

Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
(213) 897-3937

FILED
JUN 14 1996
DEPARTMENT OF REAL ESTATE

By CRB

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26320 LA
JAY MICHAEL BELSON,)	L-9509186
)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.)	

It is hereby stipulated by and between JAY MICHAEL BELSON (sometimes referred to herein as "Respondent"), and the Complainant, acting by and through Darlene Averetta, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 7, 1995, the Amended Accusation filed on February 21, 1996, and the Supplemental Accusation filed on May 6, 1996, in this matter (hereinafter "Accusation"):

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

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 September 15, 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 he understands that by withdrawing said Notice of Defense, Respondent will thereby waive his 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 he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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4. This Stipulation and Agreement in Settlement and Order (hereinafter "Stipulation") is based on the factual allegations contained in the Accusation filed in this proceeding. In the interest of expedience and economy, Respondent chooses not to contest these allegations, but to remain silent and understands that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. This Stipulation and Respondent's decision not to contest the Accusation are hereby expressly limited to this proceeding and made for the sole purpose of reaching an agreed disposition of this proceeding.

Respondent's decision not to contest the factual allegations is made solely for the purpose of effectuating this Stipulation and is intended by Respondent to be non-binding upon him in any actions against Respondent by third parties. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

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

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

7 DETERMINATION OF ISSUES

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

12 The conduct, acts and/or omissions of JAY MICHAEL
13 BELSON, as alleged in the Accusation, constitutes cause to suspend
14 or revoke Respondent's real estate licenses and license rights
15 under the provisions of Business and Professions Code Section
16 10177(d) for a violation of Code Section 10145(c).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 A. The real estate license and license rights of
20 Respondent, JAY MICHAEL BELSON, under the provisions of Part 1
21 of Division 4 of the California Business and Professions Code,
22 are suspended for a period of sixty (60) days from the effective
23 date of this Order.

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1 B. The initial thirty (30) day portion of the
2 suspension shall commence on the effective date of this Decision;
3 provided however, said thirty (30) day suspension of Respondent's
4 license and license rights shall be permanently stayed upon
5 condition that:

6 (1) Respondent pays to the Department's Recovery
7 Account \$1,000.00 prior to the effective date of this Order in
8 accordance with the provisions of California Business and
9 Professions Code Section 10175.2.

10 (a) Payment of the aforementioned monetary penalty
11 shall be in the form of a cashier's check or certified check made
12 payable to the Recovery Account of the Real Estate Fund. Payment
13 must be made prior to the effective date of this Order.

14 (b) The Commissioner, in exercising his discretion
15 under California Business and Professions Code Section 10175.2,
16 agrees by adopting this Order that it would not be against the
17 public interest to permit Respondent to pay the aforesaid monetary
18 penalty.

19 (2) Respondent delivers a check in the amount of
20 \$250.00, made payable to Jay Levites, to the Department's
21 Los Angeles District Office, prior to the effective date of this
22 Order.

23 If the Department is unable to locate Jay Levites
24 within six (6) months of the effective date of this Order, to
25 deliver said check to him, said check will be returned to
26 Respondent.

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1 C. The remaining thirty (30) days of said sixty (60)
2 day suspension shall be stayed on the condition that no further
3 cause for disciplinary action against the real estate license and
4 license rights of Respondent shall occur within one (1) year from
5 the effective date of the Decision.

6 (1) If it is determined that further cause for
7 disciplinary action against the real estate license or license
8 rights of Respondent has occurred within one (1) year from the
9 effective date of this Decision, the thirty (30) day stay of
10 suspension hereby granted, to Respondent, or such portion thereof,
11 as the Real Estate Commissioner shall deem to be appropriate, may
12 be vacated after hearing, by the Real Estate Commissioner.

13 (2) If no further cause for disciplinary action
14 against the real estate license and license rights of Respondent
15 shall occur within one (1) year from the effective date of this
16 Decision, the stay hereby granted shall be permanent.

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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: 5-27-96

JAY MICHAEL BELSON, Respondent

DATED: 5-30-96

MARK F. MILLER, Counsel for Respondent, approved as to form

DATED: JUNE 4, 1996

DARLENE AVERETTA, Counsel for Complainant, the Department of Real Estate

* * * * *

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 July 5, 1996.

IT IS SO ORDERED 6-11-96.

JIM ANTT, JR.
Real Estate Commissioner

Jm Antt Jr

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

FILED
MAY 06 1996
DEPARTMENT OF REAL ESTATE

By C. [Signature]

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 JAY MICHAEL BELSON,)
13 individually and doing)
14 business as Re/Max on the)
15 Boulevard,)
Respondent.)

No. H-26320 LA
L-9509186
SUPPLEMENTAL ACCUSATION

16 Complainant hereby amends and supplements the Accusation
17 filed herein on February 21, 1996, as follows.

18 SECOND CAUSE OF ACCUSATION

19 14.

20 Complainant incorporates herein the allegations of
21 Paragraphs 1 through 13, inclusive.

22 15.

23 On or about January 29, 1994, Respondent employed one
24 Donald Leslie Katz (hereinafter "Katz") as a real estate
25 salesperson. Katz' real estate salesperson license had previously
26 expired on October 23, 1993.

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16.

On or about March 1, 1994, Katz completed an Exclusive Authorization and Right to Sell the vacant land known as Los Angeles County Assessors Parcel No. 5551 032 002-017-018 (hereinafter "Property") on behalf of Jay Levites (hereinafter "Levites"). The anticipated commission was to be paid to Respondent, doing business as Re/Max on the Boulevard. Katz requested and received a Two Hundred and Fifty Dollar (\$250.00) check as an advance fee, purportedly for advertising and marketing the Property.

17.

In or about March, 1994, an offer was made on the Property, but it was not accepted. Katz continued in Respondent's employ until on or about, May 29, 1994. On or about August 31, 1994, Levites contacted Respondent for the return of his Two Hundred and Fifty Dollars (\$250.00). As of this date said money has not been returned to Levites.

18.

Respondent employed and/or compensated Katz, who at the time was not licensed by the Department, to perform acts for which a real estate license is required, in violation of Code Section 10137. Respondent knew or should have known that Katz was not licensed.

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3 The conduct, acts and/or omissions of Respondent, as
4 described herein above, constitute cause for the suspension or
5 revocation of the real estate licenses and license rights of
6 Respondent, under the provisions of Code Section 10137.

6 Dated at Los Angeles, California

7 this 6th day of May, 1996.

9 THOMAS MCCRADY

10 Deputy Real Estate Commissioner

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cc: Jay Michael Belson
Mark F. Miller, Esq.
OAH
SACTO
LK

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

(213) 897-3937

FILED
FEB 21 1996
DEPARTMENT OF REAL ESTATE

By C. Bay

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26320 LA
JAY MICHAEL BELSON,)	L-9509186
Respondent.)	<u>AMENDED ACCUSATION</u>

14 This Amended Accusation amends the Accusation filed
15 September 7, 1995.

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JAY MICHAEL BELSON, currently doing business as Re/Max on
19 the Boulevard, is informed and alleges in his official capacity
20 as follows:

21 1.

22 JAY MICHAEL BELSON is presently licensed and/or has
23 license rights under the Real Estate Law, Part 1 of Division 4
24 of the California Business and Professions Code (hereinafter
25 "Code").

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2.

From March 28, 1986 through December 27, 1993, JAY MICHAEL BELSON (hereinafter "Respondent"), was licensed by the Department as a real estate salesperson. From December 28, 1993, to present BELSON was licensed as a real estate broker.

3.

From in or about 1990 through in or about 1992, Respondent was licensed to and employed by the Jon Douglas Company (hereinafter "JDC"), a licensed real estate broker.

4.

At all times material herein, Respondent was engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker or salesperson within the meaning of Code Sections 10131(a) and 10132, including the operation and conduct of a real estate sale business with the public wherein Respondent, for or in expectation of compensation, sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property in the State of California.

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5.

On or about September 8, 1992, a Real Estate Purchase Contract and Receipt for Deposit (hereinafter "Deposit Receipt") was prepared by or on behalf of one, Elizabeth Sprague, aka Elizabeth Sprague Yedor (hereinafter "Buyer"), for the Elizabeth Sprague Separate Property Trust. The Buyer offered to purchase real property located at 4145 Stansbury Avenue, Sherman Oaks, California (hereinafter "Property"). Buyer signed the offer. In connection with that offer, Buyer delivered to Respondent a check for \$20,000, payable to Allen Erdy Escrow, drawn on the Buyer's account at Bank of America.

6.

The Deposit Receipt specified a sales price of Six Hundred and Ninety-Thousand Dollars (\$690,000), and an earnest money deposit of Twenty Thousand Dollars (\$20,000), "which shall be held uncashed by Broker until acceptance of this offer whereupon it will promptly be endorsed without recourse and deposited with escrow holder". The Deposit Receipt was subsequently signed by Respondent as a representative of JDC. JDC was listed as the agent for the Buyer.

7.

On or about September 8, 1992, Respondent presented the offer and the earnest money deposit check, to the seller of the Property, James Bailey Krug (hereinafter "Seller"). On or about September 8, 1992, the Seller signed acceptance of the offer, and obtained the signature.

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8.

On or about September 8, 1992 or September 9, 1992, Buyer informed Respondent that she did not have sufficient funds in her checking account to cover the earnest money deposit of \$20,000.

9.

Respondent failed to deposit the Buyer's \$20,000 check with the escrow holder, as required by the Deposit Receipt. In so doing, Respondent concealed from the Seller the fact that the check was without sufficient funds. Seller signed escrow instructions and took the Property off the market in reliance on the validity of the deposit check.

10.

Respondent, failed to inform the Seller, the Seller's agent, or his employing broker, in a timely manner, that the Buyer did not have sufficient funds in her checking account to cover the earnest money deposit of \$20,000, and that he had not deposited said check with the escrow holder as required.

11.

At no time did Respondent deliver the deposit check received from the Buyer to her employing broker, nor did he at the direction of his broker place the funds in the hands of the broker's principal, into a neutral escrow depository or into the broker's trust account.

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12.

The conduct, acts and/or omissions of Respondent, as described herein above, constitutes making a substantial misrepresentation, fraud or dishonest dealing, or negligence or incompetence, and is cause for the suspension or revocation of the real estate license and license rights of Respondent pursuant to the provisions of Code Sections 10176(a), 10176(i) and/or 10177(g).

13.

The conduct, acts and/or omissions of Respondent, as described in Paragraph 11 above, are in violation of Code Section 10145(c), and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondent under the provisions of Code Sections 10177(d) and/or 10177(g).

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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 licenses and license rights of Respondent JAY MICHAEL BELSON, 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 21st day of February, 1996.

THOMAS McCRADY
Deputy Real Estate Commissioner,

cc: Jay Michael Belson
Mark F. Miller, Esq.
SACTO
OAH
LK

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

5 (213) 897-3937

FILED
SEP 7 1993
DEPARTMENT OF REAL ESTATE

By *Franklin Reynolds*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 JAY MICHAEL BELSON,) No. H-26320 LA
13 Respondent.) ACCUSATION
14 _____)

15 The Complainant, Peter F. Hurst, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JAY MICHAEL BELSON, is informed and alleges in his
18 official capacity as follows:

19 1.

20 JAY MICHAEL BELSON is presently licensed and/or has
21 license rights under the Real Estate Law, Part 1 of Division 4 of
22 the California Business and Professions Code (hereinafter "the
23 Code").

24 2.

25 From March 28, 1986 through December 27, 1993, JAY
26 MICHAEL BELSON (hereinafter "Respondent"), was licensed by the
27 Department as a real estate salesperson. From December 28, 1993,
to present BELSON was licensed as a real estate broker.

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3.

From in or about 1991 through in or about 1994, Respondent was licensed to and employed by the Jon Douglas Company (hereinafter "JDC"), a licensed real estate broker.

4.

At all times material herein, Respondent was engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker or salesperson within the meaning of Sections 10131(a) and 10132 of the Code, including, the operation and conduct of a real estate sale business with the public wherein, Respondent, for or in expectation of compensation, sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property in the State of California.

5.

On or about September 8, 1992, a Real Estate Purchase Contract and Receipt for Deposit (hereinafter "Deposit Receipt") was prepared by or on behalf of one, Elizabeth Sprague aka Elizabeth Sprague Yedor (hereinafter the "Buyer"), for the Elizabeth Sprague Separate Property Trust. The Buyer offered to purchase real property located at 4145 Stansbury Avenue, Sherman Oaks, California (hereinafter the "Property"). Buyer signed the offer. In connection with that offer, Buyer delivered to respondent a check for \$20,000, payable to Allen Erdy Escrow, drawn on the Buyer's account at Bank of America.

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6.

The Deposit Receipt specified a sales price of Six Hundred and Ninety-Thousand Dollars (\$690,000), and an earnest money deposit of Twenty Thousand Dollar (\$20,000), "which shall held be held uncashed by Broker until acceptance of this offer whereupon it will promptly be endorsed without recourse and deposited with escrow holder". The Deposit Receipt was subsequently signed by Respondent as a representative of JDC. JDC was listed as the agent for the Buyer.

7.

On or about September 8, 1992, Respondent presented the offer and the earnest money deposit check, to the seller of the Property, James Bailey Krug (hereinafter the "Seller"). On or about September 8, 1992, the Seller signed acceptance of the offer, and obtained the signature

8.

On or about September 8, 1992 or September 9, 1992, Buyer informed Respondent that she did not have sufficient funds in her checking account to cover the earnest money deposit of \$20,000.

9.

Respondent failed to deposit the Buyer's \$20,000 check with the escrow holder, as required by the Deposit Receipt. In so doing, respondent concealed from the seller the fact that the check was without sufficient funds. Seller signed escrow instructions and took the Property off the market in reliance on the validity of the deposit check.

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10.

Respondent, failed to inform the Seller, the Seller's agent, or his employing broker, that the Buyer did not have sufficient funds in her checking account to cover the earnest money deposit of \$20,000, and that he had not deposited said check with the escrow holder as required.

11.

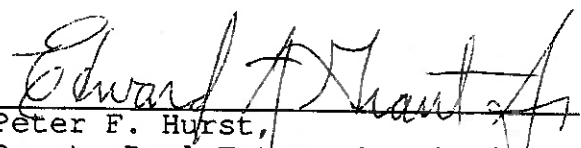
The conduct, acts and/or omissions of Respondent, as described herein, above, constitutes making a substantial misrepresentation, fraud or dishonest dealing, or negligence or incompetence, and is cause for the suspension or revocation of the real estate license and license rights of Respondent pursuant to the provisions of Sections 10176(a), 10176(i) and/or 10177(g) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent JAY MICHAEL BELSON, 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 7th day of September, 1995.


Peter F. Hurst,
Deputy Real Estate Commissioner,
by Edward A. Grant, Jr.,
Deputy Real Estate Commissioner.

cc: Jay Michael Belson
SACTO
LK