

SEP 29 1988

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of) No. H-22524 LA
MALCOLM NATHANIEL BENNETT,)
Respondent.)

ORDER GRANTING REINSTATEMENT AFTER RECONSIDERATION

On March 4, 1988, Respondent petitioned for
reinstatement of his real estate broker license.

On August 9, 1988, an Order Denying Reinstatement of
License was rendered herein, effective September 7, 1988, denying
Respondent's petition for reinstatement of his real estate broker
license.

On August 23, 1988, an Order was rendered staying the
effective date of the Order of August 9, 1988, to October 7, 1988.

On September 16, 1988, Respondent petitioned for
reconsideration of the Order denying reinstatement of his real
estate broker license.

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1 I have considered Respondent's petition for
2 reinstatement and the additional evidence and arguments in support
3 thereof. Respondent has now demonstrated to my satisfaction that
4 he has undergone sufficient rehabilitation to warrant the
5 reinstatement of his real estate broker license.

6 Therefore, I am satisfied that it will not be against
7 the public interest to issue a real estate broker license to
8 Respondent. The Order Denying Reinstatement of License of
9 August 9, 1988, is amended to read as follows:

10

11 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
12 for reinstatement is granted and that a real estate broker license
13 be issued to Respondent after Respondent satisfies the following
14 conditions within one (1) year from the date of this Order:

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

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1 2. Submittal of evidence satisfactory to the Real
2 Estate Commissioner that he has, since the most recent issuance of
3 an original or renewal real estate license, taken and successfully
4 completed the continuing education requirements of Article 2.5 of
5 Chapter 3 of the Real Estate Law for renewal of a real estate
6 license.

7 This Order shall become effective immediately.

8 DATED: Sgt. 26, 1988.

9 JAMES A. EDMONDS, JR.
Real Estate Commissioner

11
12 By: John R. Liberator
13 JOHN R. LIBERATOR
14 Chief Deputy Commissioner
15

25 cc: Malcolm Nathaniel Bennett
11215 South Western Avenue
26 Los Angeles, California 90047

SACD.
FLAS

AUG 23 1988

REAL ESTATE
[Signature]

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-22524 LA
MALCOLM NATHANIEL BENNETT,)
Respondent.)

ORDER STAYING EFFECTIVE DATE

On August 9, 1988, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective September 7, 1988.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License of August 9, 1988, is stayed for a period of 30 days.

The Order Denying Reinstatement of License of August 9, 1988, shall become effective at 12 o'clock noon on October 7, 1988.

DATED: August 23, 1988.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: *[Signature]*
ROBERT ARNOLD
Regional Manager

AUG 18 1988

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-22524 LA
MALCOLM NATHANIEL BENNETT,)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On July 25, 1986, a Decision was rendered herein
revoking the real estate broker license of Respondent, effective
September 2, 1986, but granting Respondent the right to the
issuance of a restricted real estate broker license. A restricted
real estate broker license was issued to Respondent on
September 26, 1986.

On March 4, 1988, Respondent petitioned for
reinstatement of said real estate broker license and the Attorney
General of the State of California has been given notice of the
filing of said petition.

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1 I have considered Respondent's petition and the evidence
2 and arguments in support thereof. Respondent has failed to
3 demonstrate to my satisfaction that he has undergone sufficient
4 rehabilitation to warrant the reinstatement of his real estate
5 broker license.

6 This determination has been made upon the basis of the
7 following factors and considerations:

8 1.

9 The Decision revoking Respondent's real estate broker
10 license was based on findings that there was cause to suspend or
11 revoke the license of Respondent under Sections 10176(e) and
12 10177(d) of the California Business and Professions Code
13 (hereinafter Code) because Respondent commingled his own funds
14 with trust funds belonging to others and conducted activities
15 requiring a real estate license while violating Section 10145 of
16 the Code and Sections 2731, 2830, 2831 and 2831.1 of Title 10,
17 Chapter 6, California Code of Regulations, formerly California
18 Administrative Code (hereinafter Regulations).

19 2.

20 Considering the seriousness of the conduct resulting in
21 the revocation of Respondent's license, an insufficient period of
22 time has passed to warrant reinstatement of Respondent's real
23 estate broker license at this time (Section 2911(a) of the
24 Regulations).

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3.

In response to question 6 of his petition for reinstatement of license, Respondent was asked: "Have you been a defendant in any civil litigation since your license was disciplined?" Respondent replied "No". In response to question 8 of his petition, Respondent was asked: "Explain efforts to discharge adjudicated debts or monetary obligations to others, if any." Respondent replied "NA" implying he had no such obligations to discharge. Whereas, in truth and in fact, Respondent was named as a defendant in Case No. C377124, entitled The Taubman Company, Inc. v. Malcolm N. Bennett et al., filed February 18, 1988, in the Superior Court of the State of California, in and for the County of Los Angeles, alleging negligence on the part of Respondent. In addition, in a hearing conducted May 17, 1988, in Case No. D 133457, entitled Carolyn Marie Bennett v. Malcolm Nathaniel Bennett, Respondent was adjudged to owe the sum of \$2,475.00 to his ex-wife for past-due child support and was ordered to pay this sum on or before July 15, 1988, or serve 20 days in county jail.

4.

Respondent's answers to questions 6 and 8 of his petition for reinstatement of license, as described in Paragraph 3, above, constitute material misstatements of fact, manifest a lack of honesty and truthfulness, and are bases for denial of his petition under Sections 480(c) and 10177(a) of the Code.

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In addition, Respondent's failure to discharge his monetary obligations for child support, as described, above, in Paragraph 3, is further evidence of a lack of rehabilitation and, as such, is a basis for denial of Respondent's petition for reinstatement of his license under Section 2911(i) of the Regulations.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of his real estate broker license is denied.

This Order shall become effective at 12 o'clock noon on September 7, 1988.

DATED: 8-9, 1988.

JAMES A. EDMONDS, JR.
Real Estate Commissioner



cc: Malcolm Nathaniel Bennett
11215 South Western Avenue
Los Angeles, California 90047

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

FILED

AUG 12 1986

DEPARTMENT OF REAL ESTATE

BY K. Mederholt

In the Matter of the Accusation of)

MALCOLM NATHANIEL BENNETT,)

Respondent.)

Nc. H-22524 LA

DECISION

The Proposed Decision dated July 17, 1986
of Robert Arnold, Regional Manager, Department of Real Estate, is
hereby adopted as the Decision of the Real Estate Commissioner in
the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on September 2, 1986.

IT IS SO ORDERED July 25, 1986.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-22524 LA
)	
MALCOLM NATHANIEL BENNETT,)	
)	
Respondent.)	
)	

PROPOSED DECISION

This matter was presided over as an uncontested case by Robert Arnold, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California, on July 17, 1986.

Robert E. Baker, Counsel, represented the complainant. Respondent was present, representing himself.

The matter was submitted upon the written stipulation of the parties, and pursuant thereto, it is found, determined and ordered as follows:

FINDINGS OF FACT

I

The complainant, Randolph Brendia, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

MALCOLM NATHANIEL BENNETT (hereinafter Respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the State of California Business and Professions Code, hereinafter Code).

III

At all times herein mentioned, Respondent was licensed by the Department of Real Estate of the State of California (hereinafter Department) as a real estate broker.

IV

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(b) of the Code, including the operation of a real property management business with the public wherein he negotiated the sale, purchase or exchange of leases on real properties or collected rent from tenants occupying real properties on behalf of others for, or in expectation of, a compensation.

V

During the first half of 1985, in connection with the aforesaid activities as a real estate broker, Respondent accepted or received funds that should have been held in trust (hereinafter trust funds) from or on behalf of sellers, purchasers, tenants and owners and thereafter made disbursements of such funds. Such trust funds were deposited in Account No. [REDACTED] with the Imperial Bank in Los Angeles, California, and maintained there by Respondent under the name of "Bennett & Bennett Property Management" (hereinafter Imperial Account). This account was not designated as a trust account.

VI

On or about August 5, 1985, the Department completed a partial examination of Respondent's real estate activities and books and records pertaining thereto for a four-month period ending June 28, 1985, which revealed the following:

A. Respondent commingled his own funds with trust funds belonging to others, received and disbursed by Respondent in the course and scope of Respondent's activities as a real estate broker and held by Respondent in the Imperial Account.

B. In connection with those trust funds described above, in Paragraph V, Respondent:

1. Failed to place all such trust funds into a neutral escrow depository or into the hands of the principal on whose behalf the funds were received or into a trust account in Respondent's name as trustee at a bank or other financial institution.

2. Failed to maintain adequate records of all trust funds received, in columnar form, including date funds were received, from whom funds were received, and amount received.

3. Failed to maintain separate records, in connection with his rental receipts, for each beneficiary or transaction, accounting therein for all said trust funds received, deposited, and disbursed.

VII

During the period from March 1, 1985, to June 28, 1985, Respondent used the fictitious names of "Bennett & Bennett Property Management" and "International Realty & Investments" in the conduct of activities for which a real estate license is required without holding a license bearing the said fictitious names.

DETERMINATION OF ISSUES

The conduct of BENNETT, as alleged in Paragraphs VI and VII, violates Section 10145 of the Code and Sections 2731, 2830, 2831 and 2831.1 of Chapter 6, Title 10, California Administrative Code and is cause for suspension or revocation of the license and license rights of BENNETT under Section 10177(d) of the Code.

The conduct of BENNETT, as alleged in Paragraph VI (A), constitutes commingling and is cause for suspension or revocation of the license and license rights of BENNETT under Section 10176(e) of the Code.

ORDER

WHEREFORE, the following Order is made:

1. The license and license rights of Respondent MALCOLM NATHANIEL BENNETT are revoked.

2. However, Respondent BENNETT shall be entitled to apply for and be issued a restricted real estate broker license pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays the fee for said license to the Department of Real Estate. Respondent's right to receive a restricted real estate broker license pursuant to this Decision shall expire 180 days from the effective date of the Decision herein.

3. As a condition precedent to the issuance of a restricted real estate broker license to Respondent by the Department of Real Estate, Respondent shall present evidence satisfactory to the Real Estate Commissioner of having successfully completed the continuing education requirements specified in Section 10170.5 of the Business and Professions Code within the four-year period immediately preceding the date on which Respondent presents such evidence to the Department.

4. The restricted license issued to Respondent BENNETT shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

A. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction (including conviction on a plea of nolo contendere) of a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee.


B. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that, subsequent to the effective date of this Decision, Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to said restricted license.

C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of the restricted license until at least one year has elapsed from the effective date of this Order.

D. Respondent shall obey all laws of the United States, the State of California and its political Subdivisions, and shall further obey and comply with all rules and regulations of the Real Estate Commissioner.

E. Respondent shall report in writing to the Department of Real Estate as the Commissioner shall direct by his decision herein or by separate written order issued while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

DATED: July 17, 1986


ROBERT ARNOLD
Regional Manager
Department of Real Estate

1 ROBERT E. BAKER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
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8 (213) 620-4790
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APR 25 1986

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10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * * *

13 In the Matter of the Accusation of) No. H-22524 LA
14 MALCOLM NATHANIEL BENNETT,)
15 Respondent.)
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28 The complainant, Randolph Brendia, a Deputy Real Estate
29 Commissioner of the State of California, for cause of accusation
30 against MALCOLM NATHANIEL BENNETT alleges as follows:

31 I

32 The complainant, Randolph Brendia, a Deputy Real Estate
33 Commissioner of the State of California, makes this Accusation in
34 his official capacity.

35 II

36 MALCOLM NATHANIEL BENNETT, dba Bennett & Bennett
37 Associates (hereinafter Respondent or BENNETT) is presently
38 licensed and/or has license rights under the Real Estate Law
39 (Part 1 of Division 4 of the Business and Professions Code
40 (hereinafter the Code)).

1 III

2 At all times herein mentioned, Respondent was licensed
3 by the Department of Real Estate of the State of California
4 (hereinafter the Department) as a real estate broker.

5 IV

6 All further references herein to Respondent include the
7 party identified in Paragraphs II and III above, and shall be
8 deemed to refer also to employees, agents, or real estate
9 licensees employed by or associated with said party, who at all
10 times herein mentioned were engaged in the furtherance of the
11 business or operations of said party and who were acting within
12 the course and scope of their authority and employment.

13 V

14 At all times herein mentioned, Respondent engaged in the
15 business of, acted in the capacity of, advertised or assumed to
16 act as a real estate broker in the State of California within the
17 meaning of Section 10131(b) of the Code, including the operation
18 of a real property management business with the public wherein
19 he negotiated the sale, purchase or exchange of leases on real
20 properties or collected rent from tenants occupying real
21 properties on behalf of others for, or in expectation of, a
22 compensation.

23 VI

24 During the first half of 1985, in connection with the
25 aforesaid activities as a real estate broker, Respondent accepted
26 or received funds that should have been held in trust (herein-
27 after trust funds) from or on behalf of sellers, purchasers,

1 tenants and owners and thereafter made disbursements of such funds.
2 Such trust funds were deposited in Account No. [REDACTED] with
3 the Imperial Bank in Los Angeles, California, and maintained
4 there by Respondent under the name of "Bennett & Bennett Property
5 Management" (hereinafter Imperial Account). This account was not
6 designated as a trust account.

7 VII

8 On or about August 5, 1985, the Department completed a
9 partial examination of Respondent's real estate activities and
10 books and records pertaining thereto for a four-month period ending
11 June 28, 1985, which revealed the facts set forth below in
12 Paragraphs VI through IX.

13 VIII

14 Respondent deposited his own funds with trust funds
15 belonging to others, received and disbursed by Respondent in the
16 course and scope of Respondent's activities as a real estate
17 broker and held by Respondent in the Imperial Account.

18 IX

19 In connection with those trust funds described above,
20 in Paragraph VI, Respondent:

21 A. Failed to place all such trust funds into a neutral
22 escrow depository or into the hands of the principal on whose
23 behalf the funds were received or into a trust account in
24 Respondent's name as trustee at a bank or other financial
25 institution.

26 B. Failed to maintain adequate records of all trust
27 funds received, in columnar form, including date funds were

1 received, from whom funds were received, and amount received.

2 C. Failed to maintain separate records, in connection
3 with his rental receipts, for each beneficiary or transaction,
4 accounting therein for all said trust funds received, deposited,
5 and disbursed.

6 X

7 During the period from March 1, 1985, to June 28, 1985,
8 Respondent used the fictitious names of "Bennett & Bennett
9 Property Management" and "International Realty & Investments" in
10 the conduct of activities for which a real estate license is
11 required without holding a license bearing the said fictitious
12 names.

13 XI

14 The conduct of BENNETT, as alleged in Paragraphs VI,
15 IX and X violates Section 10145 of the Code and Sections 2731,
16 2830, 2831 and 2831.1 of Chapter 6, Title 10, California
17 Administrative Code and is cause for suspension or revocation
18 of the license and license rights of BENNETT under Section
19 10177(d) of the Code.

20 XII

21 The conduct of BENNETT, as alleged in Paragraph VIII,
22 constitutes commingling and is cause for suspension or revocation
23 of the license and license rights of BENNETT under Section 10176(e)
24 of the Code.

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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 licenses and license rights of Respondent MALCOLM NATHANIEL BENNETT under the Real Estate Law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 25th day of April, 1986.

RANDOLPH BRENDIA
Deputy Real Estate Commissioner

cc: Malcolm Nathaniel Bennett
Sacto.
PH