

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 broker license be issued to Respondent if Respondent satisfies
11 the following conditions within nine months from the date of this
12 Order:

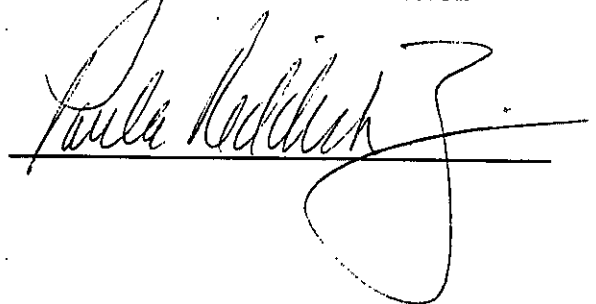
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: June 26, 2000.

22 PAULA REDDISH ZINNEMANN
23 Real Estate Commissioner

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26
27

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6

FILED
APR 14 1998
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zisi*

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) NO. H-2362 SD
11)
12 STANLEY DURAN GENTRY,) OAH NO. N-1998010238
13)
14 Respondent.) STIPULATION AND AGREEMENT

14 It is hereby stipulated by and between Respondent
15 STANLEY DURAN GENTRY (hereinafter "Respondent"), individually and
16 by and through William Logan, Esq., Respondent's attorney of
17 record herein, and the Complainant, acting by and through James L.
18 Beaver, Counsel for the Department of Real Estate, as follows for
19 the purpose of settling and disposing of the Accusation filed on
20 December 2, 1997 in this matter (hereinafter "the Accusation"):

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

H-2362 SD

- 1 -

STIPULATION OF
STANLEY DURAN GENTRY

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

5 3. On December 17, 1997, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notices of Defense. Respondent acknowledges that Respondent
10 understands that by withdrawing said Notices of Defense Respondent
11 will thereby waive Respondent's right to require the Commissioner
12 to prove the allegations in the Accusation at a contested hearing
13 held in accordance with the provisions of the APA and that
14 Respondent will waive other rights afforded to Respondent in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations in the
20 Accusation are true and correct and the Real Estate Commissioner
21 shall not be required to provide further evidence of such
22 allegations.

23 5. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement as his
25 decision in this matter, thereby imposing the penalty and
26 sanctions on Respondent's real estate licenses and license rights
27 as set forth in the "Order" set forth below. In the event that



1 the Commissioner in his discretion does not adopt the Stipulation
2 and Agreement in Settlement, it shall be void and of no effect,
3 and Respondent shall retain the right to a hearing and proceeding
4 on the Accusation under all the provisions of the APA and shall
5 not be bound by any admission or waiver made herein.

6 6. The Order or any subsequent Order of the Real
7 Estate Commissioner made pursuant to this Stipulation and
8 Agreement in Settlement shall not constitute an estoppel, merger
9 or bar to any further administrative or civil proceedings by the
10 Department of Real Estate with respect to any matters which were
11 not specifically alleged to be causes for accusation in this
12 proceeding.

13 7. Respondent understand that by agreeing to this
14 Stipulation and Agreement in Settlement, the findings set forth
15 below in the Determination Of Issues become final, and that the
16 Commissioner may charge said Respondent for the costs of any audit
17 conducted pursuant to Section 10148 of the Business and
18 Professions Code to determine if the violations have been
19 corrected. The costs of said audit will not exceed \$5,100.00.

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions and
22 waivers and solely for the purpose of settlement of the pending
23 Accusation without hearing, it is stipulated and agreed that the
24 following Determination of Issues shall be made:

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I

The acts and omissions of Respondent STANLEY DURAN GENTRY described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the Regulations:

(a) As to Paragraph VI(a) under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

(b) As to Paragraph VI(b) under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;

(c) As to Paragraph VI(c) under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;

(d) As to Paragraph VI(d) under Section 2832 of the Regulations in conjunction with Section 10145 of the Code and Section 10177(d) of the Code;

(e) As to Paragraph VII under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

(f) As to Paragraph VIII under Section 10148 of the Code in conjunction with Section 10177(d) of the Code; and

(g) As to Paragraph IX under Section 10161.8 of the Code in conjunction with Sections 10165 and 10177(d) of the Code.

ORDER

I

All licenses and licensing rights of Respondent STANLEY DURAN GENTRY under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to said Respondent pursuant to Section 10156.5 of the Business and Professions Code if, within ninety (90) days from the effective

1 date of the Decision entered pursuant to this Order, Respondent
2 makes application for the restricted license and pays to the
3 Department of Real Estate the appropriate fee therefor.

4 The restricted license issued to Respondent shall be
5 subject to all of the provisions of Section 10156.7 of the
6 Business and Professions Code and to the following limitations,
7 conditions and restrictions imposed under authority of Section
8 10156.6 of that Code:

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

14 2. The restricted license issued to Respondent may be
15 suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the Commissioner that
17 Respondent has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner or conditions attaching to the restricted license.

20 3. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor for the
22 removal of any of the conditions, limitations or restrictions of a
23 restricted license until one (1) year has elapsed from the
24 effective date of this Decision.

25 4. Respondent shall, within nine (9) months from the
26 effective date of the Decision, present evidence satisfactory to
27 the Real Estate Commissioner that Respondent has, since the most

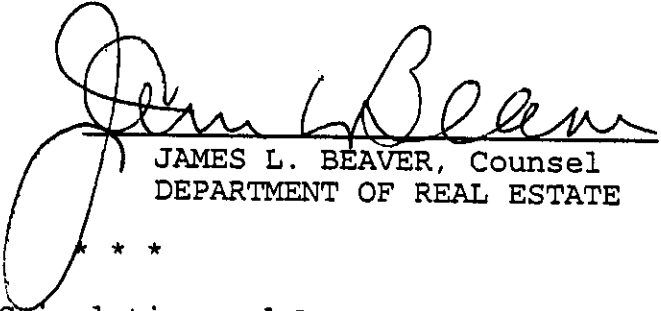
1 recent issuance of an original or renewal real estate license,
2 taken and successfully completed the continuing education
3 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
4 for renewal of a real estate license. If Respondent fails to
5 satisfy this condition, the Commissioner may order the suspension
6 of the restricted license until the Respondent presents such
7 evidence. The Commissioner shall afford Respondent the
8 opportunity for a hearing pursuant to the Administrative Procedure
9 Act to present such evidence.

10 5. Respondent shall, within six (6) months from the
11 issuance of the restricted license, take and pass the Professional
12 Responsibility Examination administered by the Department
13 including the payment of the appropriate examination fee. If
14 Respondent fails to satisfy this condition, the Commissioner may
15 order the suspension of the restricted license until Respondent
16 passes the examination.

17 6. Pursuant to Section 10148 of the Business and
18 Professions Code, Respondent shall pay the Commissioner's
19 reasonable cost, not to exceed \$5,100.00, for an audit to
20 determine if Respondent has corrected the trust fund violation(s)
21 found in paragraph I of the Determination of Issues. In
22 calculating the amount of the Commissioner's reasonable cost, the
23 Commissioner may use the estimated average hourly salary for all
24 persons performing audits of real estate brokers, and shall
25 include an allocation for travel time to and from the auditor's
26 place of work. Respondent shall pay such cost within 45 days of
27 receiving an invoice from the Commissioner detailing the

1 activities performed during the audit and the amount of time spent
2 performing those activities. The Commissioner may suspend the
3 restricted license issued to respondent pending a hearing held in
4 accordance with Section 11500, et seq., of the Government Code, if
5 payment is not timely made as provided for herein, or as provided
6 for in a subsequent agreement between the Respondent and the
7 Commissioner: The suspension shall remain in effect until payment
8 is made in full or until Respondent enters into an agreement
9 satisfactory to the Commissioner to provide for payment, or until
10 a decision providing otherwise is adopted following a hearing held
11 pursuant to this condition.

12 7. Any restricted real estate broker license issued to
13 Respondent may be suspended or revoked for a violation by
14 Respondent of any of the conditions attaching to the restricted
15 license.

16
17 March 23, 1998 
18 DATED JAMES L. BEAVER, Counsel
19 DEPARTMENT OF REAL ESTATE

19 * * *
20 I have read the Stipulation and Agreement, have
21 discussed it with my attorney, and its terms are understood by me
22 and are agreeable and acceptable to me. I understand that I am
23 waiving rights given to me by the California Administrative
24 Procedure Act (including but not limited to Sections 11506,
25 11508, 11509, and 11513 of the Government Code), and I willingly,
26 intelligently, and voluntarily waive those rights, including the
27 right of requiring the Commissioner to prove the allegations in

1 the Accusation at a hearing at which I would have the right to
2 cross-examine witnesses against me and to present evidence in
3 defense and mitigation of the charges.

4 3-13-98

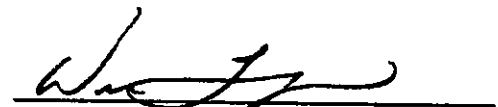
5 DATED

6 
STANLEY DURAN GENTRY
Respondent

7 I have reviewed the Stipulation and Agreement as to
8 form and content and have advised my client accordingly.

9
10 3-13-98

11 DATED

12 
WILLIAM LOGAN
Attorney for Respondent

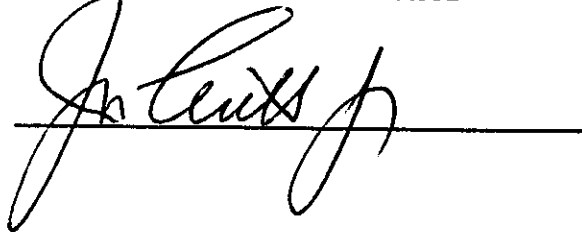
13 * * *

14 The foregoing Stipulation and Agreement for Settlement
15 is hereby adopted by the Real Estate Commissioner as his Decision
16 and Order and shall become effective at 12 o'clock noon on
17 May 4, 1998.

18 IT IS SO ORDERED

19 
4/1, 1998.

20 JIM ANTT, JR.
21 Real Estate Commissioner

22 

FILED
FEB 03 1998

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

By Laurie A. Zain

In the Matter of the Accusation of
STANLEY DURAN GENTRY,

}

Case No. H-2362 SD

OAH No. L-1998010238

Respondent

FIRST AMENDED
NOTICE OF HEARING ON ACCUSATION

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, 1350 Front Street, Room 6022,
San Diego, CA 92101

on Monday, March 23rd, 1998, 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 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.

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: February 3, 1998

DEPARTMENT OF REAL ESTATE
By James L. Beaver
JAMES L. BEAVER
Counsel

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)
7

FILED
DEC - 2 1997
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zin*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 STANLEY DURAN GENTRY,)
13 Respondent.)

NO. H-2362 SD
ACCUSATION

14
15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against STANLEY DURAN GENTRY (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, J. Chris Graves, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 At all times herein mentioned, Respondent was and now is
25 licensed and/or has license rights under the Real Estate Law (Part
26 1 of Division 4 of the Business and Professions Code) (hereinafter
27 "the Code") as a real estate broker.

1 III

2 At all times herein mentioned, Respondent engaged in the
3 business of, acted in the capacity of, advertised, or assumed to
4 act as a real estate broker within the State of California within
5 the meaning of Sections 10131(a) and 10131(b) of the Code,
6 including:

7 (a) The operation and conduct of a real estate resale
8 brokerage with the public wherein, on behalf of others, for
9 compensation or in expectation of compensation, Respondent sold
10 and offered to sell, bought and offered to buy, solicited
11 prospective sellers and purchases of, solicited and obtained
12 listings of, and negotiated the purchase and sale of real
13 property; and

14 (b) The operation and conduct of a property management
15 business with the public wherein, on behalf of others, for
16 compensation or in expectation of compensation, Respondent
17 collected rents from real property or improvements thereon.

18 IV

19 In so acting as a real estate broker, as described in
20 Paragraph III, above, Respondent accepted or received funds in
21 trust (hereinafter "trust funds") from or on behalf of sellers,
22 buyers, owners, tenants and others in connection with the resale
23 brokerage and property management activities described in
24 Paragraph III, above, and thereafter from time to time made
25 disbursements of said trust funds.

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V

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2 Some, but not necessarily all, of the aforesaid trust
3 funds accepted or received by Respondent was deposited or caused
4 to be deposited by Respondent into one or more bank accounts
5 (hereinafter "trust fund accounts") maintained by Respondent for
6 the handling of trust funds, including but not necessarily limited
7 to:

8 (a) The "Real Estate Center of Southern California
9 Trust Account", Account Number 0240509037, maintained by
10 Respondent at the San Diego, California, branch of San Diego
11 National Bank (hereinafter "Account #1"); and

12 (b) The "Real Estate Center of San Diego County Trust
13 Account", Account Number 0240507712, maintained by Respondent at
14 the San Diego, California, branch of California Federal Bank
15 (hereinafter "Account #2").

16 VI

17 Between on or about January 1, 1995 and June 30, 1997,
18 in connection with the collection and disbursement of said trust
19 funds, Respondent:

20 (a) Failed to keep a record in columnar form of all
21 trust funds received into and disbursed from Account #1 and
22 Account #2, as required by Section 2831 of Title 10, California
23 Code of Regulations (hereinafter "the Regulations");

24 (b) Failed to maintain a separate record for each
25 beneficiary or transaction, accounting therein for all said trust
26 received into and disbursed from Account #1 and Account #2, in the
27 manner required by Regulation 2831.1;



1 (c) Failed to reconcile, at least once a month, the
2 balance of all separate beneficiary or transaction records with
3 the record of all trust funds received into and disbursed from
4 Account #1 and Account #2; and

5 (d) Failed to conform to the requirements of Section
6 2832 of the Regulations, in that Account #1 and Account #2 were
7 not maintained in the name of Respondent as trustee.

8 VII

9 Between on or about January 1, 1995 and June 30, 1997,
10 in connection with the collection and disbursement of said trust
11 funds, Respondent failed to keep a record in columnar form of
12 trust funds received, but not deposited into any trust bank
13 account as required by Section 2831 of the Regulations.

14 VIII

15 Between on or about January 1, 1995 and June 30, 1997,
16 in connection with the collection and disbursement of said trust
17 funds, Respondent:

18 (b) Failed to retain for three (3) years copies of
19 cancelled checks and other trust records executed or obtained by
20 Respondent in connection with transactions for which a real estate
21 broker license is required; and/or

22 (c) Failed after notice to make such cancelled checks
23 and other trust records available for examination, inspection and
24 copying by the designated representative of the Real Estate
25 Commissioner.

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IX

Between on or about January 1, 1995 and June 30, 1997, in the course of the real estate brokerage activities described in Paragraph III, above, Respondent failed to notify the Department in writing when Respondent terminated Respondent's employment of real estate salespersons.

X

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the Regulations:

- (a) As to Paragraph VI(a), under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) As to Paragraph VI(b), under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) As to Paragraph VI(c), under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As to Paragraph VI(d), under Section 2832 of the Regulations in conjunction with Section 10145 of the Code and Section 10177(d) of the Code;
- (e) As to Paragraph VII, under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (f) As to Paragraph VIII, under Section 10148 of the Code in conjunction with Section 10177(d) of the Code; and
- (g) As to Paragraph IX, under Section 10161.8 of the Code in conjunction with Sections 10165 and 10177(d) of the Code.

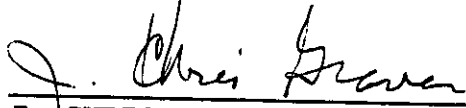
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate 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.



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 25th day of November, 1997.