

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
JUL 22 2003
DEPARTMENT OF REAL ESTATE

By Mederholt

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-29956 LA
)	
12 J P KING AUCTION COMPANY INC.,)	<u>STIPULATION</u>
13 and EDMOND JAMES BISSON,)	<u>AND</u>
14 individually and as designated)	<u>AGREEMENT</u>
15 officer of J P King Auction)	
16 Company Inc.)	
)	
17 Respondents.)	
)	
)	

17 It is hereby stipulated by and between J P KING AUCTION
18 COMPANY INC. and EDMOND JAMES BISSON, individually and as
19 designated officer of J P King Auction Company Inc. (sometimes
20 collectively referred to as "Respondents"), represented by Marcus
21 O. Colabianchi, Esq., and the Complainant, acting by and through
22 Elliott Mac Lennan, Counsel for the Department of Real Estate, as
23 follows for the purpose of settling and disposing of the
24 Accusation filed on April 25, 2003, in this matter:

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

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

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

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1 4. This Stipulation is based on the allegations
2 contained in the Accusation. In the interest of expedience and
3 economy, Respondents choose not to contest these allegations, but
4 to remain silent and understand that, as a result thereof, these
5 allegations, without being admitted or denied, will serve as a
6 prima facie basis for the disciplinary action stipulated to
7 herein. The Real Estate Commissioner shall not be required to
8 provide further evidence to prove said allegations.

9 5. This Stipulation is based on Respondents decision
10 not to contest the allegations set forth in the Accusation as a
11 result of the agreement negotiated between the parties. This
12 Stipulation is expressly limited to this proceeding and any
13 further proceeding initiated by or brought before the Department
14 of Real Estate based upon the facts and circumstances alleged in
15 the Accusation, and is made for the sole purpose of reaching an
16 agreed disposition of this proceeding without a hearing. The
17 decision of Respondents not to contest the allegations is made
18 solely for the purpose of effectuating this Stipulation. It is
19 the intent and understanding of the parties that this Stipulation
20 shall not be binding or admissible against Respondents in any
21 actions against Respondents by third parties.

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1 6. It is understood by the parties that the Real
2 Estate Commissioner may adopt this Stipulation as her Decision
3 in this matter thereby imposing the penalty and sanctions on
4 Respondents real estate licenses and license rights as set forth
5 in the "Order" herein below. In the event that the Commissioner,
6 in her discretion, does not adopt the Stipulation, it shall be
7 void and of no effect and Respondents shall retain the right to
8 a hearing and proceeding on the Accusation under the provisions
9 of the APA and shall not be bound by any stipulation or waiver
10 made herein.

11 7. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceedings by the Department of Real
15 Estate with respect to any matters which were not specifically
16 alleged to be causes for Accusation in this proceeding but do
17 constitute a bar, estoppel and merger as to any allegations
18 actually contained in the Accusation against Respondents herein.

19 8. This Stipulation and the order made pursuant to
20 this Stipulation shall have no collateral estoppel or res
21 judicata effect in any proceeding(s) in which J P KING AUCTION
22 COMPANY INC. and/or EDMOND JAMES BISSON and the Department are
23 not parties. This Stipulation is made and accepted with the
24 express understanding and agreement that it is for the purpose of
25 settling these proceedings only, and is not intended as, nor
26 shall be it be deemed, used, argued, or accepted as an
27 acknowledgement or admission of fact in any other judicial,

1 administrative, or other proceeding in which the Department is
2 not a party.

3 9. Respondents understand that by agreeing to this
4 Stipulation, Respondents agree to pay, pursuant to Business and
5 Professions Code Section 10148, the cost of the audit (LA 010511)
6 which led to this disciplinary action. The amount of said cost
7 is \$2,684.22.

8 10. Respondents have received, read, and understand
9 the "Notice Concerning Costs of Subsequent Audit". Respondents
10 further understand that by agreeing to this Stipulation, the
11 findings set forth below in the Determination of Issues become
12 final, and the Commissioner may charge Respondents for the cost
13 of any subsequent audits conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations
15 have been corrected. The maximum cost of the subsequent audit
16 will not exceed \$2,684.22.

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DETERMINATION OF ISSUES

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2 By reason of the foregoing stipulations, it is
3 stipulated and agreed that the following determination of issues
4 shall be made:

5 1.

6 The conduct, acts or omissions of J P KING AUCTION
7 COMPANY INC. as described in Paragraph 4 above, is in violation
8 of Sections 10085, 10130, 10145 and 10146 of the Business and
9 Professions Code ("Code") and Sections 2834, 2970 and 2972 of
10 Title 10, Chapter 6 of the California Code of Regulations
11 ("Regulations") and is a basis for the suspension
12 or revocation of Respondent's license pursuant to Code Sections
13 10177(d) and 10177(g).

14 2.

15 The conduct, acts or omissions of EDMOND JAMES BISSON,
16 as described in Paragraph 4, constitutes a failure to ensure that
17 J P KING AUCTION COMPANY INC. was in compliance with the Real
18 Estate Law during the time that he was the officer designated by
19 a corporate broker licensee, in violation of Code Section
20 10159.2. This conduct is a basis for the suspension or
21 revocation of Respondent's broker license pursuant to Code
22 Section 10177(h).

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ORDER

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2 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
3 TO THE WRITTEN STIPULATION OF THE PARTIES:

4 I.

5 A. All licenses and licensing rights of Respondent
6 J P KING AUCTION COMPANY INC. under the Real Estate Law are
7 suspended for a period of ninety (90) days from the effective
8 date of this Decision; provided, however, that sixty (60) days of
9 said suspension shall be stayed for two (2) years upon the
10 following terms and conditions:

11 1. Respondent J P KING AUCTION COMPANY INC. shall obey
12 all laws, rules and regulations governing the rights, duties and
13 responsibilities of a real estate licensee in the State of
14 California.

15 2. That no final subsequent determination be made,
16 after hearing or upon stipulation, that cause for disciplinary
17 action occurred within two (2) years of the effective date of
18 this Decision. Should such determination be made, the
19 Commissioner may, in her discretion, vacate and set aside the
20 stay order and reimpose all or a portion of the stayed
21 suspension. Should no such determination be made, the stay
22 imposed herein shall become permanent.
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1 B. The initial thirty (30) day portion of said ninety
2 (90) day suspension shall commence on the effective date of this
3 Decision; provided, however, that if Respondent J P KING AUCTION
4 COMPANY INC. petitions, said suspension shall be stayed upon
5 condition that:

6 1. Pursuant to Section 10175.2 of the Business and
7 Professions Code, J P KING AUCTION COMPANY INC. pay a monetary
8 penalty of two-hundred-sixty six dollars and sixty-seven cents
9 (\$266.67) per day totaling eight thousand dollars (\$8,000).

10 2. Said payment shall be in the form of a cashier's
11 check or certified check made payable to the Recovery
12 Account of the Real Estate Fund. Said check must be received
13 by the Department prior to the effective date of the Decision
14 in this matter.

15 3. No further cause for disciplinary action against
16 the real estate license of Respondent J P KING AUCTION COMPANY
17 INC. occurs within two (2) years from the effective date of the
18 Decision in this matter.

19 4. If Respondent J P KING AUCTION COMPANY INC. fails
20 to pay the monetary penalty in accordance with the terms and
21 conditions of the Decision, the Commissioner may, without a
22 hearing, order the immediate execution of all or any part of the
23 stayed suspension in which event Respondent shall not be entitled
24 to any repayment nor credit, prorated or otherwise, for money
25 paid to the Department under the terms of this Decision.
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1 5. If Respondent J P KING AUCTION COMPANY INC. pays
2 the monetary penalty and if no further cause for disciplinary
3 action against the real estate licenses of Respondent occurs
4 within two (2) years from the effective date of the Decision, the
5 stay hereby granted shall become permanent.

6 II.

7 A. All licenses and licensing rights of Respondent
8 EDMOND JAMES BISSON under the Real Estate Law are suspended for a
9 period of thirty (30) days from the effective date of this
10 Decision; however, that if Respondent petitions said suspension
11 (or a portion thereof) shall be stayed for two (2) years upon
12 condition that:

13 1. Respondent EDMOND JAMES BISSON pays a monetary
14 penalty pursuant to Section 10175.2 of the Business and
15 Professions Code at a rate of \$50 for each day of the suspension
16 for a total monetary penalty of \$1,500.

17 2. Said payment shall be in the form of a cashier's
18 check or certified check made payable to the Recovery Account of
19 the Real Estate Fund. Said check must be received by the
20 Department prior to the effective date of the Decision in this
21 matter.

22 3. No further cause for disciplinary action against
23 the real estate license of Respondent EDMOND JAMES BISSON occurs
24 within two (2) years from the effective date of the Decision in
25 this matter.

26 4. If Respondent EDMOND JAMES BISSON fails to pay the
27 monetary penalty in accordance with the terms and conditions of

1 the Decision, the Commissioner may, without a hearing, order the
2 immediate execution of all or any part of the stayed suspension
3 in which event Respondent shall not be entitled to any repayment
4 nor credit, prorated or otherwise, for money paid to the
5 Department under the terms of this Decision.

6 5. If Respondent EDMOND JAMES BISSON pays the monetary
7 penalty and if no further cause for disciplinary action against
8 the real estate licenses of Respondent occur within two (2) years
9 from the effective date of the Decision, the stay hereby granted
10 shall become permanent.

11 B. All licenses and licensing rights of Respondent
12 EDMOND JAMES BISSON are indefinitely suspended unless or until he
13 provides proof satisfactory to the Commissioner of having taken,
14 within one hundred twenty (120) days prior to the effective date
15 of this Decision or any time after said date, the trust fund
16 accounting and handling course specified in paragraph (3) of
17 subdivision (a) of Business and Professions Code Section 10170.5.

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19 III.

20 Pursuant to Section 10148 of the Business and
21 Professions Code, Respondents shall pay the Commissioner's
22 reasonable cost for: (a) the audit (Audit Report LA 010511)
23 which led to this disciplinary action and (b) a subsequent audit
24 to determine if Respondent J P KING AUCTION COMPANY INC. is now
25 in compliance with the Real Estate Law. The cost of the audit
26 which led to this disciplinary action is \$2,684.22. In
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1 calculating the amount of the Commissioner's reasonable cost, the
2 Commissioner may use the estimated average hourly salary for all
3 persons performing audits of real estate brokers, and shall
4 include an allocation for travel time to and from the auditor's
5 place of work. Said amount for the prior and subsequent audit
6 shall not exceed \$5,368.44.

7 Respondents shall pay such cost within 60 days of
8 receiving an invoice from the Commissioner detailing the
9 activities performed during the audit and the amount of time
10 spent performing those activities.

11 The Commissioner may suspend the license of a
12 Respondent pending a hearing held in accordance with Section
13 11500, et seq., of the Government Code, if payment is not timely
14 made as provided for herein, or as provided for in a subsequent
15 agreement between the Respondent and the Commissioner. The
16 suspension shall remain in effect until payment is made in full
17 or until a Respondent enters into an agreement satisfactory to
18 the Commissioner to provide for payment, or until a decision
19 providing otherwise is adopted following a hearing held pursuant
20 to this condition.
21

22
23 DATED: 5-27-03

ELIOTT MAC LENNAN
24 ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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1 * * *

2 We have read the Stipulation and Agreement, and have
3 discussed it with our counsel. Its terms are understood by us
4 and are agreeable and acceptable to us. We understand that we
5 are waiving rights given to us by the California Administrative
6 Procedure Act (including but not limited to Sections 11506,
7 11508, 11509 and 11513 of the Government Code), and we willingly,
8 intelligently and voluntarily waive those rights, including the
9 right of requiring the Commissioner to prove the allegations in
10 the Accusation at a hearing at which we would have the right to
11 cross-examine witnesses against us and to present evidence in
12 defense and mitigation of the charges.
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14 Respondents can signify acceptance and approval of the
15 terms and conditions of this Stipulation and Agreement by faxing
16 a copy of its signature page, as actually signed by Respondents,
17 to the Department at the following telephone/fax number: (213)
18 576-6917, Attention: Elliott Mac Lennan. Respondents agree,
19 acknowledge and understand that by electronically sending to the
20 Department a fax copy of Respondents' actual signatures as they
21 appear on the Stipulation and Agreement, that receipt of the
22 faxed copy by the Department shall be as binding on Respondents
23 as if the Department had received the original signed Stipulation
24 and Agreement.
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DATED: 6-24-2003

Edmond Bisson
J P KING AUCTION COMPANY INC.
BY: EDMOND JAMES BISSON D.O.,
Respondent

DATED: 6-24-2003

Edmond Bisson
EDMOND JAMES BISSON, individually
and as designated officer of J P
King Auction Company Inc.
Respondent

DATED: 6/26/03

M. Col
Marcus O. Colabianchi, Attorney for
Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o'clock noon on August 21, 2003.

IT IS SO ORDERED July 17, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

Handwritten initials/signature in top left corner.

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
APR 25 2003
DEPARTMENT OF REAL ESTATE

By *K. K. ...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-29956 LA
12	J P KING AUCTION COMPANY INC., and))	
13	EDMOND JAMES BISSON, individually))	<u>FIRST AMENDED</u>
14	and as designated officer of))	<u>ACCUSATION</u>
15	J P King Auction Company Inc.,))	
16	Respondents.)	

17 The Accusation filed on February 14, 2003, is amended
18 in its entirety as follows:

19 The Complainant, Maria Suarez, a Deputy Real Estate
20 Commissioner of the State of California, for cause of Accusation
21 against J P KING AUCTION COMPANY INC. and EDMOND JAMES BISSON,
22 individually and as designated officer of J P King Auction
23 Company Inc., alleges as follows:

24 1.

25 The Complainant, Maria Suarez, acting in her official
26 capacity as a Deputy Real Estate Commissioner of the State of
27

1 California makes this Accusation against J P KING AUCTION COMPANY
2 INC. ("JPK") and EDMOND JAMES BISSON ("BISSON").

3 2.

4 All references to the "Code" are to the California
5 Business and Professions Code and all references to "Regulations"
6 are to Title 10, Chapter 6, California Code of Regulations.

7 3.

8 JPK and BISSON (hereinafter referred to as Respondents)
9 are presently licensed and/or have license rights under the Real
10 Estate Law (Part 1 of Division 4 of the Business and Professions
11 Code).

12 4.

13 At all mentioned times, BISSON was licensed by the
14 Department as designated officer of JPK to qualify it and to act
15 for it as a real estate broker and, as provided by Section
16 10159.2 of the Code, was responsible for the supervision and
17 control of the activities conducted on its behalf by its
18 officers, managers and employees as necessary to secure full
19 compliance with the provisions of the Real Estate Law including
20 the supervision of the salespersons licensed to the corporation
21 in the performance of acts for which a real estate license is
22 required.
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24 5.

25 JPK was originally licensed as a corporate real estate
26 broker on August 21, 1993. BISSON was originally licensed as a
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1 real estate broker on January 29, 1970. BISSON became the
2 designated officer of JPK on February 8, 2002. The prior
3 designated officer was Mike Macon. His broker license expired on
4 October 2, 2001. During the interim between October 2, 2001 and
5 February 8, 2002, JPK did not have a designated officer.

6 6.

7 Whenever reference is made in an allegation in the
8 Accusation to an act or omission of JPK such allegation shall be
9 deemed to mean that the officers, directors, managers, employees,
10 agents and real estate licensees employed by or associated with
11 JPK including BISSON committed such act or omission while engaged
12 in the furtherance of its business or operation and while acting
13 within the course and scope of its corporate authority, agency
14 and employment.

15 7.

16 At all times mentioned, in the City of Torrance, Los
17 Angeles County, JPK acted as a real estate broker, within the
18 meaning of Code Section 10131(a) in that JPK auctioned real
19 estate throughout the United States.
20

21 8.

22 On August 22, 2002, the Department completed an audit
23 examination of the books and records of JPK pertaining to the
24 auction activities described in Paragraph 7 that require a real
25 estate license. The audit examination covered a period of time
26 beginning on February 8, 2002 through June 30, 2002. The audit
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1 examination revealed violations of the Code and the Regulations
2 as set forth in the following paragraphs, and more fully
3 discussed in Audit Report LA 010511 and the exhibits and
4 workpapers attached to said audit report.

5 9.

6 At all times mentioned, in connection with the
7 activities described in Paragraph 7, above, JPK accepted or
8 received funds in trust (trust funds) from or on behalf of
9 purchasers and sellers and thereafter made disposition of such
10 funds. JPK maintained the following trust account for the
11 deposit of and disbursement of sellers auction expenses in the
12 form of advance fees during the audit period into which were
13 deposited certain of these funds at:

14 "Edmond J. Bisson dba Pacific Coast Realty & Auction, J P King
15 Trust Account
16 Account No. 1891430363"
17 Commercica Bank - California
21535 Hawthorne Blvd.
Torrance, California

18 ("Trust Account")

19 10.

20 With respect to the trust funds referred to in
21 Paragraph 9, it is alleged that JPK:

22 (a) Entered into an "Auction Marketing Agreement" with
23 South El Monte Associates L.P. ("SEMA"), on January 9, 2002,
24 which included the requirement of pre-payment of advance fees in
25 the form of prepaid auction expenses in the amount of
26 \$117,778.43. JPK failed submit this advance fee agreement to the
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1 Commissioner of Real Estate ten days prior to publication or
2 other use, as required by Code Section 10085 and Regulation 2970.
3 The execution and use of the Auction Marketing Agreement occurred
4 during the period of time when there was no designated officer
5 acting on behalf of JPK due to the expiration of the prior
6 designated officer's broker's license, Mike Macon, on October 2,
7 2001.

8 (b) failed to establish and maintain a trust account at
9 a bank or other recognized financial institution in the name of
10 the broker for deposit of advance fees collected by JPK as
11 required by Code Section 10146. JPK collected \$117,778.43 in
12 advance fees from SEMA and deposited said advance fees into its
13 general account.

14 (c) JPK commingled \$117,778.43, by collecting advance
15 fees from SEMA and depositing said advance fees into its general
16 account, in violation of Code Section 10176(e).

17 (d) Failed to place trust funds, including advance fees
18 for prepaid auction expenses by sellers, in the name of the
19 broker, as required by Code Section 10145 and Regulation 2832.

20 (e) Failed to provide a complete accounting content for
21 advance fees collected including the name of the agent and the
22 name of the "trust" account where the advance fees were
23 deposited, as required by Code Section 10146 and Regulation 2972.

24 (f) Permitted J. Craig King and Christie King-Ray,
25 President and Secretary of JPK, unlicensed persons who were not
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1 bonded, to be authorized signatories on the trust account in
2 violation of Code Section 10145 and Regulation 2834.

3 (g) Failed to maintain an adequate control record in
4 the form of a columnar record in chronological order of all trust
5 funds received the trust account, as required by Code Section
6 10145 and Regulation 2831; and

7 (h) Negotiated, executed and entered into an Auction
8 Marketing Agreement with SEMA on January 9, 2001, during the
9 period of time when there was no designated officer acting on
10 behalf of JPK due to the expiration of the prior designated
11 officer's broker's license, Mike Macon, on October 2, 2001,
12 in violation of Section 10130.

13 11.

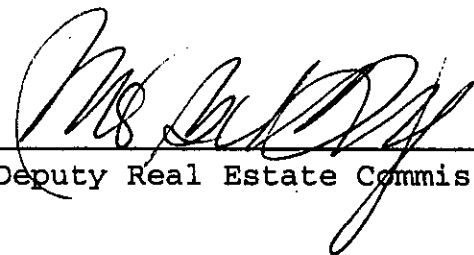
14 The conduct of Respondent JPK, described in Paragraph
15 10, above, violated the Code and the Regulations as set forth
16 below:

17 <u>PARAGRAPH</u>	18 <u>PROVISIONS VIOLATED</u>
19 10(a)	Code Section 10085 and Regulation 2970
20 10(b)	Code Section 10146
21 10(c)	Code Section 10176(e)
22 10(d)	Code Section 10146 and Regulation 2972
23 10(f)	Code Section 10145 and Regulation 2834

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents J P
5 KING AUCTION COMPANY INC. and EDMOND JAMES BISSON, individually
6 and as designated officer of J P King Auction Company Inc., under
7 the Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this *Tuesday of April 2003*
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15 Deputy Real Estate Commissioner
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23 cc: J P King Auction Company Inc.
24 c/o Edmond James Bisson
25 Maria Suarez
26 Sacto
27 RLJ
Audits

Handwritten initials

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

FILED
MAY 15 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *R. Medeiros*

J P KING AUCTION CO., INC., et al.,

}
}

Case No. H-29956 LA

OAH No. L-2003040100

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **320 W. Fourth Street, Ste. 630, Los Angeles, CA** on **September 18, 2003**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: MAY 15 2003

By *Elliott MacLennan*
ELLIOTT MAC LENNAN, Counsel

cc: J P King Auction Co Inc./Edmond J. Bisson
Frank T. Pepler/Marcus Colabianchi, Esqs.
Sacto/OAH/RJ

Handwritten initials/signature

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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
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Los Angeles, California 90013-1105

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FILED
FEB 14 2003

DEPARTMENT OF REAL ESTATE

By *K. Mederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
J P KING AUCTION COMPANY INC., and)
EDMOND JAMES BISSON, individually)
and as designated officer of)
J P King Auction Company Inc.,)
Respondents.)

No. H-29956 LA

A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against J P KING AUCTION COMPANY INC. and EDMOND JAMES BISSON,
individually and as designated officer of J P King Auction
Company Inc., alleges as follows:

1.

The Complainant, Maria Suarez, acting in his official
capacity as a Deputy Real Estate Commissioner of the State of
California makes this Accusation against J P KING AUCTION COMPANY
INC. ("JPK") and EDMOND JAMES BISSON ("BISSON").

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All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

JPK and BISSON, (hereinafter referred to as Respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

4

At all mentioned times, BISSON was licensed by the Department as designated officer of JPK to qualify it and to act for it as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on its behalf by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

5.

JPK was originally licensed as a corporate real estate broker on August 21, 1993. BISSON was originally licensed as a real estate broker on January 29, 1970. BISSON became the designated officer of JPK on February 8, 2002. The prior

1 designated officer was Mike Macon. His broker license expired on
2 October 2, 2001. During the interim between October 2, 2001 and
3 February 8, 2002, JPK did not have a designated officer.

4 6.

5 Whenever reference is made in an allegation in the
6 Accusation to an act or omission of JPK such allegation shall be
7 deemed to mean that the officers, directors, managers, employees,
8 agents and real estate licensees employed by or associated with
9 JPK including BISSON committed such act or omission while engaged
10 in the furtherance of its business or operation and while acting
11 within the course and scope of its corporate authority, agency
12 and employment.

13 7.

14 At all times mentioned, in the City of Torrance, Los
15 Angeles County, JPK acted as a real estate broker, within the
16 meaning of Code Section 10131(a) in that JPK auctioned real
17 estate throughout the United States.

18 8.

19 On August 22, 2002, the Department completed an audit
20 examination of the books and records of JPK pertaining to the
21 auction activities described in Paragraph 7 that require a real
22 estate license. The audit examination covered a period of time
23 beginning on February 8, 2002 through June 30, 2002. The audit
24 examination revealed violations of the Code and the Regulations
25 as set forth in the following paragraphs, and more fully
26
27

1 discussed in Audit Report LA 010511 and the exhibits and
2 workpapers attached to said audit report.

3 9.

4 At all times mentioned, in connection with the
5 activities described in Paragraph 7, above, JPK accepted or
6 received funds in trust (trust funds) from or on behalf of
7 purchasers and sellers and thereafter made disposition of such
8 funds. JPK maintained the following trust account for the
9 deposit of and disbursement of sellers auction expenses in the
10 form of advance fees during the audit period into which were
11 deposited certain of these funds at:

12 "Edmond J. Bisson dba Pacific Coast Realty & Auction, J P King
13 Trust Account
14 Account No. 1891430363"
15 Commercial Bank - California
21535 Hawthorne Blvd.
Torrance, California

16 ("Trust Account")

17 10.

18 With respect to the trust funds referred to in
19 Paragraph 9, it is alleged that JPK:

20 (a) Entered into an "Auction Marketing Agreement" with
21 South El Monte Associates L.P. ("SEMA"), on January 9, 2002,
22 which included the requirement of pre-payment of advance fees in
23 the form of prepaid auction expenses in the amount of
24 \$117,778.43. JPK failed submit this advance fee agreement to the
25 Commissioner of Real Estate ten days prior to publication or
26 other use, as required by Code Section 10085 and Regulation 2970.
27

1 The execution and use of the Auction Marketing Agreement occurred
2 during the period of time when there was no designated officer
3 acting on behalf of JPK due to the expiration of the prior
4 designated officer's broker's license, Mike Macon, on October 2,
5 2001.

6 (b) failed to establish and maintain a trust account at
7 a bank or other recognized financial institution in the name of
8 the broker for deposit of advance fees collected by JPK as
9 required by Code Section 10146. JPK collected \$117,778.43 in
10 advance fees from SEMA and deposited said advance fees into its
11 general account.

12 (c) JPK commingled \$117,778.43, by collecting advance
13 fees from SEMA and depositing said advance fees into its general
14 account, in violation of Code Section 10176(e).

15 (d) Failed to place trust funds, including advance fees
16 for prepaid auction expenses by sellers, in the name of the
17 broker, as required by Code Section 10145 and Regulation 2832.

18 (e) Failed to provide a complete accounting content for
19 advance fees collected including the name of the agent and the
20 name of the "trust" account where the advance fees were
21 deposited, as required by Code Section 10146 and Regulation 2972.

22 (f) Permitted J. Craig King and Christie King-Ray,
23 President and Secretary of JPK, unlicensed persons who were not
24 bonded, to be authorized signatories on the trust account in
25 violation of Code Section 10145 and Regulation 2834.
26
27

1 (g) Failed to maintain an adequate control record in
2 the form of a columnar record in chronological order of all trust
3 funds received the trust account, as required by Code Section
4 10145 and Regulation 2831; and

5 (h) Negotiated, executed and entered into an Auction
6 Marketing Agreement with SEMA on January 9, 2001, during the
7 period of time when there was no designated officer acting on
8 behalf of JPK due to the expiration of the prior designated
9 officer's broker's license, Mike Macon, on October 2, 2001,
10 in violation of Section 10130.

11 11.

12 The conduct of Respondent JPK, described in Paragraph
13 10, above, violated the Code and the Regulations as set forth
14 below:

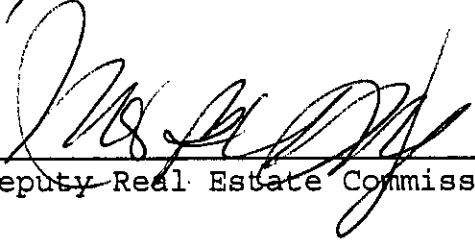
<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
15 10 (a)	Code Section 10085 and Regulation 2970
16 10 (b)	Code Section 10146
17 10 (c)	Code Section 10176 (e)
18 10 (d)	Code Section 10146 and Regulation 2972
19 10 (f)	Code Section 10145 and Regulation 2834
20 10 (g)	Code Section 10145 and Regulation 2831
21 10 (h)	Code Section 10130

1 The foregoing violations constitutes cause for the suspension or
2 revocation of the real estate license and license rights of JPK
3 under the provisions of Code Sections 10176(e), 10177(d) and/or
4 10177(g).

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against the license and license rights of Respondents J P
9 KING AUCTION COMPANY INC. and EDMOND JAMES BISSON, individually
10 and as designated officer of J P King Auction Company Inc., under
11 the Real Estate Law (Part 1 of Division 4 of the Business and
12 Professions Code) and for such other and further relief as may be
13 proper under other applicable provisions of law.
14

15 Dated at Los Angeles, California

16 this *31st* day of *January* 2003.
17

18
19 
20 Deputy Real Estate Commissioner
21

22
23 cc: J P King Auction Company Inc.
24 c/o Edmond James Bisson
25 Maria Suarez
26 Sacto
27 RLJ
Audits