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FILED

MAY 22 2009

DEPARTMENT OF REAL ESTATE
BY: *A. H. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-34718 LA
)	
CALVIN SYLVESTER ASHLEY JR.,)	
doing business as Ashley Realty)	
& Investment, Vallerta Financial)	
& Realty, Colbri Real Estate)	
& Financial Services,)	
)	
)	
Respondent)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on May 12, 2009, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent CALVIN SYLVESTER ASHLEY JR., express admissions; (2) affidavits; (3) Department Audit Report LA 060266; (4) other evidence.

FACTUAL FINDINGS

1.

On February 25, 2008, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, to Respondent's last known mailing addresses on file with the Department on February 25, 2008 by certified mail.

2.

Respondent filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was initially set for June 24, 2008 but was continued to November 12, 2008. Respondent was duly notified of the hearing but failed to appear. Respondent's default was entered herein.

LICENSE HISTORY

3.

At all times mentioned, CALVIN SYLVESTER ASHLEY JR. ("ASHLEY"), was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On January 16, 1986, ASHLEY was originally licensed as a real estate broker. On September 5, 1995, in case number H-25535 LA, ASHLEY's broker license was revoked with right to a restricted broker license. The restricted broker license issued on September 5, 1995, was suspended until October 4, 2005, as more fully set forth below in Finding 9.

LICENSED ACTIVITIES AND BROKERAGE

4.

At all times mentioned, in Panorama City, County of Los Angeles, ASHLEY acted as real estate broker and conducted licensed activities within the meaning of Code Section 10131(d). ASHLEY operated a mortgage and loan brokerage dba Ashley Realty & Investment, Vallerta Financial & Realty, and Colbri Real Estate & Financial Services.

AUDIT EXAMINATION

5.

On August 14, 2007, the Department completed an audit examination of the books and records of ASHLEY, pertaining to the mortgage loan activities described in Finding 4, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2005 to February 28, 2007. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 060266.

TRUST ACCOUNT

6.

At all times mentioned, in connection with the activities described in Finding 5, ASHLEY did not maintain a trust account.

VIOLATIONS OF THE REAL ESTATE LAW

7.

With respect to the licensed activities referred to in Finding 4, and the audit examination including the exhibits and workpapers referred to in Finding 5, it is alleged that ASHLEY:

(a) Failed to provide, maintain or retain a true, complete and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Juana Franco, Andrzej Mojsiejuk, Wendy Santoyo, Jose M. Gonzalez, and Sara Rivera, by not disclosing lender rebates in the form of yield spread premiums, in violation of Code Section 10240 and Regulation 2840.

(b) Failed to display ASHLEY's broker license number on the Mortgage Loan Disclosure Statements for the mortgage loans of Juana Franco, Andrzej Mojsiejuk, Lee Kina Om, Wendy Santoyo, and Jose M. Gonzalez, as required by Code Section 10236.4.

(c) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in violation of Code Section 10145 and Regulation 2831. ASHLEY did not maintain a columnar record for loan transactions where he collected credit report fees and appraisal fees along with his real estate commission fees earned at the close of escrow.

(d) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, including credit report fees and appraisal fees, as required by Code Section 10145 and Regulation 2831.1; and

(e) Failed to place appraisal fees and credit report fees collected from borrowers into a trust account in the name of the broker as trustee at a bank or other financial institution, in violation of Code Section 10145 of the Code and Regulation 2832(a).

NEGLIGENCE

8.

The overall conduct of Respondent ASHLEY constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent pursuant to Code Section 10177(g).

PRIOR DEPARTMENTAL ACTION

9.

On August 27, 1993, in Case No. H-25535 LA, an Accusation was filed inter alia against Respondent ASHLEY, that resulted in discipline by stipulated revocation with right to a restricted license including a thirty day suspension of ASHLEY's real estate broker license for violations of Code Sections 10145, 10148, 10159.5, 10176(e), 10176(i), and 10177(d) and Regulations 2830, 2831, 2831.1, 2831.2, and 2832, effective August 8, 1995.

DETERMINATION OF ISSUES

1.

The conduct of Respondent CALVIN SYLVESTER ASHLEY JR., as described in Finding 7, herein above, is in violation of Business and Professions Code ("Code") Sections 10240, 10236.4 and 10145 and Sections 2831, 2831.1, 2832(a) and 2840 of Title 10, Chapter 6, California Code of Regulations and is cause for disciplinary action pursuant to Code Sections 10177(d) and 10177(g).

2.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

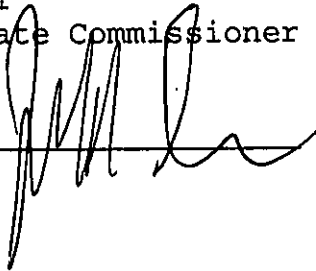
ORDER

The real estate broker license and license rights of Respondent CALVIN SYLVESTER ASHLEY JR., under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on June 11, 2009

DATED: 5-19, 2009

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105
3 (213) 576-6982

FILED

MAY - 8 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

9 In the Matter of the Accusation of) No. H-34718 LA
10 CALVIN SYLVESTER ASHLEY JR.,)
11 doing business as Ashley Realty)
12 & Investment, Vallerta Financial)
13 & Realty, Colbri Real Estate)
14 & Financial Services,)
Respondents.)

DEFAULT ORDER

15 Respondent CALVIN SYLVESTER ASHLEY JR. dba Ashley
16 Realty & Investment, Vallerta Financial & Realty, and Colbri Real
17 Estate & Financial Services, a real estate broker, having failed
18 to appear at a hearing duly noticed before the Office of
19 Administrative Hearings for November 12, 2008, is now in default.
20 It is, therefore, ordered that a default be entered on the record
21 in this matter.

22 IT IS SO ORDERED May 8, 2009

23 JEFF DAVI
24 Real Estate Commissioner
[Signature]

25 By: DOLORES WEEKS
26 Regional Manager
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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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

FILED

FEB 25 2008

DEPARTMENT OF REAL ESTATE
BY: Ashley

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-34718 LA
)	
CALVIN SYLVESTER ASHLEY JR.,)	<u>A C C U S A T I O N</u>
doing business as Ashley Realty)	
& Investment, Vallerta Financial)	
& Realty, Colbri Real Estate)	
& Financial Services,)	
)	
Respondents.)	
)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity, for cause of Accusation against CALVIN SYLVESTER ASHLEY JR. dba Ashley Realty & Investment, Vallerta Financial & Realty, and Colbri Real Estate & Financial Services, is informed and alleges as follows:

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///
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1.

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

6 LICENSE HISTORY

7 2.

8 At all times mentioned, CALVIN SYLVESTER ASHLEY JR.
9 ("ASHLEY"), was licensed or had license rights issued by the
10 Department of Real Estate ("Department") as a real estate broker.
11 On January 16, 1986, ASHLEY was originally licensed as a real
12 estate broker.
13

14 On September 5, 1995, in case number H-25535 LA,
15 ASHLEY's broker license was revoked with right to a restricted
16 broker license. The restricted broker license issued on
17 September 5, 1995, was suspended until October 4, 2005, as more
18 fully set forth below in Paragraph 9.

19 LICENSED ACTIVITIES AND BROKERAGE

20 3.

21 At all times mentioned, in Panorama City, County of Los
22 Angeles, ASHLEY acted as real estate broker and conducted
23 licensed activities within the meaning of Code Section 10131(d).
24 ASHLEY operated a mortgage and loan brokerage dba Ashley Realty &
25 Investment, Vallerta Financial & Realty, and Colbri Real Estate &
26 Financial Services.
27

///

1 form of yield spread premiums, in violation of Code Section 10240
2 and Regulation 2840.

3 (b) Failed to display ASHLEY's broker license number on
4 the Mortgage Loan Disclosure Statements for the mortgage loans of
5 Juana Franco, Andrzej Mojsiejuk, Lee Kina Om, Wendy Santoyo, and
6 Jose M. Gonzalez, as required by Code Section 10236.4.

7 (c) Failed to maintain a control record in the form of
8 a columnar record in chronological order of all "Trust Funds
9 Received, Not Placed Broker's Trust Account", in violation of
10 Code Section 10145 and Regulation 2831. ASHLEY did not maintain
11 a columnar record for loan transactions where he collected credit
12 report fees and appraisal fees along with his real estate
13 commission fees earned at the close of escrow.

14 (d) Failed to maintain a separate record for each
15 beneficiary or transaction, thereby failing to account for all
16 trust funds received, including credit report fees and appraisal
17 fees, as required by Code Section 10145 and Regulation 2831.1;
18 and

19 (e) Failed to place appraisal fees and credit report
20 fees collected from borrowers into a trust account in the name of
21 the broker as trustee at a bank or other financial institution,
22 in violation of Code Section 10145 of the Code and Regulation
23 2832(a).

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DISCIPLINARY STATUTES AND REGULATIONS

7.

The conduct of Respondent ASHLEY described in Paragraph 6, above, violated the Code and the Regulations as set forth:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6 (a)	Code Section 10240 and Regulation 2840
6 (b)	Code Section 10236.4
6 (c)	Code Section 10145 and Regulation 2831
6 (d)	Code Section 10145 and Regulation 2831.1
6 (e)	Code Section 10145 and 2832 (a)

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondent ASHLEY under the provisions of Code Sections 10177(d) and/or 10177(g).

NEGLIGENCE

8.

The overall conduct of Respondent ASHLEY constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent pursuant to Code Section 10177(g).

PRIOR DEPARTMENTAL ACTION

9.

On August 27, 1993, in Case No. H-25535 LA, an Accusation was filed inter alia against Respondent ASHLEY, that resulted in discipline by stipulated revocation with right to a restricted license including a thirty day suspension of ASHLEY's real estate broker license for violations of Code Sections 10145, 10148, 10159.5, 10176(e), 10176(i), and 10177(d) and Regulations 2830, 2831, 2831.1, 2831.2, and 2832, effective August 8, 1995.

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 the license and license rights of Respondent CALVIN SYLVESTER ASHLEY JR., 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 *25th day of February 2008*



Deputy Real Estate Commissioner

cc: Calvin Sylvester Ashley
Maria Suarez
Sacto
Audits - Darryl Thomas