

1 Department of Real Estate  
2 107 South Broadway, Room 8107  
3 Los Angeles, California 90012

4 (213) 897-3937

FILED  
SEP 13 1995  
DEPARTMENT OF REAL ESTATE

By C. Bay

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 ANN MICHALOWICZ, )  
14 Respondent. )

No. H-26162 LA  
L-9505202

STIPULATION AND AGREEMENT  
IN SETTLEMENT AND ORDER

15 It is hereby stipulated by and between Respondent  
16 ANN MICHALOWICZ (sometimes referred to herein as "Respondent")  
17 and the Complainant acting by and through Darlene Averetta,  
18 Counsel for the Department of Real Estate, as follows for the  
19 purpose of settling and disposing of the Accusation filed on  
20 May 5, 1995, in this matter (hereinafter "the Accusation"):

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

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

3. On May 16, 1995, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of Defense, Respondent will thereby waive her right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to Respondent in connection with a hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth herein, hereby admits that the factual allegations of the Accusation filed in this proceeding are true and correct and that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

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

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DETERMINATION OF ISSUES

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By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

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2 The crime of which Respondent was convicted, as set  
3 forth in Paragraph IV of the Accusation, constitutes cause under  
4 Sections 490 and 10177(b) of the Business and Professions Code for  
5 suspension or revocation of the license and license rights of  
6 Respondent under the Real Estate Law.

7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 1. The real estate salesperson license and license  
10 rights of Respondent ANN MICHALOWICZ, under the provisions of  
11 Part 1 of Division 4 of the Business and Professions Code are  
12 hereby revoked.

13 2. A restricted real estate salesperson license shall  
14 be issued to Respondent pursuant to Section 10156.5 of the  
15 Business and Professions Code if, within 90 days after the  
16 effective date of the Decision entered herein, Respondent makes  
17 application for said license and pays to the Department of Real  
18 Estate the appropriate fee for said license.

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

24 (a) Respondent shall not be eligible to apply for  
25 the issuance of an unrestricted real estate license nor the  
26 removal of any of the restrictions, conditions or limitations set  
27 forth herein, attaching to the restricted license, until one (1)

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year has elapsed from the effective date of any Decision in this matter.

(b) The license shall not confer any property right in the privileges to be exercised thereunder and the restricted license may be suspended, thereby suspending the right of Respondent to exercise any privileges granted under the restricted license, prior to a hearing by appropriate 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 relationship 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 Regulations of the Real Estate Commissioner of the State of California, or any of the conditions attached to the restricted license.

(c) 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 broker on a form approved by the Department of Real Estate which shall certify:

- (1) That he or she has read the Order of the Commissioner which granted the right to a restricted license; and

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(2) That he or she will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

4. Respondent shall, within twelve months from the date any restricted license is issued, present evidence satisfactory to the Real Estate Commissioner that she has completed the courses specified in subdivisions (a) and (b) of Section 10170.5 of the Real Estate Law. 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.

5. Upon renewal of any restricted license issued pursuant to this Order, Respondent shall submit evidence of having 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.

DATED: September 6, 1995 *Darlene Averetta*  
DARLENE AVERETTA  
Counsel for Complainant

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I have read the Stipulation and Agreement in Settlement  
and Order, and its terms are understood by me and are agreeable  
and acceptable to me. I understand that I am waiving rights given  
to me by the California Administrative Procedure Act (including  
but not limited to Sections 11506, 11508, 11509 and 11513 of the  
Government Code), and I 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 I would have the right to cross-examine witnesses  
against me and to present evidence in defense and mitigation of  
the charges.

DATED: 7.10.95 Ann Michalowicz  
ANN MICHALOWICZ  
Respondent

\* \* \* \* \*

The foregoing Stipulation and Agreement in Settlement is  
hereby adopted as my Decision and Order and shall become effective  
at 12 o'clock noon on October 3, 1995.

IT IS SO ORDERED 9-12, 1995.

JIM ANTT, JR.  
Real Estate Commissioner

[Signature]

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )

Case No. H-26162 LA

ANN MICHALOWICZ, )

OAH No. L-9505202 )

\_\_\_\_\_  
Respondent(s)

FILED  
JUN - 5 1995

NOTICE OF HEARING ON ACCUSATION DEPARTMENT OF REAL ESTATE

To the above-named Respondent(s):

By C. Bay

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on Wednesday, September 13, 1995 at the hour of 1:30 P.M., 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.

DEPARTMENT OF REAL ESTATE

Dated: June 5, 1995

By

Darlene Averetta  
DARLENE AVERETTA, Counsel

cc: Ann Michalowicz  
All Associates Realty Inc.  
✓ Sacto.  
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CEB

RE 501 (La Mac 11/92)

SAC

1 DARLENE AVERETTA, Counsel  
2 Department of Real Estate  
3 107 South Broadway, Room 8107  
4 Los Angeles, California 90012  
5  
6 (213) 897-3937

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MAY - 5 1995  
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By C. By

8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of ) No. H-26162 LA  
12 ANN MICHALOWICZ, ) ACCUSATION  
13 Respondent. )  
14

15 The Complainant, Peter F. Hurst, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against ANN MICHALOWICZ (hereinafter "Respondent"), alleges as  
18 follows:

19 I

20 The Complainant, Peter F. Hurst, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Accusation in  
22 his official capacity.

23 II

24 Respondent is presently licensed and/or has license  
25 rights under the Real Estate Law, Part 1 of Division 4 of  
26 California Business and Professions Code (hereinafter the  
27 "Code"), as a real estate salesperson.

1 III

2 At all times material herein, Respondent was licensed  
3 by the Department of Real Estate of the State of California  
4 (Department) as a real estate salesperson. Respondent was  
5 licensed by the Department effective August 7, 1991.

6 IV

7 On or about February 5, 1993, in the Municipal Court of  
8 Los Cerritos Judicial District, County of Los Angeles, State of  
9 California, Respondent ANN MICHALOWICZ, aka Anahit R. Margarian,  
10 was convicted on her plea of guilty of violating Section 484(a)  
11 of the California Penal Code (Petty Theft), a crime involving  
12 moral turpitude which bears a substantial relationship under  
13 Section 2910, Title 10, California Code of Regulations, to the  
14 qualifications, functions or duties of a real estate licensee.

15 V

16 The crime of which Respondent was convicted, as  
17 described in Paragraph IV, above, constitutes cause under  
18 Sections 490 and 10177(b) of the Code for the suspension or  
19 revocation of the license and license rights of Respondent under  
20 the Real Estate Law.

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

Dated at Los Angeles, California  
this 5th day of May, 1995.

PETER F. HURST  
Deputy Real Estate Commissioner

cc: Ann Michalowicz  
All Associates Realty, Inc.  
Sacto.  
CGT