

ENTERPRISE AGREEMENT

NO: E.A. 109 /1994

DATE REGISTERED: 6-4-94

PRICE: \$ 32-00.

DATED 7 DECEMBER 1993

MICHLEN PTY LIMITED

Of the One Part

THE SALESPERSONS OF THE EMPLOYER

Of the Other Part

THE MICHLEN SALESPERSONS
ENTERPRISE AGREEMENT

BLESSINGTON JUDD FREEMAN LAZARUS

Solicitors

Level 9

KPMG Centre

45 Clarence Street

SDNEY NSW 2000

DX 1068 ... SYDNEY

Tel: 238-6000

Ref: BNL/920596A

1. ARRANGEMENT & PARTIES

An Enterprise Agreement made in pursuance of the Act in accordance with the provisions of Division 2 Part 3 of the said Act, to regulate the following terms and conditions of employment between:

MICHLEN PTY LIMITED [A.C.N. 002 637 943] trading as Century 21 Premier Properties a company duly incorporated in the State of New South Wales and having its registered office in that state at 311 Pacific Highway Lindfield, Sydney in the said State ("the Employer") of the One Part; and

THE SALESPERSONS OF THE EMPLOYER ("the Employees") classified as salesmen under the Award of the Other Part.

2. INTERPRETATION AND DEFINITIONS

2.1 All headings throughout this Agreement have been inserted for the purpose of ease of reference only and shall not define limit or affect the meaning or interpretation of this Agreement or any Agreement created pursuant hereto or in accordance herewith.

2.2 In the interpretation of this Agreement unless the context otherwise requires the following words and phrases shall have the following meanings:-

"Act" means the New South Wales Industrial Relations Act, 1991 (as amended).

"Auction Listing" means any Property that is listed for sale by public auction with the Employer.

"The Award" means the Real Estate Industry (State) Award 1992 as amended.

"The Base Wage" means an amount of not less than three hundred and sixty dollars and ten cents (\$360.10) payable to each Employee per week subject to variation in accordance with the provision of the Act.

"Business Day" means any day in which banks are open for business in Sydney.

"Commission" means the amount of any commission payable by a client for any Service provided by the Employer.

"Conjunction Sale" means any sale in conjunction with an outside real estate agent and in respect of which sale the commission is split between the Employer and such outside agent.

"Dollars" or "\$" means Australian dollars.

"Employee's Service Commission" means any amount payable to a particular Employee in accordance with Clause 12 hereof.

"Exclusive Listing" means any Property that is listed for sale exclusively with the Employer.

"K" means 1,000 Dollars.

"Nett Commission" means any Commission earned by the Employer minus any fee payable by the Employer (including but not limited to any agency fee, franchise fee, marketing expenses and conjunction agents fee).

"Nett Commission Received" means any Nett Commission banked by the Employer during Quarter.

"Attributable Commission" means any Nett Commission Received a proportion of which is attributable to a particular Employee in accordance with Clause 11 hereof for a particular Quarter.

"Open Listing" means any Property that is listed for sale with the Employer and any other real estate agency.

"Property" means any estate or interest in real property for which a service can be performed.

"Quarterly or Quarter" means in respect of any calendar year either of the periods:-

1 January - 31 March

1 April - 30 June

1 July - 30 September

1 October - 31 December.

"Service" means any service provided by the Employee during the course of his/her employment with the Employer that attracts a Commission.

- 2.3 Save as to when the context otherwise requires the singular shall include the plural and vice versa when used in this Agreement words implying any gender shall encompass all genders and the word person shall include any corporation and all references to any statutory rule or regulation shall include any variation re-enactment or replacement of same.
- 2.4 Any reference to a statute or statutory provision shall be deemed to include the statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and any orders, regulations, instruments or other subordinate legislation made thereunder.
- 2.5 All references to clauses, recitals and schedules are to clauses, recitals and schedules to this Agreement.
- 2.6 Expressions cognate to expressions defined in clause 2.2 of this Agreement shall be construed accordingly.

3. TITLE AND DISPLAY OF AGREEMENT

- 3.1 This Agreement shall be known as the Michlen Real Estate Salespersons Enterprise Agreement.
- 3.2 This Agreement shall be fixed and maintained in a conspicuous place in all premises to which the agreement applies so as to be easily read by all Employees.

4. PURPOSE AND INTENTION

- 4.1 The Employer is now, and has for many years, been engaged in business as a real estate broker and is licenced to and does procure the listings of real estate for sale, lease or rental.

- 4.2 The Employee agrees to work diligently and with his/her best efforts to sell, lease or rent any and all real estate listed with the Employer, to solicit additional listings and customers of the Employer, and otherwise promote the business of serving clients of the Employer in real estate transactions.
- 4.3 The purpose of this Agreement is to:-
- (a) regulate the terms and conditions of employment of the Employee previously regulated by the Award;
 - (b) improve the productivity, efficiency and profitability of the Employer's enterprise; and to continue the development of a Professional Team that is competent, committed and flexible.
- 4.4 The Agreement reflects the ongoing concern of the Employer and its Employee's to ensure that the client's receive high quality value added services.
- 4.5 It is the intention of the parties to this Agreement that Clauses 9, 10 and 19 of the Award shall not apply to this Agreement.

5. INCIDENCE

This Agreement will apply to the Employer and the Employee and is to be read in conjunction with the Award. Apart from the clauses of the Award excluded by this Agreement all its other clauses will continue to apply.

6. DATES AND PERIOD OF OPERATION

This Agreement shall operate from the date of registration for a period of three (3) years unless varied or terminated earlier by the provisions provided in Section 125 of the Act.

7. NO DURESS

This Agreement was entered into voluntarily by the parties and was not entered into under any force or duress by any party to the Agreement.

8. TERMS OF EMPLOYMENT

- 8.1 This Agreement shall apply to any person employed by the Employer and holding a Certificate of Registration as a real estate salesman.
- 8.2 The Employees employment with the Employer shall be on a weekly basis and may be terminated by either Employer or Employee given one (1) weeks notice in writing of intention to terminate the employment or by payment or forfeiture of one weeks pay in lieu thereof, provided that an Employee dismissed for misconduct shall be paid up to the time of dismissal only.
- 8.3 An act of misconduct warrants instant dismissal and the offending Employee will be advised by the Employer of the termination of their employment.
- "Misconduct" means any of the following:-
- (a) insubordination and abuse; neglect of duty; dishonesty; malingering; drunkenness; misbehaviour (eg, practical jokes, skylarking) and wilful disobedience; and
 - (b) the Employee becoming of unsound mind;
 - (c) any breach of this Agreement which, in the reasonable opinion of the Employer, constitutes fraud, dishonesty or wilful disregard for the interests of the Employer;
 - (d) the Employee being convicted of a serious criminal offence which, in the reasonable opinion of the Employer, might bring the Employer into disrepute if the Employee was to remain an Employee.
- 8.4 Apart from any payments due to any Employee under the Annual Holidays Act, 1944 and the Long Service Act 1955 clause 4(b) of the Award shall not apply.
- 8.5 Clauses 4(c) and (g) of the Award shall not apply.

9. LETTERS OF APPOINTMENT & COMMISSION PROVISIONS

Clauses 11, 12 and 13 and Part D of the Award shall not apply.

10. BASE REMUNERATION

- 10.1 The Employee shall be paid the Base Wage owing for each week on the Friday of every week during the Employees employment with the Employer.
- 10.2 The Base Wage shall be reviewed during the term hereof so as to provide that the Base Wage does not fall below the minimum salary payable to salesman as prescribed by the Award from time to time.
- 10.3 The Employer shall on the Friday of every week during the Employee's employment with the Employer contribute an amount of One Hundred and Ten Dollars (\$110.00) towards the Employee's reasonable work related expenses.
- 10.4 Clauses 35, 36 and 37 of the Award do not apply.
- 10.5 Any amount that may be due and payable to an Employee terms of 10.1 and 10.3 of this Agreement and which are due and payable shall be paid to the Employee within three (3) working days of termination of employment.

11. ATTRIBUTABLE COMMISSION

When the Employee shall perform any Service hereunder whereby a Commission is earned by the Employer, the Employee shall be remunerated for his/her services by receiving a proportionate share of the Attributable Commission which is attributable to a Service. The Attributable Commission shall be calculated as follows:-

- (a) Upon the settlement of the sale of any Property on an Open Listing:-
- (i) 30% of the Nett Commission Received if the Employee listed the Property; or
 - (ii) 70% of the Nett Commission Received if the Employee caused the sale of the Property; or
 - (iii) 100% of the Nett Commission Received if the Employee lists and causes the sale of the Property.
- (b) Upon the settlement of the sale of any Property on an Exclusive Listing:-

- (i) 50% of the Nett Commission Received if the Employee listed the Property; or
 - (ii) 50% of the Nett Commission Received if the Employee caused the sale of the Property; or
 - (iii) 100% of the Nett Commission Received if the Employee lists and causes the sale of the Property.
- (c) Upon the settlement of the sale of any Property on an Auction Listing:-
- (i) 60% of the Nett Commission Received if the Employee listed the Property; or
 - (ii) 40% of the Nett Commission Received if the Employee caused the sale of the Property; or
 - (iii) 100% of the Nett Commission Received if the Employee lists and causes the sale of the Property.
- (d) Upon the settlement of a Property sold pursuant to a Conjunction Sale:-
70% of the Nett Commission Received if the Employee lists or sells the Property;
- (e) The split between listing and selling in paragraphs (a), (b) and (c) above may be varied from time to time between the parties in writing.

12. EMPLOYEES SERVICE COMMISSION

12.1 The Employee shall be entitled to Employee Service Commission pursuant to clause 11 in any Quarter as follows:-

Attributable Commission	Amount Payable
0-20,000	NIL
20,000 +	40% of excess over 20,000
40,000 +	\$8,000 + 50% of excess over \$40,000

- 12.2 In the event that the Services provided by the Employee in any one Quarter, should fail to generate a minimum Nett Commission Received of Twenty Thousand Dollars (\$20,000.00) then and in that event, the difference (hereinafter referred to as "the Debit Balance") between the actual Nett Commission Received and the amount of Twenty Thousand Dollars (\$20,000.00) shall be carried forward to the next Quarter. Debit Balances shall accumulate from Quarter to Quarter.
- 12.4 Any Employee Service Commission payable to any Employee for any Quarter pursuant to this Clause 12 shall be paid to such Employee on or before the 10th Business day of the next Quarter.
- 12.5 In the case of any dispute arising between Employees regarding the amount of the Attributable Commission to which an Employee is entitled to be credited, the decision of the Employer shall be final and binding.

13. RESPONSIBILITY

- 13.1 The Employee shall:-
- (a) well and faithfully serve the Employer; and
 - (b) use his or her best endeavours to promote the interests, welfare and business of the Employer.
- 13.2 Unless absent with the approval of the Employer or absent through illness or involuntary injury, the Employee shall devote the whole of his/her time and attention during normal working hours to the service of the Employer.
- 13.3 During the course of the Employee's employment with the Employer the Employee shall not without the prior written approval of the Employer (such approval not to be unreasonably withheld):-
- (a) engage in any business or occupation other than that of the Employer;
 - (b) retain any interest in or involvement with or serve in any way a competitor or client of the Employer;

- (c) accept a reward from any person other than the Employer for services rendered or to be rendered to any person other than to the Employer.
- 13.4 The Employee shall not without the prior written approval of the Employer directly or indirectly accept or enjoy any benefit whatever from any person other than the Employer as an inducement or reward for any act or omission related to any business of the Employer.
- 13.5 For the purposes of this agreement, the interest, welfare and business of the Employer are promoted, inter alia, by:-
- (a) cultivating good relations with, and entertaining contacts, clients and business personnel in social, collegiate and business situations;
 - (b) keeping abreast and informed of developments in and related to real estate;
 - (c) expanding knowledge, skills and expertise in the area of real estate.
- 13.6 The Employee shall not without the prior written approval of the Employer enter into any Conjunction Agreement.
- 13.7 The Employee shall refer to the Employer all offers made on any Property for assessment and authorisation prior to submitting any such offer to a Vendor.

14. GRIEVANCE PROCEDURE

- 14.1 Where the Employer and an Employee are in dispute in regard to any matters pertaining to this agreement the following procedure shall govern the settlement of such dispute or claims and shall be open to the Employer or Employee mutatis mutandis.
- 14.2 Should a dispute arise between the Employer and the Employee either party may raise the matter with the other party within a period of twelve (12) months, and the party with whom the dispute has been raised shall fully investigate the matter and shall reply to the other party within two (2) working days of such dispute being raised.
- 14.3 The parties shall at all times confer in good faith and without undue delay.

- 14.4 If the dispute is still not resolved the parties shall nominate and agree upon an independent third party who shall act as a mediator in order to arrive at a solution acceptable to both parties.
- 14.5 Any costs incurred in relation to a third party's services shall be borne equally between the Employer and the Employee.
- 14.6 If the dispute is still not resolved the Employer shall refer the dispute to the New South Wales Industrial Commission.
- 14.7 While the above procedure is being followed work shall continue in accordance with the provisions of this Agreement.
- 14.8 No party shall be prejudiced as to the final settlement by the continuance of work in accordance with this clause.
- 14.9 In the event of a party failing to observe the procedure set forth herein, the other party may take such steps as are open to it to resolve the matter.

14. INDEMNITIES

In the absence of fraud on the part of the Employee, the Employer shall indemnify and hold the Employee harmless from all suits, causes of action, demands, costs, losses and expenses which the Employee may suffer or incur consequent upon or arising directly or indirectly out of anything done or omitted to be done by the Employee in the course of his or her employment and where he or she has acted on the direction of the Employer.

15. VARIATION

This Agreement shall not be changed or modified in any way subsequent to its registration under the Act except by mutual consent of the parties hereto and in accordance with the provisions of Section 111 of the Act.

16. CONFIDENTIALITY

16.1 The Employee shall keep secret and shall not at any time (whether during or after the employment) use for his own or another's advantage, or reveal to any person, firm or company, any of the trade secrets, business methods, or information which the Employee knew or ought reasonably to have known to be confidential concerning the business or affairs of Michlen Pty Limited t/as Century 21 Premier Properties so far as they shall have come to his knowledge during the employment. The restrictions contained in this clause shall not apply:-

- (a) to any disclosure or use authorized by the Employer or required by law or by the employment; or
- (b) so as to prevent the Employee from using his own personal skill in any business in which he may be lawfully engaged after the employment has ended.

16.2 The Employee will not during or after the employment has ended remove from the premises any client list, client information, database of any description whether on hard copy, computer disc or computer tape, other than that which may be required by him during the Employment for the conduct of the business of the Employer.

16.3 On termination of employment the Employee shall forthwith deliver to the Employer all books, documents, papers, materials and any other property of the Employer which may be under his possession or control.

17. TRAINING & EDUCATION

The Employer wishes to encourage its Employee's to further their education. In order to encourage this, the Employer agrees to consider, in certain cases, requests from an Employee to contribute to the payment of relevant industry courses. The course of study to be undertaken would need to be assessed as relevant to the business of the Employer.

18. SUPERANNUATION

18.1 The Employer shall ensure that the relevant percentage of the Employee's remuneration as detailed by the Superannuation Guarantee Charge Legislation is paid into an approved Superannuation Funds as a contribution towards the Employees' superannuation benefit.

18.2 The Employer shall ensure that each Employee is given a statement of their accumulated contributions made on his/her behalf at least annually and shall retain records of those contributions.

19. ANNUAL LEAVE

The Employee is entitled to be paid for four weeks annual leave. No Employee shall be entitled to accumulate more than four weeks annual leave at any point in time.

20. RECRUITMENT & INDUCTION

20.1 Before the Employer engages the services of a person as an Employee (who will be bound by conditions of employment fixed by this Agreement) the Employer will give the person notice of the existence of this Agreement and access to a copy of the Agreement, for perusal by the person, in a language the person understands.

20.2 All new Employees will be given an induction in the policies and procedures of the organisation relevant to Employees. This will include an explanation of this Agreement to make sure that all new Employees understand their rights and obligations pursuant to their employment.

21. ORDINARY HOURS OF EMPLOYMENT

21.1 Ordinary hours of employment under this Agreement shall be a maximum of 40 hours per week, averaged over a 52 week period.

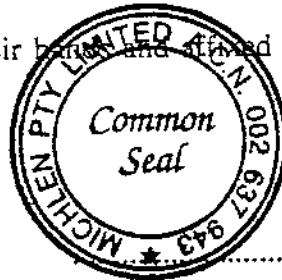
21.2 If any Employee works any hours outside of the average set out in clause 21.1 of this Agreement, it is acknowledged that he/she does so of their own accord and in an attempt to generate Employees Service Commission. The Employee acknowledges that apart from any Employee Service Commission to which he/she may be entitled, that they shall not make any claim against the Employer in respect of such additional hours worked.

22 SICK LEAVE

In lieu of the Sick Leave provisions contained in clause 17 of Part A of the Award, Sick Leave shall be one (1) week forty (40) hours on full pay for each year of service. Such leave shall not be cumulative.

IN WITNESS whereof the parties hereto have set their hands and affixed their seals on the day and year first hereinbefore mentioned.

THE COMMON SEAL OF)
)
MICHLEN PTY LIMITED)
)
was hereunto affixed by the authority of)
)
its Board of Directors in the presence of:)



.....
Director

[Signature]
.....
Secretary

SIGNED SEALED and DELIVERED)
)
by the said DANIEL STEPHEN NOVY)
)
in the presence of:)

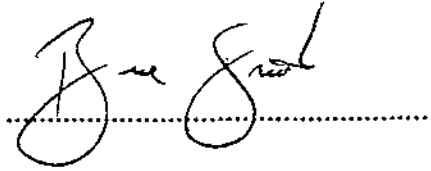
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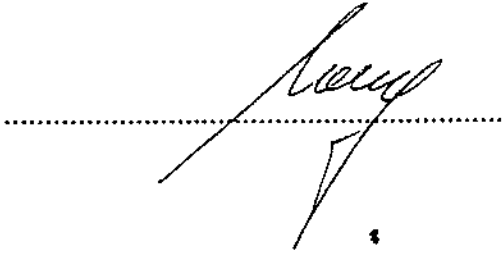
SIGNED SEALED and DELIVERED)

by the said BRUCE RAYMOND)
SARICH)

in the presence of:)



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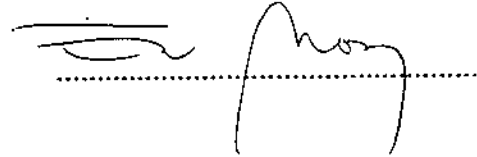


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SIGNED SEALED and DELIVERED)

by the said EVA NOVY)

in the presence of:)



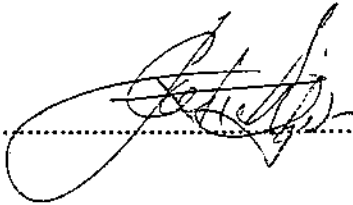
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A handwritten signature in cursive script, written over a horizontal dotted line.

SIGNED SEALED and DELIVERED)

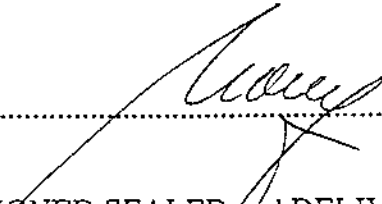
by the said MERVYN TERRY)
HAA YEMA)
in the presence of:)

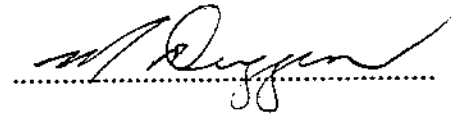

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SIGNED SEALED and DELIVERED)

by the said MARGARET LORRAINE)
DUGGAN)
in the presence of:)


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SIGNED SEALED and DELIVERED)

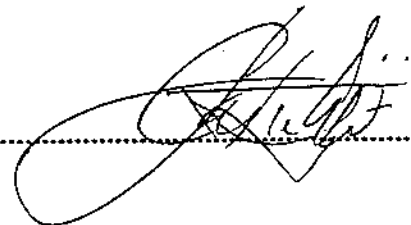
by the said JOHANNES TOBIAS)
CASTELYN)
in the presence of:)

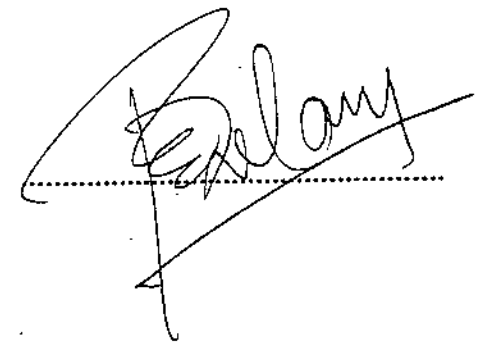

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SIGNED SEALED and DELIVERED)

by the said PETER MAN THONG)
WONG)
in the presence of:)


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