



1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof including Respondent's  
3 record as a restricted licensee. Respondent has demonstrated to  
4 my satisfaction that Respondent meets the requirements of law for  
5 the issuance to Respondent of an unrestricted real estate broker  
6 license and that it would not be against the public interest to  
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 petition for reinstatement is granted and that a real estate  
10 broker license be issued to Respondent if Respondent satisfies  
11 the following conditions within nine months from the date of this  
12 Order:

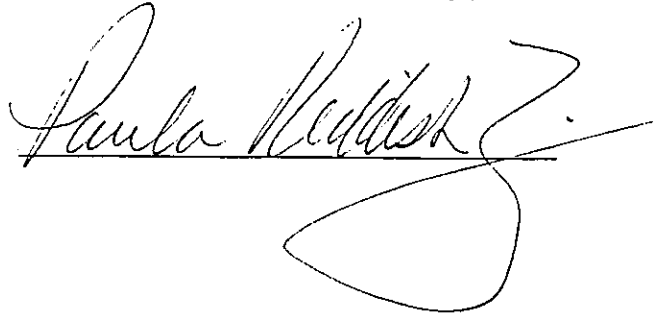
13 1. Submittal of a completed application and payment of  
14 the fee for a real estate broker license.

15 2. Submittal of evidence of having, since the most  
16 recent issuance of an original or renewal real estate license,  
17 taken and successfully completed the continuing education  
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: February 5, 2001

22 PAULA REDDISH ZINNEMANN  
23 Real Estate Commissioner

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1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAY 13 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Centenas

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ELIAS F. JAMES SAYOUR, ) NO. H-2459 SD  
13 Respondent. ) STIPULATION AND AGREEMENT  
14 )

15 It is hereby stipulated by and between ELIAS F. JAMES  
16 SAYOUR (hereafter Respondent), represented by Craig P. Fagan,  
17 Attorney at Law, and the Complainant, acting by and through  
18 Deidre L. Johnson, Counsel for the Department of Real Estate, as  
19 follows for the purpose of settling and disposing the Accusation  
20 as to him filed on December 15, 1998, in this matter:

21 1. All issues which were to be contested and all  
22 evidence which was to be presented by Complainant and Respondent  
23 at a formal hearing on the Accusation, which hearing was to be  
24 held in accordance with the provisions of the Administrative  
25 Procedures Act (APA), shall instead and in place thereof be  
26 submitted solely on the basis of the provisions of this  
27 Stipulation and Agreement.

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

4           3. On December 24, 1998, Respondent filed his Notice of  
5 Defense pursuant to Section 11505 of the Government Code for the  
6 purpose of requesting a hearing on the allegations in the  
7 Accusation. Respondent hereby freely and voluntarily withdraws  
8 said Notice of Defense. Respondent acknowledges that he  
9 understands that by withdrawing said Notice of Defense he will  
10 thereby waive his right to require the Commissioner to prove the  
11 allegations in the Accusation at a contested hearing held in  
12 accordance with the provisions of the APA, and that he will waive  
13 other rights afforded to him in connection with the hearing such  
14 as the right to present evidence in defense of the allegations in  
15 the Accusation and the right to cross-examine witnesses.

16           4. Respondent, pursuant to the limitations set forth  
17 below, hereby admits that the factual allegations pertaining to  
18 him in Paragraphs I through IV of the Accusation filed in this  
19 proceeding are true and correct and the Real Estate Commissioner  
20 shall not be required to provide further evidence of such  
21 allegations.

22           5. Without admitting the truth of the allegations  
23 pertaining to him contained in Paragraphs V through XI of the  
24 Accusation, Respondent stipulates that he will not interpose a  
25 defense thereto. This Stipulation is based on the factual  
26 allegations contained in the Accusation. In the interests of  
27 expedience and economy, Respondent chooses not to contest these





1 the Subdivided Lands Law, Regulations of the Real Estate  
2 Commissioner or conditions attaching to the restricted  
3 license.

4 3) Respondent shall not be eligible to apply for the issuance  
5 of an unrestricted real estate license, nor the removal of  
6 any of the conditions of the restricted license, until one  
7 (1) year has elapsed from the effective date of this  
8 Decision.

9 4) Respondent shall, within nine (9) months from the effective  
10 date of this Decision, present evidence satisfactory to the  
11 Real Estate Commissioner that Respondent has, since the  
12 most recent issuance of an original or renewal real estate  
13 license, taken and successfully completed the continuing  
14 education requirements of Article 2.5 of Chapter 3 of  
15 the Real Estate Law for renewal of a real estate license.  
16 If Respondent fails to satisfy this condition, the  
17 Commissioner may order the suspension of the restricted  
18 license until the Respondent presents such evidence. The  
19 Commissioner shall afford Respondent the opportunity for  
20 hearing pursuant to the Administrative Procedure Act to  
21 present such evidence.

22 5) Respondent shall, within six (6) months from the  
23 effective date of this Decision, take and pass the  
24 Professional Responsibility Examination administered  
25 by the Department including the payment of the  
26 appropriate examination fee. If Respondent fails to  
27 satisfy this condition, the Commissioner may order

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suspension of the restricted license until Respondent passes the examination.

April 21, 1999  
DATED

Deidre L. Johnson  
DEIDRE L. JOHNSON  
Counsel for Complainant

\* \* \*

I have read the Stipulation and Agreement, have discussed it with my counsel or understand that I have the right to consult legal counsel, 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, 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.

4/11/99  
DATED

Elias F. James Sayour  
ELIAS F. JAMES SAYOUR  
Respondent

APPROVED AS TO FORM:

4-13-99  
DATED

Craig F. Fagan  
CRAIG F. FAGAN  
Attorney for Respondent

\* \* \*

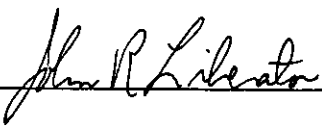


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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on June 2, 1999.

IT IS SO ORDERED May 4, 1999.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

  
\_\_\_\_\_

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
FEB 10 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

ELIAS F. JAMES SAYOUR,

}

Case No. H-2459 SD

OAH No. L-1999010144

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 \_\_\_\_\_

The Office of Administrative Hearings, 1350 Front Street,

Suite 6022, San Diego, California 92101

on March 15, 1999, and March 16, 1999, at the hour of 9:00 AM, 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: February 10, 1999

By Deidre L. Johnson  
DEIDRE L. JOHNSON Counsel

1 DEIDRE L. JOHNSON, Counsel  
State Bar No. 66322  
2 Department of Real Estate  
P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
DEC 15 1998  
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 ELIAS F. JAMES SAYOUR, ) NO. H- 2459 SD  
14 Respondent. ) ACCUSATION

15 The Complainant, J. Chris Graves, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against ELIAS F. JAMES SAYOUR, is informed and alleges as follows:

18 I  
19 Respondent ELIAS F. JAMES SAYOUR (hereafter Respondent),  
20 is presently licensed and/or has license rights under the Real  
21 Estate Law, Part 1 of Division 4 of the California Business and  
22 Professions Code (hereafter the Code).

23 II  
24 The Complainant, J. Chris Graves, a Deputy Real  
25 Estate Commissioner of the State of California, makes this  
26 Accusation against Respondent in his official capacity and not  
27 otherwise.

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III

At all times herein mentioned, Respondent was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker.

IV

At all times herein mentioned, Respondent engaged in business in association with, or was employed by, Prudential California Realty (hereafter PCR), and sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, and/or negotiated the purchase, sale or exchange of real property.

V

On or about June 16, 1997, while acting in the capacity of a real estate licensee on behalf of PCR as alleged above, Respondent procured a listing for the sale by PCR of vacant real property known as and located at 632 Lado De Loma, Lot 182, Vista, San Diego County, California (hereafter the Property), from seller Esther Hamilton (hereafter Seller).

VI

On or about November 25, 1997, Respondent prepared and presented to Seller an offer on behalf of prospective buyer Gregory Thomas (hereafter Buyer #1), to constitute Buyer #1's offer to purchase the property for \$30,000 in cash with no financing and a sixty day escrow period, among other terms and conditions. Said offer provided Seller with a deadline to respond until 5:00 p.m. on November 28, 1997.

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VII

On or about November 28, 1997, Respondent received, on behalf of Seller, a second offer from prospective buyer William Wagner (hereafter Buyer #2), represented by another real estate broker, to constitute Buyer #2's offer to purchase the property for \$35,000 in cash with no financing and a thirty day escrow period, among other terms and conditions. Said offer provided Seller with a deadline to respond until December 1, 1997.

VIII

Beginning in or about the afternoon of November 28, through December 1, 1997, Respondent failed to fully disclose and present Buyer #2's offer to Seller. Respondent expressly or impliedly informed Seller that Buyer #2's offer was not a legitimate offer, and/or that the written form of the offer was an outdated form, and that it was legally invalid or unenforceable; and/or that Buyer #2's real estate agent was unreliable and/or had failed to return Respondent's telephone calls. Said representations were false and untrue, and were known, or should have been known by Respondent to be false and untrue at the times they were made or implied, and/or were made with negligent or reckless disregard for the truth and the best interests of Seller. The true facts then existing were that Buyer #2's offer was a legitimate offer, that Respondent was not qualified to render legal advice to Seller; that Respondent's opinions about the legality of the offer were mere conjecture; that Respondent had not made any telephone calls to Buyer #2's agent for said agent to



1 return regarding any problems with the offer form; and that Buyer  
2 #2's offer, on its face, presented a financially superior offer  
3 for Seller.

4 IX

5 Respondent, in negotiating the above transaction on  
6 behalf of Seller, owed to Seller fiduciary duties of due care and  
7 disclosure. Respondent failed to exercise due care to fully  
8 inform Seller of the material differences between the above offers  
9 in a manner to ensure Seller's understanding and appreciation in  
10 order to make informed decisions regarding the offers described  
11 above. If Respondent had explained the offers fully, Seller would  
12 have negotiated differently and would not have accepted Buyer #1's  
13 offer at that time.

14 X

15 On or about December 1, 1997, in reliance on the  
16 representations of fact and opinion by Respondent as alleged  
17 above, Seller accepted Buyer #1's offer for the Property, and  
18 rejected Buyer #2's offer. Escrow thereafter closed on or about  
19 January 23, 1998.

20 XI

21 The above acts and/or omissions of Respondent constitute  
22 misrepresentation and/or negligence, and constitute cause for  
23 disciplinary action pursuant to the provisions of Sections  
24 10176(a) and/or 10177(g) of the Code.

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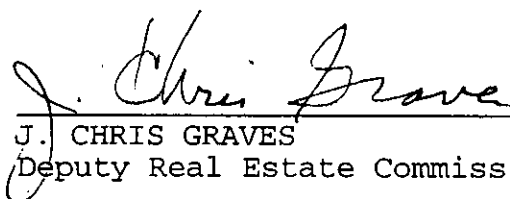
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all license(s) and license rights of Respondent under the Real Estate 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 provisions of law.

  
\_\_\_\_\_  
J. CHRIS GRAVES  
Deputy Real Estate Commissioner

Dated at San Diego, California,  
this 4<sup>th</sup> day of November, 1998.