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

FILED
MAR 26 1996
DEPARTMENT OF REAL ESTATE
By *[Signature]*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-25893 LA
)	L-9408235
DAVID WAYNE HOSHAW,)	
)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.)	
_____)	

It is hereby stipulated by and between DAVID WAYNE HOSHAW 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 July 20, 1994, and amended on January 8, 1996, in this matter (hereinafter "Accusation").

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.

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

5 3. On August 19, 1994, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense,
11 Respondent will thereby waive his right to require the
12 Commissioner to prove the allegations in the Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that he will waive other rights afforded to him in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

18 4. This Stipulation and Agreement in Settlement and
19 Order is based on the factual allegations contained in the
20 Accusation filed in this proceeding. In the interest of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. This Stipulation and Agreement in
26 Settlement and Order and Respondent's decision not to contest the
27 Accusation are hereby expressly limited to this proceeding and



1 made for the sole purpose of reaching an agreed disposition of
2 this proceeding. Respondent's decision not to contest the
3 factual allegations is made solely for the purpose of
4 effectuating this Stipulation and is intended by Respondent to be
5 non-binding upon him in any actions against Respondent by third
6 parties. The Real Estate Commissioner shall not be required to
7 provide further evidence to prove such allegations.

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

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

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1 DETERMINATION OF ISSUES

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

6 I

7 The conduct, acts and/or omissions of Respondent,
8 DAVID WAYNE HOSHAW, as alleged in the Accusation, constitute
9 cause to suspend or revoke Respondent's real estate licenses and
10 license rights under the provisions of Business and Professions
11 Code Section 10177(d) for a violation of Section 2832, Title 10,
12 Chapter 6, California Code of Regulations.

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I

16 The real estate licenses of Respondent DAVID WAYNE
17 HOSHAW under the provisions of Section 495 of the California
18 Business and Professions Code, are hereby publicly reprovod.

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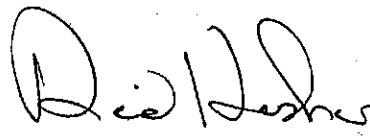


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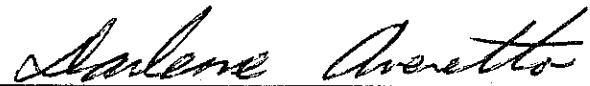
I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 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: 3/2/96



DAVID WAYNE HOSHAW, Respondent

DATED: March 8, 1996



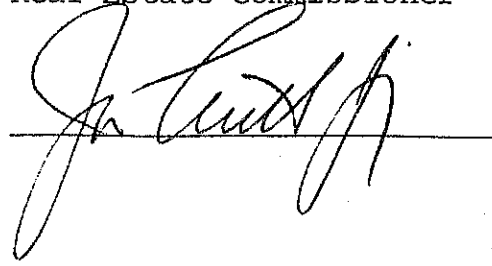
DARLENE AVERETTA, Counsel for the Complainant, the Department of Real Estate

* * * * *

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 April 16, 1996.

IT IS SO ORDERED 3/18, 1996.

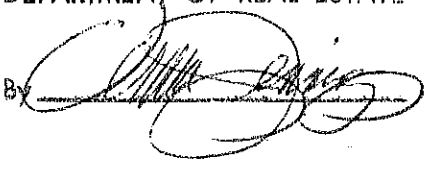
JIM ANTT, JR.
Real Estate Commissioner



*Act's
File*

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

FILED
JAN - 8 1996
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

11	In the Matter of the Accusation of)	No. H-25893 LA
12	DAVID WAYNE HOSHAW,)	L-9408235
13	Respondent.)	<u>AMENDED ACCUSATION</u>
14	_____)	

15 This Accusation amends the Accusation filed July 20,
16 1994.

17 The Complainant, Thomas McCrady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against DAVID WAYNE HOSHAW, is informed and alleges in his
20 official capacity, as follows:

21 1.

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

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1 2.

2 At all times material herein, HOSHAW was licensed by
3 the Department of Real Estate of the State of California
4 (hereinafter "the Department") as a real estate broker.

5 3.

6 At all times material herein, HOSHAW engaged in the
7 business of, acted in the capacity of, advertised or assumed to
8 act as a real estate broker, in the State of California, within
9 the meaning of Section 10131(a) of the Code, including the
10 operation of and conduct of a real property sales business with
11 the public wherein HOSHAW engaged in the sale or offer to sell,
12 the solicitation of prospective sellers or purchasers of, or the
13 negotiation of the purchase or sale of real property, for another
14 or others, for or in expectation of compensation.

15 4.

16 At all times herein mentioned, in connection with the
17 real estate activities, described in Paragraph 3, above, HOSHAW
18 accepted or received funds, including funds in trust (hereinafter
19 "trust funds"), from or on behalf of actual or prospective
20 parties to real property sales transactions handled by him.

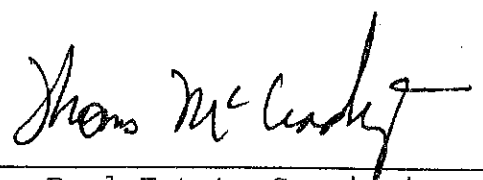
21 5.

22 In or about 1993, HOSHAW represented one Anna D. Stayer
23 in the prospective purchase of property owned by one Joseph
24 Edward Sharkey, located at 26723 Diaz Drive, Saugus, California.
25 HOSHAW received a personal check in the amount of Three Thousand
26 Dollars (\$3,000.00) from Anna D. Stayer as a deposit on the
27 purchase of said property.



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 all licenses and license rights of Respondent,
5 DAVID WAYNE HOSHAW, under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California
10 this 8th day of January, 1996.



Deputy Real Estate Commissioner

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cc: David Wayne Hoshaw
Sacto.
OAH
LK

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

FILED
July 20, 1994
DEPARTMENT OF REAL ESTATE

By C. Bay

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-25893 LA
12)
13 DAVID WAYNE HOSHAW,) A C C U S A T I O N
14)
15 Respondent.)
16)

17 The Complainant, Steven J. Ellis, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against DAVID WAYNE HOSHAW, is informed and alleges as follows:

18 FIRST CAUSE OF ACCUSATION

19 1.

20 The Complainant, Steven J. Ellis, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 2.

24 DAVID WAYNE HOSHAW (hereinafter "HOSHAW"), is presently
25 licensed and/or has license rights under the Real Estate Law,
26 Part 1 of Division 4 of the California Business and Professions
27 Code (hereinafter "the Code").

1 3.

2 At all times material herein, HOSHAW was licensed by
3 the Department of Real Estate of the State of California
4 (hereinafter "the Department") as a real estate broker.

5 4.

6 At all times material herein, HOSHAW engaged in the
7 business of, acted in the capacity of, advertised or assumed to
8 act as a real estate broker, in the State of California, within
9 the meaning of Section 10131(a) of the Code, including the
10 operation of and conduct of a real property sales business with
11 the public wherein HOSHAW engaged in the sale or offer to sell,
12 the solicitation of prospective sellers or purchasers of, or the
13 negotiation of the purchase or sale of real property, for another
14 or others, for or in expectation of compensation.

15 5.

16 At all times herein mentioned, in connection with the
17 real estate activities, described in Paragraph 4, above, HOSHAW
18 accepted or received funds, including funds in trust (hereinafter
19 "trust funds") from or on behalf of actual or prospective parties
20 to real property sales transactions handled by him.

21 6.

22 In or about 1993, HOSHAW represented one Anna D.
23 Stayer, in the prospective purchase of property owned by one
24 Joseph Edward Sharkey, located at 26723 Diaz Drive, Saugus,
25 California. HOSHAW received a personal check in the amount of
26 Three Thousand Dollars (\$3,000.00) from Anna D. Stayer, as a
27 deposit on the purchase of said property.

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HOSHAW failed to timely deposit said Three Thousand Dollars (\$3,000.00) into a neutral escrow depository, into the hands of a principal on whose behalf the funds were received, or into a trust fund account in the name of the broker as trustee, within one business day following receipt of the funds, in violation of Code Section 10145 and Regulation 2832.

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, DAVID WAYNE HOSHAW, 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 20th day of June, 1994.

STEVEN J. ELLIS
Deputy Real Estate Commissioner

cc: David Wayne Hoshaw
Sacto.
LK