

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

FILED
MAY 19 2003

DEPARTMENT OF REAL ESTATE

Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-8309 SF
12)
13 McLEAN MIZYED QUTAMI,) STIPULATION AND AGREEMENT
14)
15 Respondent.)

16
17 It is hereby stipulated by and between Respondent
18 McLEAN MIZYED QUTAMI (hereinafter referred to as "Respondent"),
19 acting in propria persona, and the Complainant, acting by and
20 through Michael B. Rich, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of
22 the Accusation filed on January 28, 2003 in this matter ("the
23 Accusation"):

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

H-8309 SF

McLEAN MIZYED QUTAMI

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

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

8 3. On February 7, 2003, Respondent filed a Notice
9 of Defense pursuant to Section 11505 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that
13 Respondent understands that by withdrawing said Notice of
14 Defense Respondent will thereby waive Respondent's right to
15 require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing
19 such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. Respondent, pursuant to the limitations set
23 forth below, hereby admits that the factual allegations in the
24 Accusation pertaining to Respondent are true and correct and
25 stipulates and agrees that the Real Estate Commissioner shall
26 not be required to provide further evidence of such
27

1 Respondent under the provisions of Sections 490 and 10177(b) of
2 the California Business and Professions Code and Section 2910
3 of Chapter 6, Title 10, California Code of Regulations.

4
5 ORDER

6 I

7 All licenses and licensing rights of Respondent
8 McLEAN MIZYED QUTAMI under the Real Estate Law are revoked;
9 provided, however, a restricted real estate broker license
10 shall be issued to said Respondent pursuant to Section 10156.5
11 of the Business and Professions Code if, within 90 days from
12 the effective date of the Decision entered pursuant to this
13 Order, Respondent makes application for the restricted license
14 and pays to the Department of Real Estate the appropriate fee
15 therefor.

16 The restricted license issued to Respondent shall be
17 subject to all of the provisions of Section 10156.7 of the
18 Business and Professions Code and to the following limitations,
19 conditions and restrictions imposed under authority of Section
20 10156.6 of that Code:

21 1. The restricted license issued to Respondent may
22 be suspended prior to hearing by Order of the Real Estate
23 Commissioner in the event of Respondent's conviction or plea of
24 nolo contendere to a crime which is substantially related to
25 Respondent's fitness or capacity as a real estate licensee.

26 2. The restricted license issued to Respondent may
27

1 be suspended prior to hearing by Order of the Real Estate
2 Commissioner on evidence satisfactory to the Commissioner that
3 Respondent has violated provisions of the California Real
4 Estate Law, the Subdivided Lands Law, Regulations of the Real
5 Estate Commissioner, or conditions attaching to the restricted
6 license.

7 3. Respondent shall not be eligible to apply for
8 the issuance of an unrestricted real estate license nor for the
9 removal of any of the conditions, limitations, or restrictions
10 of a restricted license until two (2) years have elapsed from
11 the effective date of this Decision.

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

24 5. Respondent shall, within six (6) months from the
25 effective date of this Decision, take and pass the Professional
26 Responsibility Examination administered by the Department
27

1 including the payment of the appropriate examination fee. If
2 Respondent fails to satisfy this condition, the Commissioner
3 may order suspension of Respondent's restricted license until
4 Respondent passes the examination.

5 6. Any restricted real estate broker license issued
6 to Respondent may be suspended or revoked for a violation, by
7 Respondent of any of the conditions attaching to the restricted
8 license.

9 7. Upon the expiration of the two (2) year period
10 specified in Paragraph 3 above, Respondent shall not be
11 eligible to apply for the issuance of an unrestricted real
12 estate license unless he submits with the license application a
13 certified copy of a court order pursuant to Penal Code Section
14 1203.4 expunging the criminal conviction set forth in the
15 Accusation.

16
17
18 3/14/03
19 DATED

20
21
22 Michael B. Rich
23 MICHAEL B. RICH, Counsel
24 Department of Real Estate

25 * * *

26 I have read the Stipulation and Agreement and its
27 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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.

3-6-2003

DATED

McLean Mizyed Qutami

McLEAN MIZYED QUTAMI
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by as my Decision in this matter as to Respondent McLean Mizyed Qutami and shall become effective at 12 o'clock noon on JUNE 9, 2003.

IT IS SO ORDERED March 24, 2003.

PAULA REDDISH ZINNE MANN
Real Estate Commissioner

John R. Liberator

BY: John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

flag

FILED

JAN 23 2003

DEPARTMENT OF REAL ESTATE

By Juan Antonio

1 MICHAEL B. RICH, Counsel
State Bar No. 84257
2 Department of Real Estate
P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation of)
11 McLEAN MIZYED QUTAMI,) NO. H- 8309 SF
12))
13 Respondent.) ACCUSATION

14 The Complainant, LES R. BETTENCOURT, a Deputy Real
15 Estate Commissioner of the State of California, for cause of
16 Accusation against McLEAN MIZYED QUTAMI (hereinafter
17 "Respondent"), is informed and alleges as follows:

18 I

19 Respondent is presently licensed and/or has license
20 rights under the Real Estate Law, Part 1 of Division 4 of the
21 Business and Professions Code (hereinafter "Code") as a real
22 estate broker.

23 II

24 The Complainant, LES R. BETTENCOURT, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation in his official capacity.

27 ///

III

1 On or about March 7, 2000, in the Superior Court for
2 the County of Contra Costa, Respondent was convicted of violating
3 California Penal Code Section 242 (Battery) and Section 243(e)(1)
4 (Battery against spouse), crimes involving moral turpitude which
5 are substantially related under Section 2910, Title 10,
6 California Code of Regulations, to the qualifications, functions
7 or duties of a real estate licensee.
8

IV

9
10 The facts alleged above constitute cause under Sections
11 490 and 10177(b) of the Code for the suspension or revocation of
12 all licenses and license rights of respondent under the Real
13 Estate Law.

14 WHEREFORE, Complainant prays that a hearing be
15 conducted on the allegations of this Accusation and that upon
16 proof thereof, a decision be rendered imposing disciplinary
17 action against all licenses and license rights of Respondent
18 under the Real Estate Law (Part 1 of Division 4 of the Business
19 and Professions Code), and for such other and further relief as
20 may be proper under other provisions of law.

21
22 

23 LES R. BETTENCOURT
24 Deputy Real Estate Commissioner

25 Dated at Oakland, California,

26 this 17th day of January, 2003.
27