

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
JAN 16 2002

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ALAIN PINEL REALTORS, INC.,) NO. H-7964 SF
13 and BENYAM MULUGETA,) STIPULATION AND AGREEMENT
14 Respondents.) (AS TO BENYAM
MULUGETA ONLY)
)

15 It is hereby stipulated by and between BENYAM MULUGETA
16 (hereafter Respondent) represented by Joseph S. Berger, Attorney
17 at Law, and the Complainant, acting by and through Deidre L.
18 Johnson, Counsel for the Department of Real Estate, as follows
19 for the purpose of settling and disposing the Accusation as to
20 him filed on June 19, 2001, 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 July 5, 2001, 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 rights 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 the remaining paragraphs of the
24 Accusation, Respondent stipulates that he will not interpose a
25 defense thereto. This Stipulation is based on the factual
26 allegations as to Respondent contained in the Accusation. In the
27 interests of expedience and economy, Respondent chooses not to

1 (a) Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and
3 responsibilities of a real estate licensee in the
4 State of California; and,

5 (b) That no final subsequent determination be made,
6 after hearing or upon stipulation, that cause for
7 disciplinary action has occurred within two (2)
8 years from the effective date of the Decision.
9 Should such a determination be made, the
10 Commissioner may, in her discretion, vacate and
11 set aside the stay order and reimpose all or a
12 portion of the stayed suspension. Should no such
13 determination be made pursuant to this condition
14 or condition 3 below, the stay imposed herein
15 shall become permanent.

16 3. If Respondent petitions the Department in writing
17 pursuant to Section 10175.2 of the Code prior to the
18 effective date of the Decision, the remaining forty (40)
19 days of said suspension shall be stayed upon condition
20 that:

21 (a) Respondent shall pay a monetary penalty pursuant
22 to Section 10175.2 of the Code at the rate of
23 \$250.00 for each day of suspension for a total
24 maximum monetary penalty of \$10,000.00.

25 (b) Said payment shall be in the form of a cashier's
26 check or certified check made payable to the
27 Recovery Account of the Real Estate Fund. Said

1 check must be received by the Department prior
2 to the effective date of the Decision in this
3 matter.

4 (c) No further cause for disciplinary action against
5 Respondent's license occurs within two (2) years
6 from the effective date of the Decision.

7 (d) If Respondent fails to pay the monetary penalty in
8 accordance with the terms and conditions of the
9 Decision, the Commissioner may, without a hearing,
10 order the immediate execution of all or any part
11 of the stayed suspension, in which event,
12 Respondent shall not be entitled to any repayment
13 nor credit, prorated or otherwise, for money paid
14 to the Department under the terms of this
15 Decision.

16 (e) If Respondent pays the monetary penalty and if no
17 further cause for disciplinary action against the
18 real estate license of Respondent occurs within
19 two (2) years from the effective date of the
20 Decision, the stay hereby granted pursuant to this
21 condition or condition 2 above shall become
22 permanent.

23 (f) If the Real Estate Commissioner determines that
24 further cause for disciplinary action against the
25 Respondent's license has occurred within two (2)
26 years from the effective date of the Decision, the
27 stay of suspension hereby granted, or such portion

1 of the stay as the Real Estate Commissioner shall
2 deem appropriate, shall be vacated.

3 4. The restricted license issued to Respondent may be
4 suspended prior to hearing by order of the Real Estate
5 Commissioner in the event of Respondent's conviction or
6 plea of nolo contendere to a crime which bears a
7 substantial relationship to Respondent's fitness or
8 capacity as a real estate licensee.

9 5. The restricted license may be suspended prior to hearing
10 by Order of the Real estate Commissioner on evidence
11 satisfactory to the Commissioner that Respondent has
12 violated provisions of the California Real Estate Law,
13 the Subdivided Lands Law, Regulations of the Real Estate
14 Commissioner or conditions attaching to the restricted
15 license.

16 6. Respondent shall not be eligible to apply for the
17 issuance of an unrestricted real estate license, nor the
18 removal of any of the conditions of the restricted
19 license, until two (2) years have elapsed from the
20 effective date of this Order.

21 7. Respondent shall, within nine (9) months from the
22 effective date of this Order, present evidence
23 satisfactory to the Real Estate Commissioner that
24 Respondent has, since the most recent issuance of an
25 original or renewal real estate license, taken and
26 successfully completed the continuing education
27 requirements of Article 2.5 of Chapter 3 of the Real

1 Estate Law for renewal of a real estate license. If
2 Respondent fails to satisfy this condition, the
3 Commissioner may order the suspension of the restricted
4 license until the Respondent presents such evidence. The
5 Commissioner shall afford Respondent the opportunity for
6 hearing pursuant to the Administrative Procedure Act to
7 present such evidence.

8
9
10 November 28, 2001

DATED



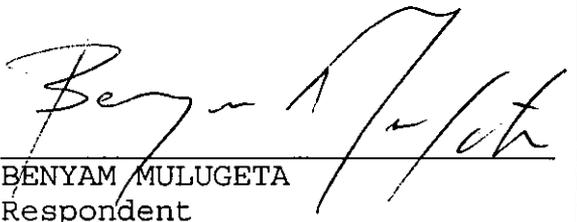
DEIDRE L. JOHNSON
Counsel for the Complainant

11
12 * * *

13
14 I have read the Stipulation and Agreement, have
15 discussed it with my counsel, and its terms are understood by me
16 and are agreeable and acceptable to me. I understand that I am
17 waiving rights given to me by the California Administrative
18 Procedure Act, and I willingly, intelligently and voluntarily
19 waive those rights, including the right of requiring the
20 Commissioner to prove the allegations in the Accusation at a
21 hearing at which I would have the right to cross-examine
22 witnesses against me and to present evidence in defense and
23 mitigation of the charges.

24
25 11-26-01

DATED

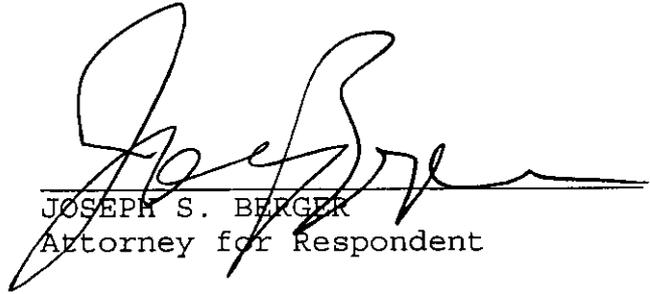

BENYAM MULUGETA
Respondent

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APPROVED AS TO FORM:

11-26-01

DATED



JOSEPH S. BERGER
Attorney for Respondent

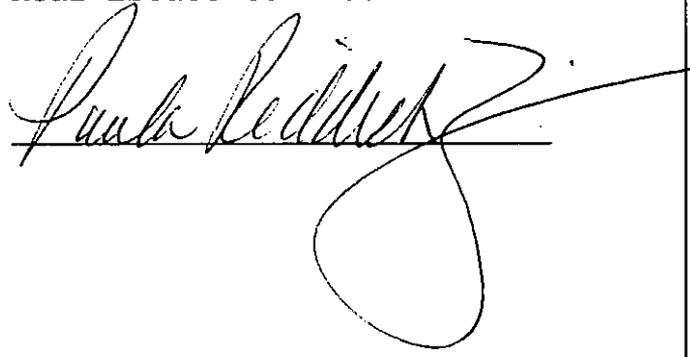
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on February 5, 2002.

IT IS SO ORDERED

December 12, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



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

FILED
JAN 16 2002

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 ALAIN PINEL REALTORS, INC.,) NO. H-7964 SF
14 and BENYAM MULUGETA,) STIPULATION AND AGREEMENT
15 Respondents.) (AS TO ALAIN PINEL
16) REALTORS, INC. ONLY)
17)

17 It is hereby stipulated by and between ALAIN PINEL
18 REALTORS, INC. (hereafter Respondent) represented by Stanley W.
19 Smith, Attorney at Law, Niven & Smith, and the Complainant,
20 acting by and through Deidre L. Johnson, Counsel for the
21 Department of Real Estate, as follows for the purpose of settling
22 and disposing the Accusation as to it filed on June 19, 2001, in
23 this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

1 Procedures Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

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

7 3. On July 5, 2001, Respondent filed its Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that it
12 understands that by withdrawing said Notice of Defense it will
13 thereby waive its rights to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA, and that it will waive
16 other rights afforded to it in connection with the hearing such
17 as the right to present evidence in defense of the allegations in
18 the Accusation and the right to cross-examine witnesses.

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

25 5. Without admitting the truth of the allegations
26 pertaining to it contained in the remaining paragraphs of the
27 Accusation, Respondent stipulates that it will not interpose a

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

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

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

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Should such a determination be made, the Commissioner may, in her discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made pursuant to this condition or condition C below, the stay imposed herein shall become permanent.

C. If Respondent petitions the Department in writing pursuant to Section 10175.2 of the Code prior to the effective date of the Decision, the remaining forty (40) days of said suspension shall be stayed upon condition that:

- (1) Respondent shall pay a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$250.00 for each day of suspension for a total maximum monetary penalty of \$10,000.00.
- (2) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.
- (3) No further cause for disciplinary action against Respondent's license occurs within two (2) years from the effective date of the Decision.
- (4) If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part

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of the stayed suspension, in which event, Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(5) If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision, the stay hereby granted pursuant to this condition or condition B above shall become permanent.

(6) If the Real Estate Commissioner determines that further cause for disciplinary action against the Respondent's license has occurred within two (2) years from the effective date of the Decision, the stay of suspension hereby granted, or such portion of the stay as the Real Estate Commissioner shall deem appropriate, shall be vacated.

December 3, 2008
DATED

Deidre L. Johnson
DEIDRE L. JOHNSON
Counsel for the Complainant

* * *

I have read the Stipulation and Agreement, have discussed it with my 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

1 Procedure Act, and I willingly, intelligently and voluntarily
2 waive those rights, including the right of requiring the
3 Commissioner to prove the allegations in the Accusation at a
4 hearing at which I would have the right to cross-examine
5 witnesses against me and to present evidence in defense and
6 mitigation of the charges.

7 ALAIN PINEL REALTORS, INC.
8 Respondent

9 11/27/01

10 DATED

11 By:

Paul L. Hulme
12 PAUL L. HULME
13 CHIEF EXECUTIVE OFFICER

14 APPROVED AS TO FORM:

15 11/26/01

16 DATED

Stanley W. Smith
17 STANLEY W. SMITH
18 Counsel for Respondent

19 * * *

20 The foregoing Stipulation and Agreement is hereby
21 adopted as my Decision and shall become effective at 12 o'clock
22 noon on February 5, 2002.

23 IT IS SO ORDERED

December 12, 2001.

24 PAULA REDDISH ZINNEMANN
25 Real Estate Commissioner

Paula Reddish Zinnemann
26
27

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

FILED
OCT 10 2001

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

ALAIN PINEL REALTORS, INC., and
BENYAM MULUGETA,

Case No. H-7964 SF

OAH No. N-2001100065

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, THE ELIHUS HARRIS STATE BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **DECEMBER 7, 2001**, 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 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: October 10, 2001

By Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED
JUN 19 2001

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 ALAIN PINEL REALTORS, INC.,) NO. H-7964 SF
14 and BENYAM MULUGETA,)
15 Respondents.) ACCUSATION

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against ALAIN PINEL REALTORS, INC., and BENYAM
19 MULUGETA, is informed and alleges as follows:

20 I

21 The Complainant, Les R. Bettencourt, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation against Respondents in his official capacity and not
24 otherwise.

25 II

26 Respondents ALAIN PINEL REALTORS, INC., and BENYAM
27 MULUGETA are presently licensed and/or have license rights under

1 the Real Estate Law, Part 1 of Division 4 of the California
2 Business and Professions Code (hereafter the Code).

3 III

4 At all times herein mentioned, Respondent ALAIN PINEL
5 REALTORS, INC. (hereafter PINEL) was and is licensed by the
6 Department of Real Estate (hereafter the Department) as a real
7 estate broker corporation.

8 IV

9 On or about April 17, 1998, the real estate broker
10 license of BENYAM MULUGETA (hereafter MULUGETA) expired. At no
11 time herein between about April 18, 1998, and December 9, 1999,
12 was MULUGETA licensed by the Department as either a real estate
13 broker or salesperson. On or about December 9, 1999, MULUGETA
14 was licensed by the Department as a real estate broker. At all
15 times herein mentioned, MULUGETA was associated with or in the
16 employ of PINEL.

17 V

18 At all times herein mentioned, Respondent PINEL engaged
19 in the business of, acted in the capacity of, advertised or
20 assumed to act as a real estate broker within the State of
21 California, including the business of the purchase and sale of
22 real property for others pursuant to Section 10131(a), for or in
23 expectation of compensation.

24 VI

25 During the period from at least April 18, 1998, to
26 about December 9, 1999, when MULUGETA's license was expired,
27 MULUGETA was employed by or associated with PINEL, and performed

1 activities for PINEL for which a real estate license is required,
2 for or in expectation of compensation. MULUGETA solicited and/or
3 negotiated sales and purchases of real property in California,
4 and was paid commissions by PINEL in various such transactions,
5 including but not limited to the following:

| DATE | PROPERTY | GROSS COMMISSION |
|----------|-------------------------------------|------------------|
| 6/26/98 | Lassen Park | \$5,401 |
| 6/30/98 | Oregon | \$9,574 |
| 7/1/98 | Madera | \$3,086 |
| 7/16/98 | 20 th & 17 th | \$5,580 |
| 9/2/98 | Tulane | \$6,326 |
| 9/4/98 | Bobbie | \$6,025 |
| 9/17/98 | Nueva | \$2,798 |
| 10/1/98 | Roosevelt | \$4,855 |
| 10/2/98 | Lean Avenue | \$7,605 |
| 10/2/98 | Lincoln Avenue | \$4,485 |
| 10/30/98 | Sevier | \$8,438 |
| 11/2/98 | San Pedro | \$6,510 |
| 11/3/98 | Parkview | \$11,156 |

VII

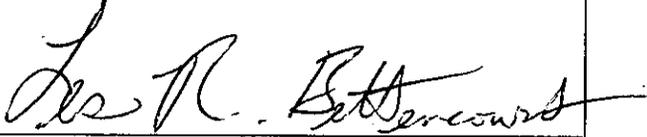
24 The acts and/or omissions of Respondent MULUGETA as
25 alleged above violate Section 10130 of the Code, and constitute
26 grounds for disciplinary action against MULUGETA pursuant to
27 Sections 10137 and 10177(d) of the Code.

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VIII

The above acts and/or omissions of PINEL, in employing and/or compensating MULUGETA when MULUGETA was not duly licensed by the Department, constitute grounds for disciplinary action against PINEL pursuant to Section 10137 of the Code.

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 Respondents 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.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 7th day of June, 2001.