

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California 90012
3 Telephone (213) 897-3937
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FILED
AUG 14 1995
DEPARTMENT OF REAL ESTATE
[Signature]

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-25535 LA
12)
13 ACI OF BEL AIR, INC., a California)
14 corporate broker; CALVIN SYLVESTER) STIPULATION AND AGREEMENT
15 ASHLEY, individually and as) IN SETTLEMENT AND ORDER
designated officer of ACI of Bel)
Air, Inc.; and SID ROSENBLATT,)
Respondents.)

16 It is hereby stipulated by and between respondent CALVIN
17 SYLVESTER ASHLEY (hereafter sometimes referred to as respondent
18 ASHLEY), Mel Brown, Esq., Counsel for respondent ASHLEY, and the
19 Complainant, acting by and through Sean Crahan, Counsel for the
20 Department of Real Estate, as follows for the purpose of settling
21 and disposing of the Accusation filed on August 27, 1993, in this
22 matter:

23 1. Respondent has received, read and understands the
24 Statement to Respondent, the Discovery Provisions of the APA and
25 the Accusation filed by the Department of Real Estate in this
26 proceeding.

27 2. On September 14, 1993, respondent ASHLEY filed a

1 Notice of Defense

2 3. The matter came on for hearing on February 22 and
3 24, 1995 before Jaime Rene' Roman, Administrative Law Judge of the
4 Office of Administrative Hearings. A Proposed Decision was signed
5 by Judge Roman on February 27, 1995 as to respondent ASHLEY
6 (hereafter the Proposed Decision).

7 4. Pursuant to Government Code Section 11517(c), the
8 Real Estate Commissioner rejected the Proposed Decision on March 7,
9 1995 and gave notice thereof on March 9, 1995. Pursuant to
10 Government Code Section 11517(c), the Real Estate Commissioner may
11 order the transcript and decide the case.

12 5. In lieu of further proceedings pursuant to Government
13 Code Section 11517(c), complainant and respondent ASHLEY have
14 entered into this stipulated disposition of these proceedings.

15 5. Complainant and Respondent ASHLEY, for the purpose
16 of settling these proceedings, hereby admit that the Findings Of
17 Fact set forth in the Proposed Decision are true.

18 6. It is understood by the parties that the Real Estate
19 Commissioner may adopt this Stipulation and Agreement in Settlement
20 and Order as his decision in this matter thereby imposing the
21 penalty and sanctions on respondent ASHLEY's real estate licenses
22 and license rights as set forth in the below "Order". In the event
23 that the Commissioner in his discretion does not adopt the
24 Stipulation and Agreement in Settlement and Order, the Stipulation
25 and Agreement in Settlement and Order shall be void and of no
26 effect, and the Real Estate Commissioner may proceed to decide the
27 case pursuant to Government Code Section 11517(c).

1 Section 10156.6 of that Code:

2 A. Any restricted real estate broker licenses issued to
3 Respondent pursuant to this Order shall be suspended for six (6)
4 months from the date of issuance of said restricted license;
5 provided, however, that if Respondent petitions, the final five
6 months of said suspension shall be stayed upon condition that:

7 1. Respondent, in lieu of the final five months of
8 said suspension, provides evidence, satisfactory to the
9 Commissioner, prior to the issuance of the restricted license, of
10 enrollment at an accredited institution, of:

11 (a) a three-hour course in trust fund
12 accounting and handling as described in Code Section 10170.5(a)(3)
13 and approved by the Department.

14 (b) a Department approved course in Real
15 Estate Office Administration.

16 2. If Respondent fails to provide evidence
17 satisfactory to the Commissioner in accordance with the terms and
18 conditions of Paragraph A, the Commissioner shall, without hearing,
19 order the immediate execution of all of the stayed suspension.

20 B. The restricted licenses issued to Respondent shall be
21 subject to all of the provisions of Section 10156.7 of the Business
22 and Professions Code and to the following limitations, conditions
23 and restrictions imposed under authority of Section 10156.6 of said
24 Code:

25 (1) The restricted license may be suspended prior
26 to hearing by order of the Real Estate Commissioner in the event of
27 Respondent's conviction or plea of nolo contendere to a crime which

1 bears a significant relation to Respondent's fitness or capacity as
2 a real estate licensee.

3 (2) The restricted license may be suspended prior
4 to hearing by Order of the Real Estate Commissioner on evidence
5 satisfactory to the Commissioner that Respondent has, during the
6 time he holds a restricted license, violated provisions of the
7 California Real Estate Law, the Subdivided Lands Law, Regulations
8 of the Real Estate Commissioner, or the conditions attaching to
9 these restricted licenses.

10 (3) Respondent shall, within six months from the
11 effective date of this Decision, take and pass the Professional
12 Responsibility Examination administered by the Department including
13 the payment of the appropriate examination fee. If Respondent
14 fails to satisfy this condition, the Commissioner may order the
15 suspension of Respondent's license until Respondent passes the
16 examination.

17 (4) Respondent shall, within nine months from the
18 issuance of the restricted license, present evidence to the
19 Department that he has successfully completed the courses set forth
20 in paragraph A 1. (a) and (b) above.

21 (5) Respondent shall, within twelve months from the
22 effective date of this Decision, present evidence satisfactory to
23 the Real Estate Commissioner that Respondent has, since the most
24 recent issuance of a renewal real estate license, taken and
25 successfully completed the continuing education requirements of
26 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
27 real estate license.

1 (6) If Respondent fails to satisfy either of the
2 conditions set forth in paragraphs four (4) and five (5) above, the
3 Commissioner may order the suspension of the restricted license
4 until the Respondent presents such evidence. The Commissioner
5 shall afford Respondent the opportunity for a hearing pursuant to
6 the Administrative Procedure Act to present such evidence.

7 (7) Respondent shall report in writing to the
8 Department, as the Commissioner shall direct, such information
9 concerning Respondent's activities for which a real estate license
10 is required as the Commissioner shall deem to be appropriate to
11 protect the public interest.

12 (8) If Respondent, or an agent of Respondent, while
13 Respondent is acting as either broker or a designated officer, is
14 in possession of trust funds, or has come into possession thereof,
15 during the period covered by reports to the Commissioner,
16 Respondent shall file with each report a certificate from a
17 Certified Public Accountant or Public Accountant certifying that
18 Respondent has kept and maintained such books and records in
19 connection with his practice as required by the Real Estate Law.
20 Such reports, at the expense of Respondent, shall include, but
21 shall not be limited to, accountings of trust funds in the custody
22 and control of Respondent and periodic summaries of salient
23 information concerning each real estate transaction in which
24 Respondent engaged during the period covered by the report.

25 (9) Pursuant to Business and Professions Code
26 section 10148, Respondent shall pay the Commissioner's reasonable
27 cost for a follow up audit. In calculating the amount of the

1 Commissioner's reasonable cost, the Commissioner may use the
2 estimated average hourly salary for all persons performing audits
3 of real estate brokers, and shall include an allocation for travel
4 time to and from the auditor's place of work. Respondent shall pay
5 such cost within forty-five (45) days of receiving an invoice from
6 the Commissioner detailing the activities performed during the
7 audit and the amount of time spent performing those activities.
8 The Commissioner may suspend the restricted license issued to
9 Respondent if payment is not timely made as provided for herein, or
10 as provided for in a subsequent agreement between Respondent and
11 the Commissioner. Any suspension, if ordered, shall remain in
12 effect until payment is made in full or until Respondent enters
13 into an agreement satisfactory to the Commissioner to provide for
14 payment, or until a Decision providing otherwise is adopted
15 following a hearing held pursuant to this condition.

16 (10) Respondent shall not be eligible to apply for
17 the issuance of an unrestricted real estate license nor for the
18 removal of any of the conditions, limitations or restrictions of a
19 restricted license until two (2) years have elapsed from the
20 issuance of the restricted license to Respondent.

21 * * * * *

22 I have read the Stipulation And Agreement In Settlement
23 And Order, and its terms are understood by me and are agreeable and
24 acceptable to me. I understand that I am waiving rights given to
25 me by the California Administrative Procedure Act (including but
26 not limited to Section 11517(c) of the Government Code), and I
27 willingly, intelligently and voluntarily waive those rights.

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DATED: 6-23-95

Calvin S. Ashley
CALVIN SYLVESTER ASHLEY, Respondent

DATED: June 23-95

Mel Brown
Approved as to form,
MEL BROWN, Esq., Counsel for
Respondent Calvin Sylvester Ashley

DATED: June 27, 1995

Sean Crahan
SEAN CRAHAN, Counsel for the
Department of Real Estate

* * * * *

The foregoing Stipulation and Agreement in Settlement and
Order is hereby adopted as my Decision and Order as to respondent
CALVIN SYLVESTER ASHLEY and it shall become effective at 12 o'clock
noon on September 5, _____, 1995.

IT IS SO ORDERED 8-8, 1995

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt Jr.

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California 90012
3 Telephone (213) 897-3937
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FILED
MAR 8 1995
DEPARTMENT OF REAL ESTATE

[Handwritten Signature]

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-25535 LA
12)
12 ACI OF BEL AIR, INC., a California)
corporate broker; CALVIN SYLVESTER) STIPULATION AND AGREEMENT
13 ASHLEY, individually and as)
designated officer of ACI of Bel) IN SETTLEMENT AND ORDER
14 Air, Inc.; and SID ROSENBLATT,)
15 Respondents.)
16)

17 It is hereby stipulated by and between respondents ACI OF
18 BEL AIR, INC., a California corporate real estate broker (hereafter
19 sometimes referred to as ACI) and respondent SID ROSENBLATT
20 (hereafter sometimes referred to as ROSENBLATT), Jerry Kaplan, Esq.
21 of Kaplan, Kenegos & Kadin, Counsel for Respondents, and the
22 Complainant, acting by and through Sean Crahan, Counsel for the
23 Department of Real Estate, as follows for the purpose of settling
24 and disposing of the Accusation filed on August 27, 1993, in this
25 matter:

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be held
2 in accordance with the provisions of the Administrative Procedure
3 Act (APA), shall instead and in place thereof be submitted solely
4 on the basis of the provisions of this Stipulation.

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. On September 10, 1993, Respondent ROSENBLATT filed a
10 Notice of Defense pursuant to Section 11505 of the Government Code
11 for the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondent ROSENBLATT hereby freely and voluntarily
13 withdraws his Notice of Defense. Respondent ROSENBLATT
14 acknowledges that he understands that by withdrawing said Notice of
15 Defense, he will thereby waive his right to require the
16 Commissioner to prove the allegations in the Accusation at a
17 contested hearing held in accordance with the provisions of the APA
18 and that he will waive other rights afforded to him in connection
19 with the hearing such as the right to present evidence in defense
20 of the allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. This Stipulation and Agreement in Settlement and
23 Order is based on the factual allegations contained in paragraphs
24 one (1), three (3) through five (5), eight (a) [8(a)], eight (b)
25 [8(b)], nine (a) [9(a)] and nine (b) [9(b)] in the Accusation filed
26 in this proceeding. In the interests of expedience and economy,
27 Respondents choose not to contest these factual allegations, but to

1 remain silent and understand that, as a result thereof, these
2 factual statements, without being admitted or denied, will serve
3 as a prima facie basis for the disciplinary action stipulated to
4 herein. This Stipulation and Agreement in Settlement and Order and
5 the findings based on Respondents' decision not to contest the
6 Accusation are hereby expressly limited to this proceeding and made
7 for the sole purpose of reaching an agreed disposition of this
8 proceeding. Respondents' decision not to contest the factual
9 allegations is made solely for the purpose of effectuating this
10 Stipulation and is intended by Respondents to be non-binding upon
11 them in any actions against Respondents by third parties.

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

23 6. The Order or any subsequent Order of the Real Estate
24 Commissioner made pursuant to this Stipulation shall not constitute
25 an estoppel, merger or bar to any further administrative or civil
26 proceedings by the Department of Real Estate with respect to any
27 matters which were not specifically alleged to be causes for

1 accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and solely for the purpose of settlement of the pending
5 Accusation without a hearing, it is stipulated and agreed that the
6 following determination of issues shall be made:

7 I

8 The conduct or omissions of Respondent ACI as set forth
9 in paragraphs one (1), three (3) through five (5), eight (a)
10 [8(a)], eight (b) [8(b)], nine (a) [9(a)] and nine (b) [9(b)] of
11 the Accusation constitute cause to suspend or revoke its real
12 estate licenses and license rights under the provisions of Business
13 and Professions Code sections 10176(e) and 10177(d) for violations
14 of Code Sections 10145 and Regulations 2830 from Title 10, Chapter
15 6 of the California Code of Regulations.

16 II

17 The conduct or omissions of Respondent ROSENBLATT as set
18 forth in paragraphs one (1), three (3) through five (5), eight (a)
19 [8(a)], eight (b) [8(b)], nine (a) [9(a)] and nine (b) [9(b)] of
20 the Accusation constitute cause to suspend or revoke his real
21 estate licenses and license rights under the provisions of Business
22 and Professions Code Sections 10176(e) and 10177(d) for violations
23 of Code Sections 10145 and Regulations 2830 from Title 10, Chapter
24 6 of the California Code of Regulations

25 * * * * *

26 /

27 /

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensing rights of respondent ACI OF BEL AIR, INC., under the Real Estate Law, are revoked.

II

All licenses and licensing rights of respondent SID ROSENBLATT, under the Real Estate Law, are revoked.

* * * * *

We have read the Stipulation and Agreement in Settlement and Order and its terms are understood by us and are agreeable and acceptable to ACI OF BEL AIR, INC. and SID ROSENBLATT. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

DATED: 2/22/95 Sid Rosenblatt, Pres.
ACI OF BEL AIR, INC., Respondent,
by Sid Rosenblatt, President.

DATED: 2-22-95 Sid Rosenblatt
SID ROSENBLATT, Respondent

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DATED: 2-22-95

Jerry Kaplan
Approved as to form,
JERRY KAPLAN, Esq. of.
KAPLAN, KENEGOS & KADIN
Counsel for Respondents Aci Of Bel
Air, Inc. And Sid Rosenblatt

DATED: 2-22-95

Sean Crahan
SEAN CRAHAN, Counsel for the
Department of Real Estate

* * * * *

The foregoing Stipulation and Agreement in Settlement and
Order is hereby adopted as my Decision and Order as to respondents
ACI OF BEL AIR, INC. and SID ROSENBLATT and it shall become
effective at 12 o'clock noon on March 28, 1995.

IT IS SO ORDERED March 3, 1995

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

1 respondent and complainant.

2 Written argument of respondent to be considered by me
3 must be submitted within 15 days after receipt of the transcript
4 of the proceedings of February 24, 1995, at the Los Angeles
5 office of the Department of Real Estate unless an extension of
6 the time is granted for good cause shown.

7 Written argument of complainant to be considered by me
8 must be submitted within 15 days after receipt of the argument of
9 respondent at the Los Angeles office of the Department of Real
10 Estate unless an extension of the time is granted for good cause
11 shown.

12 DATED: March 7, 1995

13 JOHN R. LIBERATOR
14 Interim Commissioner

15 John R. Liberator
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|---------------------------------|---|---------------------|
| In the Matter of the Accusation |) | |
| Against: |) | Case No. H-25535 LA |
| |) | |
| CALVIN SYLVESTER ASHLEY, |) | OAH No. L-61403 |
| |) | |
| <u>Respondent.</u> |) | |

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on February 22 and 24, 1995.

Complainant was represented by Sean Crahan, Staff Counsel.

Respondent Calvin Sylvester Ashley (hereinafter "Respondent"), appeared and was represented by Mel Brown, Esq.

Evidence was received and the matter submitted on February 24, 1995.

The Administrative Law Judge finds the following facts:

* * * * *

FINDINGS OF FACT

Jurisdictional Facts

1. Steven J. Ellis made and filed the Accusation in his official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate, State of California.

2. On an undetermined date in the 1960s, Respondent was originally issued a real estate salesperson's license by the Department of Real Estate (hereinafter "Department"). Thereafter, and on an undetermined date in the 1970s, but at all times relevant herein, Respondent was issued a real estate broker's license (No. 00360694) by the Department.

3. On September 5, 1991, the Department issued a corporate real estate broker's license (No. 01116578) to ACI of Bel Air, Inc. (hereinafter "ACI").

4. From December 12, 1991, until April 1, 1993, Respondent was the Designated Officer of ACI.

Factual Findings

5. Between October 5, 1992, and October 9, 1992, an audit of ACI was conducted by the Department which found the following deficiencies:

- A. ACI failed to maintain columnar trust fund records.
- B. ACI failed to maintain a separate record for each transaction of trust funds.
- C. ACI failed to reconcile columnar records to separate records on a regular monthly basis.¹

6. During the period referenced in Finding No. 4, Respondent failed to exercise reasonable supervision over the real estate activities of ACI's personnel involving the deficiencies set forth in Finding No. 5, including the proper recording of all trust funds received by ACI or its employees and agents, particularly uncashed checks, as required by the Real Estate Law.

7. During the period referenced in Finding No. 4, Respondent failed to exercise reasonable supervision over the real estate activities of an owner, employee and chief financial officer of ACI, Sid Rosenblatt (hereinafter "Rosenblatt")², with reference to a January 1992 deposit, commingling and conversion of client trust funds, as follows:

A. In January 1992, ACI, in its capacity as a real estate broker, solicited Alex Gorodkin and Roman Perets (hereinafter "Gorodkin/Perets") to buy a business opportunity from Khosnow Delkah, Parviz Mirbod and Nasser Hamadani.

B. On January 14, 1992, Gorodkin/Perets entrusted \$32,000 through Rosenblatt to ACI as a deposit toward the purchase of the business opportunity referenced in Finding No. 7.A.

¹ACI was a named respondent in this action. Prior to the taking of evidence, ACI executed a stipulation resolving the disciplinary action initiated by the Department, and was severed from further proceedings herein.

²Rosenblatt was a named respondent in this action. Prior to the taking of evidence, Rosenblatt executed a stipulation resolving the disciplinary action initiated by the Department, and was severed from further proceedings herein.

C. Gorodkin/Perets' funds as referenced in Finding No. 7.B were deposited into ACI's general account, an account not designated as a trust account.

D. Gorodkin/Perets' funds as referenced in Finding No. 7.B were allowed to commingle with ACI's funds by Rosenblatt and to be used by ACI for purposes other than intended or permitted by Gorodkin/Perets.

Circumstances in Mitigation

8. The conduct set forth in Finding Nos. 7.A - 7.D was perpetrated solely by Rosenblatt without the knowledge, consent or complicity of Respondent.

9. Respondent admitted at an early stage of the proceedings his culpability, as a result of his status as Designated Officer as referenced in Finding No. 4, to the conduct set forth in Finding Nos. 5 and 6.

10. Respondent, 60, licensed by the Department for nearly thirty (30) years as referenced in Finding No. 2, has no prior disciplinary history with the Department.

11. Since the 1992 commission of the conduct set forth in Finding Nos. 5, 6 and 7, Respondent has practiced real estate in compliance with the Real Estate Law.

12. Evidence in the form of character letters established Respondent's dependability and honesty in transactions involving the practice of his profession as a real estate broker.

13. Respondent, having established real estate and trust procedures for ACI, placed significant trust and confidence in Rosenblatt (Finding No. 8), but acknowledges his failure as Designated Officer to properly supervise the real estate activities of ACI within the ambit of the Real Estate Law.

14. Respondent was candid and insightful with respect to his culpability for the conduct set forth in Finding Nos. 5, 6 and 13, and his limited current knowledge of the Real Estate Law.

15. Respondent's deficiencies, as set forth in Finding Nos. 5 - 7, are a result of professional negligence and lack any evidence or intent at defalcation, moral turpitude, or personal profit.

* * * * *

DETERMINATION OF ISSUES

Pursuant to the foregoing Findings of Fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to revoke or suspend the license of Respondent pursuant to Business and Professions Code sections 10177(d), 10177(h) and 10159.2 for failure to reasonably supervise personnel as set forth in Finding Nos. 2 - 7.

2. Cause exists to revoke or suspend the license of Respondent pursuant to Business and Professions Code sections 10177(d) and 10177(h), in conjunction with Title 10, California Code of Regulations, section 2831(a)(6), for improper trust fund record maintenance as set forth in Finding Nos. 2 - 6.

3. The objective of this disciplinary proceeding is to protect the public, the profession, maintain professional integrity, its high standards, and preserve public confidence in the real estate profession and its professionals. These proceedings are not for the primary purpose of punishing an individual. Camacho v. Youde (1979) 95 Cal.App.3d 161, 165.

Respondent is partially rehabilitated as set forth in Finding Nos. 8 - 15. Respondent has been licensed by the Department for nearly thirty years without any disciplinary action (Finding Nos. 10 and 11). Respondent acknowledges both his culpability (Finding Nos. 9, 13 and 14) and his lack of current knowledge of the Real Estate Law (Finding No. 13). Respondent acknowledges that this lack of current knowledge and appreciation for the duties, responsibilities and obligations imposed on a Designated Officer contributed to the conduct set forth in Finding Nos. 5 - 8 (Finding Nos. 13 and 14).

The key concern in arriving at a disciplinary recommendation is the degree to which the public needs protection from Respondent. Mephram v. State Bar (1986) 42 Cal.3d 943, 948; In the Matter of Rodriguez (1993) 2 Cal. State Bar Ct. Rptr. 480, 501.

In a matter before our Supreme Court, Crooks v. State Bar (1970) 3 Cal.3d 346, the Court ordered public reproof of an attorney for the unauthorized, but good faith, removal of trust funds to pay disbursements coupled with unilateral withholding of unauthorized attorney fees. While Respondent has acted without any intent at defalcation (Finding No. 15), his failure to properly supervise the activities of employees and agents (Finding Nos. 6 and 7) precludes any consideration of discipline similar to Crooks.

Nevertheless, giving due consideration to the facts and circumstances underlying the Accusation and the limited evidence of mitigation and rehabilitation as set forth in Finding Nos. 8 - 15,

the public interest will not be adversely affected by the continued issuance of a properly conditioned license to Respondent. (Cf. In the Matter of Lazarus (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 387, 402). With such a conditioned license, a period of suspension is mandated inasmuch as the success of Respondent in his licensed activities has functioned to detract his attention from the details required of Department licensees and thereby fully impress upon him the significance the Department attaches to trust accountability, supervisory obligations and attention to detail. This period should allow Respondent a sufficient respite from licensed activities to devote his attention to be fully prepared to resume his licensed activities fully capable of complying with the terms and conditions of the Decision.

* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Calvin Sylvester Ashley (No. 00360694) under the Real Estate Law are revoked; however, Respondent shall be entitled to apply for and shall be issued a restricted real estate broker license pursuant to section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department the appropriate fee for said license within ninety (90) 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 that Code:

1. Any restricted real estate license issued to Respondent pursuant to this Decision shall be suspended for six months from the date of issuance of said restricted license; provided, however, that if Respondent petitions, the final five months of said suspension shall be stayed upon condition that:

A. Respondent, in lieu of the final five months of said suspension, provides evidence, satisfactory to the Commissioner, of enrollment at an accredited institution, of:

(1) a three-semester unit course, or the quarter equivalent thereof, in Real Estate Accounting, and

(2) a three-semester unit course, or the quarter equivalent thereof, in Real Estate Office Administration.

B. If Respondent fails to provide evidence satisfactory to the Commissioner in accordance with the terms and conditions of

not adopted

the Decision, the Commissioner, shall, without hearing, order the immediate execution of all of the stayed suspension.

2. Respondent shall, within nine months from the effective date of this Decision, successfully complete a college level course in Real Estate Accounting as provided in Business and Professions Code section 10153.2(a)(1)(E) and a college level course in Real Estate Office Administration as provided in Business and Professions Code section 10153.2(a)(2)(H).

3. Respondent shall, within six months from the effective date of this Decision, 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 shall order suspension of Respondent's license until Respondent passes the examination.

4. Respondent shall obey all laws, including provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

5. Respondent shall, within twelve months from the effective date of this Decision, present evidence satisfactory to the Commissioner that Respondent has, since the most recent issuance of a 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.

6. Respondent shall, at his own expense, report in writing to the Department as the Commissioner shall direct 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.

7. Pursuant to Business and Professions Code section 10148, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violations found in Determination of Issues No. 2. 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 forty-five (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 pursuant to Business and Professions Code section 494, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between

Respondent and the Commissioner. Any suspension, if ordered, 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.

8. Respondent, if he, or an agent of Respondent, while Respondent is acting as either broker or a designated officer, is in possession of trust funds, or has come into possession thereof, during the period covered by reports to the Commissioner, shall file with each report a certificate from a Certified Public Accountant or Public Accountant certifying that Respondent has kept and maintained such books and records in connection with his practice as required by the Real Estate Law. Such reports, at the expense of Respondent, shall include, but shall not be limited to, accountings 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.

9. 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 four (4) years have elapsed.

10. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department which shall certify that the employing broker has read the Decision of the Commissioner which granted the right to a restricted license.

11. Upon full compliance with the terms and conditions set forth herein and upon the expiration of the four year period, Respondent's license shall be fully restored; provided, however, in the event he violates, or fails to comply with, any of the terms and conditions of the restricted license, the Commissioner may, after notice to Respondent and an opportunity to be heard, in accordance with section 494 of the Business and Professions Code or the Administrative Procedure Act, terminate this order granting a restricted license and set aside the order staying revocation, or make such other orders modifying or changing the terms and conditions herein, as deemed just and reasonable.

Dated: February 27, 1995



Jaime René Román
Administrative Law Judge
Office of Administrative Law


SACTO.
Platz

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILE
OCT 27 1994
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
ACI OF BEL AIR, INC., et al.,)
)
Respondents.)
_____)

Case No. H-25535 LA
OAH No. L-61403

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate on February 22, 23 and 24, 1995, at 9:00 a.m., at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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.

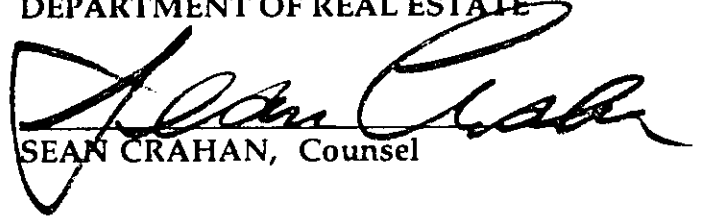
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real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

Dated: October 27, 1994.

cc: ACI of Bel Air, Inc.
Calvin Sylvester Ashley
Sid Rosenblatt
Jerry Kaplan, Esq.
Lawrence Kelly
Sacto.
OAH

DEPARTMENT OF REAL ESTATE


SEAN CRAHAN, Counsel

Handwritten initials/signature in top left corner.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|------------------------------------|---|---------------------|
| In the Matter of the Accusation of |) | Case No. H-25535 LA |
| |) | OAH No. L-61403 |
| ACI OF BEL AIR, INC., et al., |) | |
| |) | |
| Respondents. |) | |

FILED
APR -5 1994

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate on November 2, 3, and 4, 1994, at 9:00 a.m., at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

Dated: April 5, 1994.

cc: ACI of Bel Air, Inc.
Calvin Sylvester Ashley
Sid Rosenblatt
Jerry Kaplan, Esq.
Lawrence Kelly
Martha Gallardo
Sacto.
OAH

DEPARTMENT OF REAL ESTATE

[Signature of Sean Crahan]
SEAN CRAHAN, Counsel

Sacto.
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) Case No. H-25535 LA
) OAH No. L-61403
ACI OF BEL AIR, INC., et al.,)
)
Respondents.)

SEP 21 1993

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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 on May 11, 12 and 13, 1994, at 9:00 a.m., at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

Dated: September 21, 1993.

DEPARTMENT OF REAL ESTATE

cc: ACI of Bel Air, Inc.
Calvin Sylvester Ashley
Sid Rosenblatt
Jerry Kaplan, Esq.
Lawrence Kelly
Martha Gallardo
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OAH

[Signature]
SEAN CRAHAN, Counsel

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SEAN CRAHAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
AUG 27 1993
DEPARTMENT OF REAL ESTATE
By *William J. King*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

| | | |
|------------------------------------|---|---------------------|
| In the Matter of the Accusation of |) | No. H-25535 LA |
| |) | |
| ACI OF BEL AIR, INC., a California |) | |
| corporate broker; CALVIN SYLVESTER |) | A C C U S A T I O N |
| ASHLEY, individually and as |) | |
| designated officer of ACI of Bel |) | |
| Air, Inc.; and SID ROSENBLATT, |) | |
| |) | |
| Respondents. |) | |

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against ACI OF BEL AIR, INC., a California corporate broker; CALVIN SYLVESTER ASHLEY, individually and as designated officer of ACI of Bel Air, Inc.; and SID ROSENBLATT alleges as follows:

1.

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, brings this Accusation in his official capacity.

/
/

2.

1
2 ACI OF BEL AIR, INC. (hereafter respondent ACI), is
3 presently licensed and/or has license rights under the Real Estate
4 Law, Part 1 of Division 4 of the California Business and Professions
5 Code (hereafter cited as the Code). At all times herein mentioned,
6 respondent ACI was licensed by the Department of Real Estate of the
7 State of California (hereafter the Department) as a corporate real
8 estate broker.

3.

9
10 CALVIN SYLVESTER ASHLEY (hereafter respondent ASHLEY) is
11 presently licensed and/or has license rights under the Real Estate
12 Law. At all times herein mentioned, respondent ASHLEY was licensed
13 by the Department as a real estate broker, individually and as
14 designated officer of respondent ACI. Pursuant to Code Section
15 10159.2, respondent ASHLEY was at all times herein mentioned
16 responsible for the supervision of the activities of officers,
17 agents and employees of respondent ACI for which a real estate
18 license was required.

4.

19
20 SID ROSENBLATT (hereafter respondent ROSENBLATT) is
21 presently licensed and/or has license rights under the Real Estate
22 Law. At all times herein mentioned, respondent ROSENBLATT was
23 licensed by the Department as a real estate broker. At all times
24 herein mentioned, respondent ROSENBLATT was the incorporator, chief
25 executive officer, chief financial officer, secretary and the only
26 director of ACI. At all times herein mentioned, respondent
27 ROSENBLATT controlled the operations of respondent ACI.

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5.

At all times herein mentioned, respondent ACI, acting for or in expectation of compensation, solicited buyers and sellers of business opportunities and negotiated between buyers and sellers for the sales of business opportunities. In furtherance of that business, respondents ACI and ROSENBLATT engaged in the following transactions.

6.

In or about January, 1992, respondent ACI, acting on behalf of another or others for or in expectation of compensation, solicited Alex Gorodkin and Roman Perets (hereafter Gorodkin/Perets) to purchase a business opportunity named Danny's Mobil Station from Khosnow Delkah, Parviz Mirbod and Nasser Hamadani. On or about January 14, 1992, Gorodkin/Perets signed escrow instructions to purchase said business opportunity. On or about January 14, 1992, in connection with said purchase offer, Gorodkin/Perets entrusted \$32,000 through respondent ROSENBLATT to respondent ACI as a deposit toward the purchase of said business opportunity. Respondent ACI received Gorodkin/Perets' funds in trust. Gorodkin/Perets' trust funds were to be deposited into escrow.

(a) Gorodkin/Perets' trust funds were deposited into ACI's general account, an account not designated as a trust account in violation of Code Section 10145 and Regulation 2830.

(b) Without Gorodkin/Perets' prior knowledge or consent, respondent ROSENBLATT caused or allowed ACI to commingle Gorodkin/Perets' trust funds with its own funds or property.

1 (c) Without Gorodkin/Perets' prior knowledge or consent,
2 respondent ROSENBLATT, converted and caused or allowed respondent
3 ACI to convert Gorodkin/Perets' trust funds to the use of persons
4 and for purposes other than for whom Gorodkin/Perets' trust funds
5 were received.

6 7.

7 In or about January, 1992, respondent ACI, acting on
8 behalf of another or others for or in expectation of compensation,
9 solicited Specialty Ready Mix, Inc. (hereafter SRMI), through Daniel
10 Spaethe to purchase a business opportunity named A-Pressing from
11 Justin Mir. On or about January 14, 1992, SRMI signed a written
12 offer to purchase said business opportunity. On or about
13 January 14, 1992, in connection with said purchase offer, SRMI
14 entrusted \$15,000 through respondent ROSENBLATT to respondent ACI as
15 a deposit toward the purchase of said business opportunity.
16 Respondent ACI received SRMI's funds in trust. SRMI's trust funds
17 were to be deposited into escrow.

18 (a) SRMI's trust funds were deposited into ACI's general
19 account, an account not designated as a trust account in violation
20 of Code Section 10145 and Regulation 2830.

21 (b) Without SRMI's prior knowledge or consent, respondent
22 ROSENBLATT caused or allowed ACI to commingle SRMI's trust funds
23 with its own funds or property.

24 (c) Without SRMI's prior knowledge or consent, respondent
25 ROSENBLATT, converted and caused or allowed respondent ACI to
26 convert SRMI's trust funds to the use of persons and for purposes
27 other than for whom SRMI's trust funds were received.

1
2 In or about April, 1992, respondent ACI, acting on behalf
3 of another or others for or in expectation of compensation,
4 solicited Karamat Navizadeh (hereafter Navizadeh) to purchase a
5 business opportunity named Allen's Super Market from Greg Sapon.
6 On or about April 16, 1992, Navizadeh signed a written purchase
7 offer to purchase said business opportunity. On or about April 16,
8 1992, in connection with said purchase offer, Navizadeh entrusted
9 \$60,000 through respondent ROSENBLATT to respondent ACI as a deposit
10 toward the purchase of said business opportunity. Respondent ACI
11 received Navizadeh's funds in trust. Navizadeh's trust funds were
12 to be deposited into escrow.

13 (a) Navizadeh's trust funds were deposited into ACI's
14 general account, an account not designated as a trust account in
15 violation of Code Section 10145 and Regulation 2830.

16 (b) Without Navizadeh's prior knowledge or consent,
17 respondent ROSENBLATT caused or allowed ACI to commingle Navizadeh's
18 trust funds with its own funds or property.

19 (c) Without Navizadeh's prior knowledge or consent,
20 respondent ROSENBLATT, converted and caused or allowed respondent
21 ACI to convert Navizadeh's trust funds to the use of persons and for
22 purposes other than for whom Navizadeh's trust funds were received.

24 On or about April 30, 1992, respondent ACI, acting on
25 behalf of another or others for or in expectation of compensation,
26 solicited Gary T. Offutt (hereafter Offutt) to purchase a business
27 opportunity named Premier Auto Center, Inc., from Ben Gabayan. On

1 or about April 30, 1992, Offutt signed written escrow instructions
2 to purchase said business opportunity. On or about April 30, 1992,
3 in connection with said purchase offer, Offutt entrusted \$42,000
4 through respondent ROSENBLATT to respondent ACI as a deposit toward
5 the purchase of said business opportunity. Respondent ACI received
6 Offutt's funds in trust. Offutt's trust funds were to be deposited
7 into escrow.

8 (a) Offutt's trust funds were deposited into ACI's
9 general account, an account not designated as a trust account in
10 violation of Code Section 10145 and Regulation 2830.

11 (b) Without Offutt's prior knowledge or consent,
12 respondent ROSENBLATT caused or allowed ACI to commingle Offutt's
13 trust funds with its own funds or property.

14 (c) Without Offutt's prior knowledge or consent,
15 respondent ROSENBLATT, converted and caused or allowed respondent
16 ACI to convert Offutt's trust funds to the use of persons and for
17 purposes other than for whom Offutt's trust funds were received.

18 10.

19 In early August, 1992, respondent ACI, acting on behalf of
20 another or others for or in expectation of compensation, solicited
21 Alam Zeb Khan (hereafter Khan) to purchase a business opportunity
22 named Red Dot One Mini Market from Red Dot Mini Marts, Inc. On or
23 about August 14, 1992, Khan signed escrow instructions to purchase
24 said business opportunity. On or about August 14, 1992, in
25 connection with said purchase offer, Khan entrusted \$20,000 through
26 respondent ROSENBLATT to respondent ACI as a deposit toward the
27 purchase of said business opportunity. Respondent ACI received

1 Khan's funds in trust. Khan's trust funds were to be deposited into
2 escrow.

3 (a) Khan's trust funds were deposited into ACI's general
4 account, an account not designated as a trust account in violation
5 of Code Section 10145 and Regulation 2830.

6 (b) Without Khan's prior knowledge or consent, respondent
7 ROSENBLATT caused or allowed ACI to commingle Khan's trust funds
8 with its own funds or property.

9 (c) Without Khan's prior knowledge or consent, respondent
10 ROSENBLATT, converted and caused or allowed respondent ACI to
11 convert Khan's trust funds to the use of persons and for purposes
12 other than for whom Khan's trust funds were received.

13 11.

14 In or about August, 1992, respondent ACI, acting on behalf
15 of another or others for or in expectation of compensation,
16 solicited James T. Chang (hereafter Chang) to purchase a business
17 opportunity named Consolidated American Video Corp from Consolidated
18 American Video Corporation. On or about August 18, 1992, Chang
19 signed escrow instructions to purchase said business opportunity.
20 On or about August 18, 1992, in connection with said purchase offer,
21 Chang entrusted \$10,000 through respondent ROSENBLATT to respondent
22 ACI as a deposit toward the purchase of said business opportunity.
23 Respondent ACI received Chang's funds in trust. Chang's trust funds
24 were to be deposited into escrow.

25 (a) Chang's trust funds were deposited into ACI's general
26 account, an account not designated as a trust account in violation
27 of Code Section 10145 and Regulation 2830.

1 (b) Without Chang's prior knowledge or consent,
2 respondent ROSENBLATT caused or allowed ACI to commingle Chang's
3 trust funds with its own funds or property.

4 (c) Without Chang's prior knowledge or consent,
5 respondent ROSENBLATT converted and caused or allowed respondent ACI
6 to convert Chang's trust funds to the use of persons and for
7 purposes other than for whom Chang's trust funds were received.

8 12.

9 From time to time between October 5, 1992, through
10 October 9, 1992, an auditor from the Department examined the books
11 and records of ACI covering a period of time from September 1, 1991,
12 through September 24, 1992 (hereafter the "audit period"), and found
13 that ACI and ASHLEY violated the following Code sections and
14 Regulation sections from Title 10, Chapter 6 of the California Code
15 of Regulations (hereafter the Regulations):

16 (a) During the audit period, ACI maintained
17 approximately six (6) bank accounts. They were:

| 18 | <u>BANK</u> | <u>ACCOUNT NUMBER</u> | <u>PURPOSE</u> |
|----|-------------------------|-----------------------|-------------------------|
| 19 | 1. Bank of America | 03972-02094 | General Account |
| 20 | 2. First Interstate Bk. | 213-1-41463 | Buyer's Deposits |
| 21 | 3. Wells Fargo Bank | 0657-018826 | Operating Expenses |
| 22 | 4. Bank of America | 03976-05321 | Clearing for Account 1 |
| 23 | 5. Bank of America | 203973-05313 | Trust Account |
| 24 | 6. Capital Bank | 62-0 | Clearing from Account 4 |
| 25 | | / | |
| 26 | | / | |
| 27 | | / | |

1 (b) The trust account, Account 5, was opened on
2 September 17, 1992, with \$527.07 which was, on that day, debited
3 from that account. The trust account, Account 5, was closed on
4 September 24, 1992.

5 (c) Account 4 was opened on September 17, 1992, with
6 \$122,854.06 transferred from Account 1. Account 4 was debited with
7 this amount which was transferred to Account 6 which was opened on
8 September 18, 1992. Account 4 was closed on September 24, 1992.

9 (d) Except for Account 5, none of the other accounts were
10 trust accounts.

11 (e) Accounts 1 through 5 were opened by respondent
12 ROSENBLATT. Respondent ROSENBLATT and his son, Ron-Rosenblatt, were
13 the authorized signatories on Accounts 1 through 5. Respondent
14 ROSENBLATT signed all checks issued from Accounts 1 through 5.

15 (f) As of September 24, 1992, respondent ACI's adjusted
16 bank balance in all accounts was \$122,854.06. Respondent ACI's
17 minimum accountability to its principals on that date was
18 \$261,800.00 leaving a shortage of \$138,945.94. Said shortage was
19 caused, allowed or permitted by respondents ACI, ROSENBLATT and
20 ASHLEY and was without the written consent of each and every
21 principal whose funds were in the account and was in violation of
22 Code Section 10145 and Regulation 2832.1.

23 (g) The accountability is based upon buyers' deposits
24 received by respondent ACI in trust.

25 (h) There was no segregation of trust funds from the
26 funds belonging to respondent ACI.

27

1 (i) The shortage was caused by the use of trust funds to
2 pay for respondent ACI's expenses as well as checks issued for
3 "cash" for which disposition could not be determined. All checks
4 were signed by respondent ROSENBLATT.

5 (j) Respondents ACI and ASHLEY willfully failed to
6 maintain columnar, or control, records of trust funds received and
7 disbursed or forwarded, in violation of Regulation 2831.

8 (k) Respondents ACI and ASHLEY willfully failed to
9 maintain separate records of trust funds for each beneficiary or
10 transaction, in violation of Regulation 2831.1.

11 (l) Respondents ACI and ASHLEY failed to reconcile,
12 monthly, separate records with columnar records for any account.

13 (m) Respondents ACI and ASHLEY failed to provide to the
14 Department, after request therefor, the following trust records, in
15 violation of Code Section 10148:

16 (i) Columnar record or check register for Account 1
17 for the period of July, 1992, through September 24, 1992;

18 (ii) Check register for Account 3;

19 (iii) Bank statement for September, 1992, for
20 Account 6;

21 (iv) Check 81 issued from Account 4 in the amount
22 of \$122,854.06 to close the account.

23 13.

24 ASHLEY knew or should have known that the above violations
25 occurred or were occurring. ASHLEY failed to exercise reasonable
26 supervision over the activities of officers and employees of
27 respondent ACI for which a real estate license was required so as to

1 prevent the violations from occurring.

2 14.

3 The conduct or omissions of respondent ACI as set forth
4 above subject its real estate licenses and license rights to
5 suspension or revocation under the following Code Sections:

6 (a) Code Section 10176(e) for commingling as set forth in
7 paragraphs 6(b), 7(b), 8(b), 9(b), 10(b), 11(b) and 12(h), above.

8 (b) Code Section 10176(i), dishonest dealing in
9 converting trust funds, as set forth in paragraphs 6(c), 7(c), 8(c),
10 9(c), 10(c), 11(c) and 12(i), above.

11 (c) Code Section 10177(d) for willful violations of the
12 following Code Sections and Regulations:

13 (i) Code Section 10145 for failure to comply with
14 buyers' instructions to deposit trust funds into escrow, as set
15 forth in paragraphs 6, 7, 8, 9, 10 and 11, above.

16 (ii) Code Section 10145 and Regulation 2830 for
17 failure to deposit trust funds into a trust account, as set forth in
18 paragraphs 6(a), 7(a), 8(a), 9(a), 10(a), 11(a) and 12, above.

19 (iii) Regulation 2831 for failure to maintain a
20 columnar, or control, record, as set forth in paragraph 12(j),
21 above.

22 (iv) Regulation 2831.1 for failure to maintain
23 separate records, as set forth in paragraph 12(j), above.

24 (v) Regulation 2831.2 for failure to monthly
25 reconcile control records with separate records, as set forth in
26 paragraph 12(l), above.

27 /

1 (vi) Code Section 10145 and Regulation 2832.1 for
2 the trust account shortage, as set forth in paragraph 12(f), above.

3 (vii) Code Section 10148 for failure to provide
4 requested trust records, as set forth in paragraph 12(m).

5 15.

6 The conduct or omissions of respondent ASHLEY as set forth
7 above subject his real estate licenses and license rights to
8 suspension or revocation under the following Code Sections:

9 (a) Code Section 10177(d) for willful violations of the
10 following Code Sections and Regulations:

11 (i) Code Section 10145 for failure to comply with
12 buyers' instructions to deposit trust funds into escrow, as set
13 forth in paragraphs 6, 7, 8, 9, 10 and 11, above.

14 (ii) Code Section 10145 and Regulation 2830 for
15 failure to deposit trust funds into a trust account, as set forth in
16 paragraphs 6(a), 7(a), 8(a), 9(a), 10(a), 11(a) and 12, above.

17 (iii) Regulation 2831 for failure to maintain a
18 columnar, or control, record, as set forth in paragraph 12(j),
19 above.

20 (iv) Regulation 2831.1 for failure to maintain
21 separate records, as set forth in paragraph 12(j), above.

22 (v) Regulation 2831.2 for failure to monthly
23 reconcile control records with separate records, as set forth in
24 paragraph 12(l), above.

25 (vi) Code Section 10145 and Regulation 2832.1 for
26 the trust account shortage, as set forth in paragraph 12(f), above.

27 /

1 (vii) Code Section 10148 for failure to provide
2 requested trust records, as set forth in paragraph 12(m).

3 (b) Code Section 10177(h), or 10177(d) for violations of
4 Code Section 10159.2, for failure to exercise reasonable supervision
5 over the activities by personnel of respondent ACI for which a real
6 estate license is required, as set forth in paragraph 6 above.

7 16.

8 The conduct or omissions of respondent ROSENBLATT as set
9 forth above subject his real estate licenses and license rights to
10 suspension or revocation under the following Code Sections:

11 (a) Code Section 10176(e) for causing ACI to commingle
12 trust funds with its own funds, as set forth in paragraphs 6(b),
13 7(b), 8(b), 9(b), 10(b), 11(b) and 12(h), above.

14 (b) Code Section 10176(i) for dishonest dealing in
15 converting trust funds, and causing ACI to convert trust funds, as
16 set forth in paragraphs 6(c), 7(c), 8(c), 9(c), 10(c), 11(c) and
17 12(i), above.

18 (c) Code Section 10177(d) for willful violations of the
19 following Code Sections and Regulations:

20 (i) Code Section 10145 for causing respondent
21 ACI's failure to comply with buyers' instructions to deposit trust
22 funds into escrow, as set forth in paragraphs 6, 7, 8, 9, 10 and 11,
23 above.

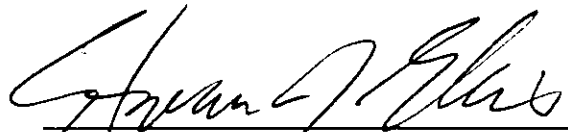
24 (ii) Code Section 10145 and Regulation 2830 for
25 causing respondent ACI's failure to deposit trust funds into a trust
26 account, as set forth in paragraphs 6(a), 7(a), 8(a), 9(a), 10(a),
27 11(a) and 12, above.

1 (iii) Code Section 10145 and Regulation 2832.1 for
2 causing the trust account shortage, as set forth in paragraph 12(f),
3 above.

4 (iv) Code Section 10148 for failure to provide
5 requested trust records, as set forth in paragraph 12(m).
6

7 WHEREFORE, Complainant prays that a hearing be conducted
8 on the allegations of this Accusation and, that upon proof thereof,
9 a decision be rendered imposing disciplinary action against all
10 licenses and license rights of respondents ACI OF BEL AIR, INC., a
11 California corporate broker; CALVIN SYLVESTER ASHLEY, individually
12 and as designated officer of ACI of Bel Air, Inc.; and SID
13 ROSENBLATT under the Real Estate Law (Part 1 of Division 4 of the
14 Business and Professions Code) and for such other and further relief
15 as may be proper under other applicable provisions of law.

16 Dated at Los Angeles, California
17 this 27th day of August, 1993.

18
19
20 

21 Steven J. Ellis
22 Deputy Real Estate Commissioner

23
24
25 cc: ACI of Bel Air, Inc.
26 Calvin Sylvester Ashley
27 Sid Rosenblatt
Sacto.
LK