

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

FILED
SEP 17 2004

DEPARTMENT OF REAL ESTATE

By *Laurie Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) DRE No. H-8799 SF
12 BRION SCOTT MASKELL,)
13 Respondent.) STIPULATION AND WAIVER
14)

15 It is hereby stipulated by and between BRION SCOTT
16 MASKELL (hereinafter "Respondent"), represented by Robert F.
17 Hahn, Esq., Respondent's attorney of record herein, and the
18 Complainant, acting by and through James L. Beaver, Counsel for
19 the Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Statement of Issues filed on May
21 21, 2004 in this matter:

22 A. Respondent acknowledges that he has received and
23 read the Statement of Issues and the Statement to Respondent
24 filed by the Department of Real Estate in connection with his
25 application for a real estate broker license. Respondent
26 understands that the Real Estate Commissioner may hold a hearing
27

1 on this Statement of Issues for the purpose of requiring further
2 proof of Respondent's honesty and truthfulness and to prove other
3 allegations therein, or that he may in his discretion waive the
4 hearing and grant Respondent a restricted real estate broker
5 license based upon this Stipulation and Waiver. Respondent also
6 understands that by filing the Statement of Issues in this matter
7 the Real Estate Commissioner is shifting the burden to Respondent
8 to make a satisfactory showing that Respondent meets all the
9 requirements for issuance of a real estate broker license.
10 Respondent further understands that by entering into this
11 stipulation and waiver, Respondent will be stipulating that the
12 Real Estate Commissioner has found that Respondent has failed
13 to make such a showing, thereby justifying the denial of the
14 issuance to Respondent of an unrestricted real estate broker
15 license.

16
17 B. Respondent is aware that by signing this
18 Stipulation and Waiver, Respondent is waiving Respondent's right
19 to a hearing and the opportunity to present evidence at the
20 hearing to establish Respondent's rehabilitation in order to
21 obtain an unrestricted real estate broker license if this
22 Stipulation and Waiver is accepted by the Real Estate
23 Commissioner. However, Respondent is not waiving Respondent's
24 right to a hearing and to further proceedings to obtain a
25 restricted or unrestricted license if this Stipulation and Waiver
26 is not accepted by the Commissioner.

1 C. Respondent further understands that the following
2 conditions, limitations, and restrictions will attach to a
3 restricted license issued by the Department of Real Estate
4 pursuant hereto:

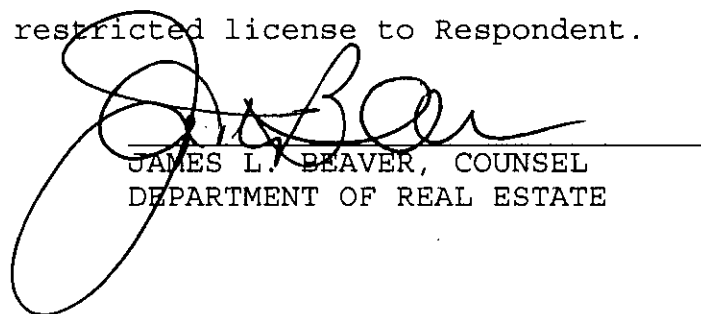
5 1. The license shall not confer any property right in
6 the privileges to be exercised including the right of renewal,
7 and the Real Estate Commissioner may by appropriate order suspend
8 the right to exercise any privileges granted under this
9 restricted license in the event of:

10 a. The conviction of Respondent (including a plea of
11 nolo contendere) to a crime which bears a substantial
12 relationship to Respondent's fitness or capacity as a real estate
13 licensee; or

14 b. The receipt of evidence that Respondent has
15 violated provisions of the California Real Estate Law, the
16 Subdivided Lands Law, regulations of the Real Estate
17 Commissioner, or conditions attaching to this restricted license.

18 2. Respondent shall not be eligible to apply for the
19 issuance of an unrestricted real estate license nor the removal
20 of any of the conditions, limitations or restrictions attaching
21 to the restricted license until two years have elapsed from the
22 date of issuance of the restricted license to Respondent.

24 August 19, 2004
25 DATED

24 
25 JAMES L. BEAVER, COUNSEL
26 DEPARTMENT OF REAL ESTATE


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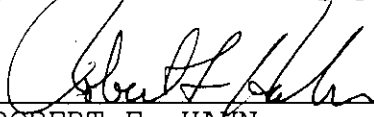
I have read the Stipulation and Waiver and discussed it with my attorney and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

8/11/04
DATED


BRION SCOTT MASKELL
Respondent

I have reviewed the Stipulation and Waiver as to form and content and have advised my client accordingly.

8/17/04
DATED


ROBERT F. HAHN
Attorney for Respondent

* * *

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate broker license to Respondent.

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Therefore, IT IS HEREBY ORDERED that a restricted real estate broker license be issued to Respondent BRION SCOTT MASKELL, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED Sept. 9, 2004.

John R. Liberator
JOHN R. LIBERATOR
Acting Real Estate Commissioner

FILED
JUN 28 2004

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

DEPARTMENT OF REAL ESTATE

By Lauriel Zin

In the Matter of the Application of

BRION SCOTT MASKELL,

}
}

Case No. H-8799 SF

OAH No. N-2004060005

Respondent

**FIRST AMENDED
NOTICE OF HEARING ON APPLICATION**

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, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, AUGUST 19, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.

Dated: JUNE 28, 2004

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel (72)

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

FILED

MAY 26 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

In the Matter of the Application of

BRION SCOTT MASKELL,

} Case No. H-8799 SF

} OAH No.

Respondent

NOTICE OF HEARING ON APPLICATION

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, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **WEDNESDAY, JUNE 16, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

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Dated: MAY 26, 2004

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED

MAY 21 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) NO. H-8799 SF
12 BRION SCOTT MASKELL,) STATEMENT OF ISSUES
13 Respondent.)
14

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against BRION SCOTT MASKELL (hereinafter "Respondent"),
18 alleges as follows:

19 I

20 Complainant, Les R. Bettencourt, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

24 On or about January 30, 2004, Respondent made
25 application to the Department of Real Estate of the State of
26 California (herein "the Department") for a real estate broker
27 license.

III

1 On or about October 7, 1996, in the United States
2 District Court, Northern District of California, Respondent was
3 convicted of the crime of Illegal Gambling in violation of Title
4 18 United States Code Section 1955, a felony and a crime
5 involving moral turpitude which bears a substantial relationship
6 under Section 2910, Title 10, California Code of Regulations
7 (herein "the Regulations"), to the qualifications, functions or
8 duties of a real estate licensee.
9

IV

10 Respondent's criminal conviction described in
11 Paragraphs III, above, constitutes cause for denial of
12 Respondent's application for a real estate license under Sections
13 480(a) and 10177(b) of the California Business and Professions
14 Code.
15

PRIOR ADMINISTRATIVE PROCEEDINGS

16 Effective March 21, 2001, in Case No. H-7874 SF before
17 the Department, Respondent's application for a real estate
18 salesperson license was denied by the Real Estate Commissioner
19 pursuant to the provisions of Sections 480(a) and 10177(b) of the
20 Code, but Respondent was granted the right to the issuance of a
21 restricted real estate salesperson license pursuant to Section
22 10156.5 of the Code.
23

24 WHEREFORE, Complainant prays that the above-entitled
25 matter be set for hearing and, upon proof of the charges
26 contained herein, that the Commissioner refuse to authorize the
27 issuance of, and deny the issuance of a real estate broker

1 license to Respondent, and for such other and further relief as
2 may be proper in the premises.

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4 Les R. Bettencourt
5 Deputy Real Estate Commissioner

6 Dated at Oakland, California,
7 this 12th day of May, 2004.

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