)

PROPOSED DECISION

This matter was presided over by Randolph Brendia as the designee of the Real Estate Commissioner, in Los Angeles, California on May 14, 1991.

James L. Beaver, Counsel, represented the Complainant.

No personal appearance was made by or on behalf of Respondent at the hearing on this matter. Under the stipulation executed by Respondent MICHAEL CHARLES McADAMS (hereinafter "Respondent"), and joined in by E. JERALD HAWS, Esq., attorney for Respondent, Respondent waived notice of the time and place of the hearing on the Accusation heretofore filed herein, and also waived appearance at the hearing.

The matter was submitted upon a written stipulation entered into by and between the parties hereto. Pursuant to the terms and provisions of said written stipulation, and good cause appearing, the following Findings Of Fact, Determination Of Issues, and Order are made:

FINDINGS OF FACT

1.

The Complainant, STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

2.

Respondent MICHAEL CHARLES McADAMS 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") as a real estate broker.

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3.

At all times mentioned herein Respondent MICHAEL CHARLES McADAMS was and now is licensed by the Department of real estate of the State of California (herein "the Department") as a real estate broker.

4.

The term "the Regulations" as used herein refers to sections of Title 10, Chapter 6, California Code of Regulations.

5.

All further references herein to "Respondent" include the party identified in Finding 3, above, and also include the employees, agents and real estate licensees employed by or associated with said party and who at all times herein mentioned were engaged in the furtherance of the business or operations of said party and who were acting within the course and scope of their authority and employment.

6.

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public, wherein Respondent solicited borrowers and lenders for loans secured by liens on real property and packaged said loans for referral to lenders, for or in expectation of compensation.

7.

In connection with the aforesaid activities as a mortgage loan broker, Respondent accepted or received funds in trust (herein "trust funds") from or on behalf of borrowers to cover the costs of credit reports and appraisal fees and thereafter made disbursement of such funds. Said funds were deposited into various trust accounts maintained by Respondent in the Santa Barbara Bank & Trust in Santa Barbara, California, including, but not necessarily limited to the following accounts:

McAdams Financial Services Trust Account
Account Number 6562-607

MIKJOL, INC. Trust Account
Account Number 6570-741

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8.

During August, 1989, a representative of the Department completed an examination of the books and records kept by Respondent in connection with the aforesaid trust accounts for a twenty two - month period ending July 31, 1989, which revealed the violations of the Code and the Regulations set forth in Finding 9 below:

9.

In connection with the trust funds described in Finding 7, above, Respondent acted in violation of the Code and the Regulations in that:

(a) Respondent deposited the said trust funds into those trust accounts described in Finding 7, which trust accounts were not maintained by Respondent in his name as broker and as trustee, as required by Section 2830 of the Regulations;

(b) Respondent failed to maintain an adequate formal trust fund receipts journal and a formal trust fund disbursements journal or other records of the receipt and disposition of all trust funds received by Respondent, as required by Section 2831 of the Regulations;

(c) Respondent failed to maintain adequate separate records in connection with the aforesaid trust accounts for each beneficiary or transaction, accounting therein for all trust funds received, deposited, and disbursed, as required by Section 2831.1 of the Regulations;

(d) Respondent disbursed or caused or allowed the disbursement of trust funds from the aforesaid trust accounts, where the disbursement of said funds reduced the funds in the said account to amount which, when combined, was at least \$8,000.00 less than the existing aggregate trust fund liability to the owners of said funds as of July 31, 1989, without first obtaining the prior written consent of every principal who was an owner of said funds, as required by Section 10145 of the Code and Section 2832.1 of the Regulations.

DETERMINATION OF ISSUES

The acts and omissions of Respondent described in Finding 9, above, constitute willful violations of Section 10145 of the Code and Sections 2830, 2831, 2831.1 and 2832.1 of the Regulations and are cause for the suspension or revocation of all licenses and license rights of Respondent MICHAEL CHARLES MCADAMS under the provisions of Section 10177(d) of the Code.

ORDER

The license and license rights of Respondent MICHAEL CHARLES McADAMS under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby revoked; provided however, a restricted real estate broker license shall be issued to Respondent McADAMS if Respondent McADAMS makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within 90 days from the effective date of the Decision herein. The restricted license issued to Respondent McADAMS shall be suspended for the thirty (30) day period commencing on the issuance thereof. However, the last twenty days of the thirty-day suspension period shall be stayed upon the condition that no further cause for disciplinary action against the real estate licenses and license rights of such Respondent shall occur within one (1) year after the effective date of the Decision herein. Furthermore, the first ten (10) days of the thirty-day suspension period shall be permanently stayed if said Respondent petitions pursuant to Section 10175.2 of the Code and pays \$2,500.00 to the Real Estate Recovery Account prior to the effective date of the Decision herein. The restricted license issued to Respondent McADAMS 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 the Code:

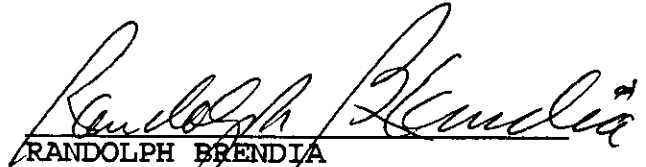
1. The restricted license may be suspended, prior to a hearing by Order of the Real Estate commissioner, in the event of Respondent's conviction or plea of nolo contendere to a crime which bears a substantial relation to Respondent's fitness or capacity as a real estate licensee, or upon receipt of evidence satisfactory to the Real Estate Commissioner that Respondent has violated provisions of the Real Estate Law of the State of California, the Subdivided Lands Act, the Real Estate Regulations of the State of California, or any of the conditions attached to the restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the restrictions, conditions or limitations set forth herein until one (1) year has elapsed from the date of issuance of the restricted license to Respondent.
3. Respondent shall, within two (2) years after the effective date of the Decision herein, 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 Commissioner may order the suspension of the restricted license 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, within one (1) year after the effective date of the Decision herein, take and pass the Professional Responsibility Examination administered by the Department including the 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.

It is recommended that this Proposed Decision, including the Findings of Fact, Determination of Issues and Order set forth above, be adopted as the Decision of the Real Estate Commissioner.

DATED May 14, 1991.


RANDOLPH BRENDIA
Southern Regional Manager
Department of Real Estate

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of

MICHAEL CHARLES McADAMS

}

Case No. H-24164 LA

OAH No. L-51713

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 90012

on the 15th & 16th day of April, 19 91, 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.

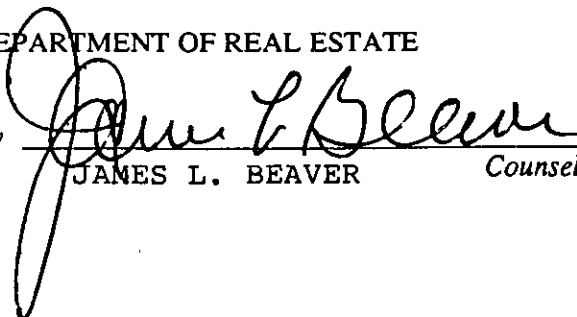
The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient 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.

Dated: January 17, 1991

cc: Michael Charles McAdams
E. Jerald Haws, Esq.
Sacto
OAH
MJG

DEPARTMENT OF REAL ESTATE

By


JAMES L. BEAVER *Counsel*

Sacto.
Flag

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 620-4790

FILED

OCT-1 1990

DEPARTMENT OF REAL ESTATE

BY *Sybil Helms*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-24164 LA
12 MICHAEL CHARLES McADAMS,) A C C U S A T I O N
13 Respondent.)
14

15 The complainant, Steven J. Ellis, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against MICHAEL CHARLES McADAMS, alleges as follows:

18 1.

19 The complainant, Steven J. Ellis, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation
21 in his official capacity.

22 2.

23 All sections of Title 10, Chapter 6, California Code
24 of Regulations are hereinafter referred to as the Regulations.

25 3.

26 MICHAEL CHARLES McADAMS (hereinafter referred to as
27 Respondent) is presently licensed and/or has license rights

1 under the Real Estate Law (Part 1 of Division 4 of the Business
2 and Professions Code, hereinafter referred to as the Code).

3 4.

4 At all times herein mentioned, Respondent was licensed
5 by the Department of Real Estate of the State of California
6 (hereinafter the Department) as a real estate broker.

7 5.

8 All further references to Respondent shall be deemed
9 to refer to, in addition to Respondent, the employees, agents
10 and real estate licensees employed by or associated with Respond-
11 ent who at all times herein mentioned were engaged in the
12 furtherance of the business or operations of Respondent and who
13 were acting within the course and scope of their authority and
14 employment.

15 6.

16 At all times herein mentioned, Respondent engaged in
17 the business of, acted in the capacity of, advertised, or assumed
18 to act as a real estate broker in the State of California within
19 the meaning of Section 10131(d) of the Code, including the
20 operation of a mortgage loan brokerage business with the public,
21 wherein Respondent solicited borrowers and lenders for loans
22 secured by liens on real property and packaged said loans for
23 referral to lenders, for or in expectation of compensation.

24 7.

25 In connection with the aforesaid activities as a
26 mortgage loan broker, Respondent accepted or received funds in
27 trust (hereinafter "trust funds") from or on behalf of borrowers

to cover the costs of credit reports and appraisal fees and thereafter made disbursements of said funds. Said funds were deposited into various trust accounts maintained by Respondent in the Santa Barbara Bank & Trust in Santa Barbara, California, including, but not necessarily limited to the following accounts:

McAdams Financial Services Trust Account
Account Number 6562-607

MIKJOL, Inc. Trust Account
Account Number 657-741

8.

During August 1989, a representative of the Department completed an examination of Respondent's books and records kept by Respondent in connection with the aforesaid trust accounts for a twenty two-month period ending July 31, 1989, which revealed violations of the Code and the Regulations as set forth below in the following paragraphs.

9.

In connection with the trust funds described in Paragraph 7 above, Respondent acted in violation of the Code and the Regulations in that:

a. Respondent deposited the said trust funds into those trust accounts described in Paragraph 7, which trust accounts were not maintained by Respondent in his name as broker and as trustee, as required by Section 2830 of the Regulations.

b. Respondent failed to maintain an adequate formal trust fund receipts journal and a formal trust fund disbursements journal or other records of the receipt and disposition of all trust funds received by Respondent, as required by Section 2831

1 of the Regulations.

2 c. Respondent failed to maintain separate records in
3 connection with the aforesaid trust accounts for each beneficiary
4 or transaction, accounting therein for all trust funds received,
5 deposited, and disbursed, as required by Section 2831.1 of the
6 Regulations.

7 d. Respondent disbursed or caused or allowed the
8 disbursement of trust funds from the aforesaid trust accounts,
9 where the disbursement of said funds reduced the funds in the
10 said accounts to an amount which, when combined, was approximately
11 \$23,573 less than the existing aggregate trust fund liability to
12 all owners of said funds as of July 31, 1989, without first
13 obtaining the prior written consent of every principal who was
14 an owner of said funds, as required by Section 10145 of the Code
15 and Section 2832.1 of the Regulations.

16 10.

17 During a period of time from January 1, 1989, to July
18 31, 1989, Respondent negotiated some 100 loans secured by liens
19 on real property in an aggregate amount of more than \$17,732,000,
20 thereby satisfying the criteria of Section 10232(a) of the Code.
21 Respondent failed to notify the Department in writing within 30
22 days thereafter of having met the said criteria, as required by
23 Section 10232(c) of the Code.

24 11.

25 On a date unknown to the Commissioner, but prior to
26 July 31, 1989, Respondent began conducting a mortgage loan
27 brokerage business at 406 W. Ocean Avenue in Lompoc, California.

1 At no time prior to July 31, 1989, did Respondent obtain a
2 license authorizing Respondent to conduct business as a real
3 estate broker at said address.

4 12.

5 In addition, Respondent failed to review, initial, and
6 date each and every instrument prepared or signed by a sales-
7 person employed by Respondent, which might have had a material
8 effect on the rights and obligations of borrowers and lenders in
9 the secured loans negotiated by Respondent, all in violation of
10 Section 2725 of the Regulations.

11 13.

12 The conduct, acts or omissions of Respondent, as set
13 forth in Paragraph 9(a) through 9(d) above, constitute willful
14 violation of Sections 2830, 2831, 2831.1 and 2832.1 of the
15 Regulations and Section 10145 of the Code and are cause for the
16 suspension or revocation of all licenses and license rights of
17 Respondent MICHAEL CHARLES McADAMS under the provisions of
18 Section 10177(d) of the Code.

19 14.

20 The conduct of Respondent, as set forth in Paragraph
21 10 above, is in violation of Section 10232(c) of the Code and
22 is cause for the suspension or revocation of all licenses and
23 license rights of Respondent MICHAEL CHARLES McADAMS under the
24 provisions of Section 10177(d) of the Code.

25 15.

26 The conduct of Respondent, as set forth in Paragraph
27 11 above, is in violation of Section 10163 of the Code and

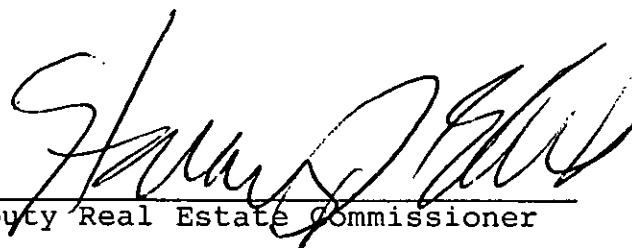
1 Section 2715 of the Regulations and is cause for the suspension
2 or revocation of all licenses and license rights of Respondent
3 MICHAEL CHARLES McADAMS under the provisions of Section 10165 and
4 10177(d), respectively, of the Code.

5 16.

6 The acts and omissions of Respondent, as set forth in
7 Paragraph 12 above, are in violation of Section 2725 of the
8 Regulations and are cause for the suspension or revocation of
9 all license and license rights of Respondent MICHAEL CHARLES
10 McADAMS under the provisions of Section 10177(d) of the Code.

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

20 Dated at Los Angeles, California,
21 this 1st day of October, 1990.

22
23 
24 Deputy Real Estate Commissioner

25
26 cc: Michael Charles McAdams
27 Sacto
MJG