

FILED

AUG 25 2009

DEPARTMENT OF REAL ESTATE

By L. Henry

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	H-10729 SF
WILLIAM BENSON PEAVEY, JR.,	)	
Respondent.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On July 16, 2009, an Accusation and Notice of Intent to Issue Order of Debarment was filed in this matter against Respondent. WILLIAM BENSON PEAVEY, JR.

On August 3, 2009, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent WILLIAM BENSON PEAVEY, JR.'s petition for voluntary surrender of his real estate broker license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated August 7, 2009 (attached as Exhibit "A" hereto).

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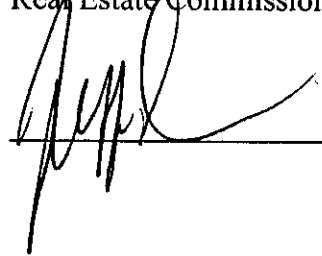
1 Respondent's license certificate and pocket card shall be sent to the below listed address so that  
2 they reach the Department on or before the effective date of this Order:

3  
4 DEPARTMENT OF REAL ESTATE  
Attn: Licensing Flag Section  
5 P. O. Box 187000  
6 Sacramento, CA 95818-7000

7 This Order shall become effective at 12 o'clock noon on SEP 14 2009.

8 DATED: 8-17-09

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10 JEFF DAVI  
Real Estate Commissioner

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

WILLIAM BENSON PEAVEY, Jr.,  
Respondent.

NO. H-10729 SF

DECLARATION

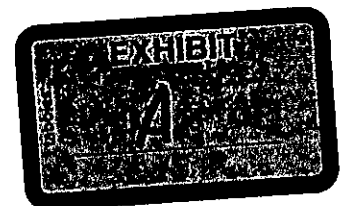
My name is WILLIAM BENSON PEAVEY, Jr., and I am currently licensed as a restricted real estate broker and have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

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1 I understand that by so voluntarily surrendering my license, I may be relicensed as  
2 a salesperson only by petitioning for reinstatement pursuant to Section 11522 of the Government  
3 Code. I also understand that by so voluntarily surrendering my license, I agree to the following:

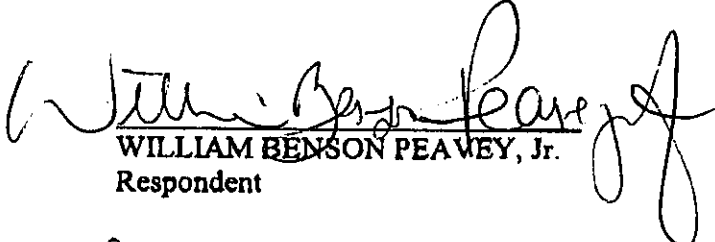
4 1. The filing of this Declaration shall be deemed as my petition for voluntary  
5 surrender.

6 2. It shall also be deemed to be an understanding and agreement by me that I  
7 waive all rights I have to require the Commissioner to prove the allegations contained in the  
8 Accusation filed in this matter at a hearing held in accordance with the provisions of the  
9 Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive  
10 other rights afforded to me in connection with the hearing such as the right to discovery, the right  
11 to present evidence in defense of the allegations in the Accusation, and the right to cross-  
12 examine witnesses.

13 3. I further agree that upon acceptance by the Commissioner, as evidenced by  
14 an appropriate order, all affidavits and all relevant evidence obtained by the Department in this  
15 matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation  
16 filed in the Department Case No. H-10729 SF, may be considered by the Department to be true  
17 and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to  
18 Government Code Section 11522.

19 4. I freely and voluntarily surrender all my licenses and license rights under the  
20 Real Estate Law.

21 I declare under penalty of perjury under the laws of the State of California that the  
22 above is true and correct and that this declaration was executed August 2, 2009, at  
23 South San Francisco, California.

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WILLIAM BENSON PEAVEY, Jr.  
Respondent

FILED

JUL 16 2009

DEPARTMENT OF REAL ESTATE

By L. Henry

1 KENNETH C. ESPELL, Counsel (SBN 178757)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0868 (Direct)

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 - STATE OF CALIFORNIA

10 \* \* \*

10	In the Matter of the Accusation of	)	H- 10729 SF
11		)	
12	WILLIAM BENSON PEAVEY, Jr.,	)	<u>ACCUSATION AND</u>
13		)	<u>NOTICE OF INTENT TO</u>
14	Respondent.	)	<u>ISSUE ORDER OF</u>
		)	<u>DEBARMENT</u>
		)	(B&P Code §10087)

15 The Complainant, E. J. HABERER II, in his official capacity as a Deputy Real  
16 Estate Commissioner of the State of California, for cause of Accusation against WILLIAM  
17 BENSON PEAVEY, Jr. (hereinafter "Respondent"), is informed and alleges as follows:

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20 On or about June 23, 2003, pursuant to a Stipulation and Waiver, the California  
21 Department of Real Estate in Case Number H-8328 SF denied Respondent's application for a  
22 real estate broker license, but granted Respondent the right to apply for a restricted real estate  
23 broker license.

24 2

25 Respondent is presently licensed and/or has license rights under the Real Estate  
26 Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code") as a  
27 restricted real estate broker.

On or about May 14, 2009, in the United States District Court, Northern District of California, Case Number 3:08-CR-00407-JSW-1, Respondent was convicted of three (3) counts of violating 18 U.S.C. 1341 and 18 U.S.C. 1346 (Mail Fraud), felonies which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations to the qualifications, functions, or duties of a real estate licensee and constitute cause under Sections 490, 10177(b) and 10177(k) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

The underlying actions of Respondent that gave rise to Respondent's conviction as set forth in Paragraph 3, above, if committed by a real estate licensee in the context of the representation of real estate clients, would constitute additional grounds for suspension or revocation of a real estate license pursuant to the provisions of Section 10176 (a) and (i) and 10177 (g) of the Code.

MATTERS IN AGGRAVATION

On or about February 25, 2000, in the Superior Court, County of San Mateo, State of California, Case Number NF284685A, Respondent was convicted of violating Section 273.5 of the California Penal Code (Willful Infliction of Corporal Injury Upon Spouse/Cohabitant and/or the Mother of his Child), a crime involving moral turpitude and which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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3 Effective August 22, 2003, before the State Bar of California, Case Number  
4 98-O-02234 and California Supreme Court Case Number S114035, the State Bar Court, among  
5 other findings, found that Respondent failed to report to the State Bar a civil judgment for fraud,  
6 misrepresentation and breach of fiduciary duty and was ordered suspended from the practice of  
7 law for three years, execution stayed, placed on probation for three years subject to two years  
8 actual suspension. The actions of Respondent that gave rise to the State Bar discipline, if  
9 committed by a real estate licensee in the context of the representation of real estate clients,  
10 would constitute grounds for suspension or revocation of a real estate license pursuant to the  
11 provisions of Section 10177 (f) of the Code and therefore, the State Bar suspension bears a  
12 substantial relationship under Section 2910, Title 10, California Code of Regulations, to the  
13 qualifications, functions, or duties of a real estate licensee.  
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15  
16 Respondent, in his Plea Agreement entered in connection with Respondent's  
17 conviction set forth in Paragraph 3 above, admits to the use of client trust funds for his personal  
18 benefit. On or about June 9, 2006, Respondent resigned from the California State Bar with  
19 charges pending (State Bar Court Case Number 06-Q-11569). The allegations contained in the  
20 State Bar complaint included, but were not limited to, failure to maintain client funds in a trust  
21 account and misappropriation of trust funds; acts, which if committed by a real estate licensee in  
22 the context of the representation of real estate clients, would constitute grounds for suspension or  
23 revocation of a real estate license pursuant to the provisions of Section 10177 (f) of the Code and  
24 therefore the State Bar suspension bears a substantial relationship under Section 2910, Title 10,  
25 California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.  
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