

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

4 Telephone: (213) 897-3937

FILED
DEC 19 1997
DEPARTMENT OF REAL ESTATE

By CB

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 AMERICAN HERITAGE MORTGAGE,) NO. H-26900 LA
13 a corporation; and) L-9612003
14 ROBERT BURKE ANDERSON,)
15 individually and as designated) STIPULATION AND AGREEMENT
16 officer of American Heritage)
17 Mortgage and Belmar Realty, and)
18 formerly designated officer)
19 of Carson Mortgage and Arman)
20 Realty,)
21 Respondents.)
22 _____)

19 It is hereby stipulated by and between AMERICAN
20 HERITAGE MORTGAGE, a corporation (hereinafter "AHM") and ROBERT
21 BURKE ANDERSON, individually and as designated officer of
22 American Heritage Mortgage and Belmar Realty, and formerly
23 designated officer of Carson Mortgage and Arman Realty
24 (hereinafter "ANDERSON") (hereinafter sometimes both referred to
25 as "Respondents") representing themselves, and the Complainant,
26 acting by and through Chris Leong, Counsel for the Department of
27 Real Estate, as follows for the purpose of settling and
disposing the Accusation filed on November 5, 1996, in this

1 matter:

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

9 2. Respondents have received, read and understand the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation, filed by the Department of Real Estate in this
12 proceeding.

13 3. On November 20, 1996, Respondents filed Notices of
14 Defense pursuant to Section 11506 of the Government Code for the
15 purpose of requesting a hearing on the allegations in the
16 Accusation. Respondents hereby freely and voluntarily withdraw
17 said Notices of Defense. Respondents acknowledge that they
18 understand that by withdrawing said Notices of Defense they will
19 thereby waive their right to require the Commissioner to prove
20 the allegations in the Accusation at a contested hearing held in
21 accordance with the provisions of the APA and that Respondents
22 will waive other rights afforded to them in connection with the
23 hearing, such as the right to present evidence in defense of the
24 allegations in the Accusation and the right to cross-examine
25 witnesses.

26 4. In the interest of expedience and economy,
27 Respondents choose not to contest the factual allegations in



1 Paragraphs 1 through 13 of the Accusation, but to remain silent
2 and understand that, as a result thereof, these factual
3 statements, without being admitted or denied, will serve as a
4 prima facie basis for the disciplinary action stipulated to
5 herein. The Real Estate Commissioner shall not be required to
6 provide further evidence to prove such allegations.

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

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

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions
26 and waivers and solely for the purpose of settlement of the
27 pending Accusation without a hearing, it is stipulated and



1 agreed that the following determination of issues shall be made:

2 The acts and omissions of Respondent ANDERSON,
3 described in the Accusation, are cause for the suspension or
4 revocation of all real estate licenses and license rights of
5 Respondent under the provisions of Sections 10159.2 and 10177(h)
6 of the Business and Professions Code.

7 The acts and omissions of Respondent AHM, described in
8 the Accusation, are cause for the suspension or revocation of
9 all real estate licenses and license rights of Respondent under
10 the provisions of Sections 10145 and 10177(d) of the Business
11 and Professions Code and Sections 2831 and 2831.1 of Title 10,
12 Chapter 6, California Code of Regulations.

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 A. The license and license rights of Respondent
16 ANDERSON, under the provisions of Part 1 of Division 4 of the
17 Business and Professions Code (hereinafter "Code"), are hereby
18 revoked commencing on the effective date of this Decision.

19 1. However, Respondent shall be entitled to apply for
20 and shall be issued a restricted real estate salesperson license
21 pursuant to Section 10156.5 of the Code, if Respondent makes
22 application therefor and pays to the Department the appropriate
23 fee for said license within one year from the effective date of
24 this Decision.

25 2. The restricted license issued to Respondent shall
26 be subject to all of the provisions of Section 10156.7 of the
27 Code and to the following limitations, conditions, and



1 restrictions imposed under authority of Section 10156.6 of the
2 Code.

3 3. The restricted license may be suspended prior to
4 hearing by Order of the Real Estate Commissioner in the event of
5 Respondent's conviction or plea of nolo contendere to a crime
6 which bears a significant relationship to Respondent's fitness
7 or capacity as a real estate licensee.

8 4. The restricted license may be suspended, prior to
9 and pending final determination after formal hearing by Order of
10 the Real Estate Commissioner based upon evidence satisfactory to
11 the Commissioner that Respondent has, subsequent to the date
12 hereof, violated provisions of the California Real Estate Law,
13 the Subdivided Lands Law, Regulations of the Real Estate
14 Commissioner or conditions attaching to this restricted license.

15 5. Respondent shall not be eligible to apply for the
16 issuance of an unrestricted real estate salesperson license nor
17 the removal of any of the conditions, limitations or
18 restrictions of the restricted license until at least one year
19 has elapsed from the date of this Decision.

20 6. Respondent shall obey all laws of the United
21 States, the State of California and its political subdivisions,
22 and shall further obey and comply with all rules and regulations
23 of the Real Estate Commissioner.

24 7. Respondent shall, within one year from the
25 effective date of this Decision, present evidence satisfactory
26 to the Real Estate Commissioner that he has, since the most
27 recent issuance of an original or renewal real estate license,



1 taken and successfully completed the continuing education
2 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
3 for renewal of a real estate license. If Respondent fails to
4 satisfy this condition, the Real Estate Commissioner shall
5 afford Respondent the opportunity for a hearing pursuant to the
6 Administrative Procedure Act to present such evidence.

7 8. With the application for license, or with the
8 application for transfer to a new employing broker, Respondent
9 shall submit a statement signed by the prospective employing
10 broker on a form approved by the Department of Real Estate
11 wherein the employing broker shall certify as follows:

12 (a) That broker has read this Decision which is the
13 basis for the issuance of the restricted license; and

14 (b) That broker will carefully review all transaction
15 documents prepared by the restricted licensee and otherwise
16 exercise close supervision over the licensee's performance of
17 acts for which a license is required.

18 B. The license and license rights of Respondent AHM,
19 under the provisions of Part 1 of Division 4 of the Business and
20 Professions Code, are hereby suspended for a period of sixty
21 (60) days, commencing on the effective date of this Decision.

22 However, thirty (30) days of the suspension of
23 Respondent's corporate real estate broker license shall be
24 permanently stayed upon condition that Respondent pay, to the
25 Department's Recovery Account, Three Thousand Dollars
26 (\$3,000.00) prior to the effective date of this Decision,
27 pursuant to the provisions of Section 10175.2.



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(1) Payment of the aforementioned monetary penalty shall be in the form of cashier's check or certified check, made payable to the Recovery Account of the Real Estate Fund. Payment must be made prior to the effective date of this Decision.

(2) The Commissioner, in exercising his discretion under Code Section 10175.2, agrees by adopting this Decision that it would not be against the public interest to permit such petition by Respondent to pay the aforesaid monetary penalty.

C. The remaining thirty (30) day portion of the sixty (60) day suspension shall be stayed on the condition that no further cause for discipline of the license and license rights of Respondent shall occur within one (1) year from the effective date of this Decision, and upon the following terms and conditions:

If the Commissioner determines, after giving Respondent notice and an opportunity to be heard, that a violation of the conditions has occurred, the Commissioner may terminate the stay and impose the stayed portion or otherwise modify the Decision. If Respondent successfully completes the terms and conditions of the probation, the stay shall be permanent.

DATED: 12/3/97

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

* * *

We have read the Stipulation and Agreement, and its

1 terms are understood by us and are agreeable and acceptable to
2 us. We understand that we are waiving rights given to us by the
3 California Administrative Procedure Act (including but not
4 limited to Sections 11506, 11508, 11509 and 11513 of the
5 Government Code), and we willingly, intelligently and voluntarily
6 waive those rights, including the right of requiring the
7 Commissioner to prove the allegations in the Accusation at a
8 hearing at which we would have the right to cross-examine
9 witnesses against us and to present evidence in defense and
10 mitigation of the charges.

11
12 DATED: 12/1/97

Robert Burke Anderson
ROBERT BURKE ANDERSON,
individually and as designated
officer of American Heritage
Mortgage and Belmar Realty, and
formerly designated officer of
Carson Mortgage and Arman Realty,
Respondent

13
14
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16
17 DATED: 12/1/97

Robert B Anderson
AMERICAN HERITAGE MORTGAGE,
a corporation
Respondent

18
19
20 * * *

21 The foregoing Stipulation and Agreement is hereby
22 adopted as my Decision in this matter and shall become effective
23 at 12 o'clock noon on January 8, 1998.

24 IT IS SO ORDERED 12/16/97.

25 JIM ANTT, JR.
26 Real Estate Commissioner

27 Jm Antt Jr

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
AMERICAN HERITAGE MORTGAGE,)
a corporation; and ROBERT BURKE)
ANDERSON, individually and as)
designated officer of American)
Heritage Mortgage and)
Belmar Realty, and formerly)
designated officer of Carson)
Mortgage and Arman Realty,)

Case No. H-26900 LA

OAH No. L-9612003

FILED
OCT - 2 1997
DEPARTMENT OF REAL ESTATE

Respondent(s)

By C-2

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

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, FEBRUARY 25, 1998, at the hour of 9:00 A.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: October 2, 1997

By

Chris Leong

CHRIS LEONG, Counsel

cc: American Heritage Mortgage
Robert Burke Anderson
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
AMERICAN HERITAGE MORTGAGE,)
a corporation; and ROBERT BURKE)
ANDERSON, individually and as)
designated officer of American)
Heritage Mortgage and)
Belmar Realty, and formerly)
designated officer of Carson)
Mortgage and Arman Realty,)

Case No. H-26900 LA
OAH No. L-9612003

FILED
DEC 12 1996
DEPARTMENT OF REAL ESTATE

Respondent(s)

By C. By

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

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, AUGUST 27, 1997, at the hour of 9:00 A.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.

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DEPARTMENT OF REAL ESTATE

Dated: December 12, 1996

By

CHRIS LEONG

CHRIS LEONG, Counsel

cc: American Heritage Mortgage
Robert Burke Anderson
✓ Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

1 CHRIS LEONG, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012
5
6 (213) 897-3937
7

FILED
NOV - 5 1996
DEPARTMENT OF REAL ESTATE

By C. By

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-26900 LA
12)
13 AMERICAN HERITAGE MORTGAGE,)
14 a corporation; and) ACCUSATION
15 ROBERT BURKE ANDERSON,)
16 individually and as designated officer)
17 of American Heritage Mortgage and)
Belmar Realty, and formerly designated)
officer of Carson Mortgage and)
Arman Realty,)
Respondents.)
_____)

18 The Complainant, Thomas McCrady, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against AMERICAN HERITAGE MORTGAGE, a corporation (hereinafter
21 "AHM"); and ROBERT BURKE ANDERSON, individually and as
22 designated officer of American Heritage Mortgage and Belmar
23 Realty, and formerly designated officer of Carson Mortgage and
24 Arman Realty (hereinafter "ANDERSON") (hereinafter sometimes
25 referred to as "Respondents"), is informed and alleges as
26 follows:
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1.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

2.

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

At all times herein mentioned, ANDERSON was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department"), and was responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code. On October 23, 1990, a Decision in case H-22594 LA, ordered that ANDERSON'S real estate broker license, individually and as the designated officer of Belmar Realty, Inc., be revoked with right to a restricted real estate broker license. This was based on violation of Section 10177(d) of the Code and Section 2831 of the Regulations.

4.

On or about May 22, 1984, AHM was licensed by the Department as a corporate real estate broker.

5.

All further references to AHM shall be deemed to refer to, in addition to AHM, the officers, directors, employees,



1 agents and real estate licensees employed by or associated with
2 AHM, who at all times herein mentioned were engaged in the
3 furtherance of the business or operations of said parties and
4 who were acting within the course and scope of their corporate
5 authority and employment.

6 6.

7 At all times mentioned herein, in Los Angeles County,
8 California, AHM and ANDERSON engaged in the business of, acted
9 in the capacity of, advertised or assumed to act as real estate
10 brokers in the State of California, within the meaning of
11 Section 10131(d) of the Code, wherein they arranged, negotiated,
12 processed, and consummated on behalf of others, loans secured by
13 interests in real property for compensation or in expectation of
14 compensation.

15 AUDIT

16 7.

17 On or about September 6, 1995, the Department
18 completed an audit of the activities of Respondents, audit
19 number LA 950006, regarding the mortgage loan brokerage activity
20 of Respondents, for the period from August 1, 1994 through
21 August 30, 1995. The results of that audit are set forth in
22 Paragraphs 8 and 9.

23 8.

24 During 1994 and 1995, in connection with their real
25 estate business activities, Respondents accepted or received
26 funds in trust (hereinafter "trust funds") from or on behalf of
27 borrowers and thereafter made disbursements of such funds.

1 These trust funds were maintained by Respondents at Pacific
2 Heritage Bank, 3440 Torrance Blvd., Torrance, CA 90503, Account
3 No. 544-002-029774, known as American Heritage Mortgage Trust
4 Account (hereinafter "TA#1").

5 9.

6 In connection with those funds described in
7 Paragraph 8, Respondents:

8 (a) submitted a trust account check, number 2361, in
9 the amount of \$215.00, for the renewal of AHM's corporate real
10 estate license, number 00865299, in violation of Section 10145
11 of the Code;

12 (b) failed to maintain complete columnar records with
13 a balance after each posting, in violation of Section 2831 of
14 the Regulations;

15 (c) failed to maintain complete separate records for
16 each beneficiary or transaction, in violation of Section 2831.1
17 of the Regulations;

18 (d) failed to provide Mortgage Loan Disclosure
19 Statements to Antonio and Angela Mercado, in violation of
20 Section 10240 of the Code; and

21 (e) failed to provide Lender/Purchaser Disclosure
22 Statements for clients, including Antonio and Angela Mercado,
23 Avernell R. Helton, and Kenneth and Mary Burge, in violation of
24 Section 10232.4 of the Code.

25 /

26 /

27 /



1 FIRST CAUSE OF ACCUSATION

2 (Violation by Respondents of Sections 10145, 10240, 10232.4 and
3 10177(d) of the Code and Sections 2831 and 2831.1 of the
4 Regulations)

5 10.

6 As a First Cause of Accusation, Complainant
7 incorporates herein by this reference the Preamble and each of
8 the allegations in Paragraphs 1 through 9, herein above.

9 11.

10 The conduct of Respondents, in handling trust funds to
11 perform mortgage loan brokerage activities, as alleged in
12 Paragraphs 1 through 9, constitutes violation under Sections
13 10145, 10240 and 10232.4 of the Code and Sections 2831 and
14 2831.1 of the Regulations. Said conduct is cause pursuant to
15 Section 10177(d) of the Code for the suspension or revocation of
16 all licenses and license rights of Respondents under Real Estate
17 Law.

18 SECOND CAUSE OF ACCUSATION

19 (Violation by Respondent ANDERSON of Sections 10159.2 and
20 10177(h) of the Code)

21 12.

22 As a Second Cause of Accusation, Complainant
23 incorporates herein by this reference the Preamble and each of
24 the allegations in Paragraphs 1 through 9, herein above.

25 13.

26 The conduct of Respondent ANDERSON, in allowing
27



1 Respondent AHM to violate Sections 10145, 10240, 10232.4 and
2 10177(d) of the Code and Sections 2831 and 2831.1 of the
3 Regulations, is cause for the suspension or revocation of all
4 licenses and license rights of Respondent ANDERSON under the
5 Real Estate Law, pursuant to Sections 10159.2 and 10177(h) of
6 the Code.

7
8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and license rights of Respondent
12 AMERICAN HERITAGE MORTGAGE, a corporation; and ROBERT BURKE
13 ANDERSON, individually and as designated officer of American
14 Heritage Mortgage and Belmar Realty, and formerly designated
15 officer of Carson Mortgage and Arman Realty, under the Real
16 Estate Law (Part 1 of Division 4 of the Business and Professions
17 Code), and for such other and further relief as may be proper
18 under other applicable provisions of law.

19 Dated at Los Angeles, California
20 this 5th day of November, 1996.

21
22
23 THOMAS MCCRADY

24 Deputy Real Estate Commissioner

25 cc: American Heritage Mortgage
26 Robert Burke Anderson
27 Sacto.
MA
Audit Section

