

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6

FILED  
FEB 23 2004

DEPARTMENT OF REAL ESTATE

By Patricia Contreras

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

10 \* \* \*

11 In the Matter of the Accusation of )  
12 MAURICE BENITAH, ) NO. H-2885 SD  
13 Respondent. ) STIPULATION AND AGREEMENT  
14 )

15 It is hereby stipulated by and between MAURICE  
16 BENITAH (hereafter Respondent) and his attorney, Frank M. Buda  
17 and the Complainant, acting by and through Larry A. Alamao,  
18 Counsel for the Department of Real Estate, as follows for the  
19 purpose of settling and disposing the Accusation filed on  
20 August 13, 2003, in this matter:

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

MB

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

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

16           4. This Stipulation is based on the factual  
17 allegations contained in the Accusation alleging violations of  
18 Section 10177(f) of the Business and Professions Code. In the  
19 interests of expedience and economy, Respondent chooses not to  
20 contest these allegations, but to remain silent and understands  
21 that, as a result thereof, these factual allegations, without  
22 being admitted or denied, will serve as a prima facie basis for  
23 the disciplinary action stipulated to herein. The Real Estate  
24 Commissioner shall not be required to provide further evidence  
25 to prove said factual allegations.

26           5. It is understood by the parties that the Real  
27 Estate Commissioner may adopt the Stipulation and Agreement as





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\$100.00 for each day of suspension for a total monetary penalty of \$3,000.00.

- (2) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.
- (3) No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision.
- (4) If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event, Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.
- (5) If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate licenses of Respondent occurs within two (2) years from the effective date of the Decision, the stay hereby granted in this condition and in condition B above to Respondent shall become permanent.

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(6) If the Real Estate Commissioner determines that  
further cause for disciplinary action against  
Respondent has occurred within two (2) years from  
the effective date of the Decision, the stay of  
suspension hereby granted to Respondent, or such  
portion of the stay as the Real Estate  
Commissioner shall deem appropriate, shall be  
vacated.

JANUARY 16, 2004  
DATED

Larry Alamao  
LARRY A. ALAMAO  
Counsel for the Complainant

\* \* \*

I have read the Stipulation and Agreement, understand  
that I have the right to consult counsel, or have consulted  
counsel, 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, and I  
willingly, intelligently and 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.

1/21/04  
DATED

Maurice Benitah  
MAURICE BENITAH  
Respondent

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

1-20-04

DATED

Frank M. Buda

FRANK M. BUDA  
Attorney for Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on March 15, 2004.

IT IS SO ORDERED February 9, 2004.

Real Estate Commissioner

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

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
DEC - 3 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

In the Matter of the Application of

MAURICE BENITAH,

}

Case No. H-2885 SD

OAH No. L-2003090255

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, 1350 FRONT STREET, SUITE 6022, SAN DIEGO, CA 92101 on WEDNESDAY, JANUARY 28, 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: DECEMBER 3, 2003

DEPARTMENT OF REAL ESTATE

By Larry A. Alamao  
LARRY A. ALAMA, Counsel (L2)



BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
SEP 10 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

MAURICE BENITAH,

}  
}

Case No. H-2885 SD

OAH No.

By David A. Peters

Respondent

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, SUITE 6022, SAN DIEGO, CA 92101 on TUESDAY, DECEMBER 2, 2003, at the hour of 9:00 A.M., 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.

DEPARTMENT OF REAL ESTATE

Dated: SEPTEMBER 10, 2003

By David A. Peters  
DAVID A. PETERS, Counsel  
(LZ)

1 JAMES L. BEAVER, Counsel (SBN 60543)  
2 DEPARTMENT OF REAL ESTATE  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000  
5 Telephone: (916) 227-0789  
6 (916) 227-0788 (Direct)

FILED  
AUG 13 2003

DEPARTMENT OF REAL ESTATE

By Laurie E. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No.: H- 2885 SD  
12 MAURICE BENITAH, ) ACCUSATION  
13 Respondent. )  
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15 The Complainant, J. Chris Graves, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against MAURICE BENITAH (hereinafter "Respondent"), is informed  
18 and alleges as follows:

19 I

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

24 II

25 The Complainant, J. Chris Graves, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Accusation  
27 against Respondent in his official capacity.

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III

On or about November 7, 2001, after giving Respondent fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act, Respondent's license as a real estate broker in the State of Colorado was suspended for sixty (60) days by the Colorado Real Estate Commission, and placed on probationary status for a period of two (2) years upon expiration of said suspension, upon an express finding of violation of Sections 12-61-113(1)(d)(k), 12-61-805(1)(vii) and 12-61-808(1)(c), Colorado Revised Statutes, for acts which, if done by a California real estate licensee, would be grounds for the suspension or revocation of a California real estate license pursuant to the provisions of Section 10177(g) of the Code.

IV

The facts described in Paragraph III, above, constitute cause under Section 10177(f) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

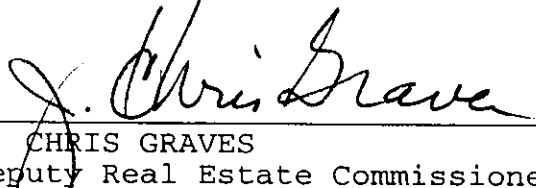
CIRCUMSTANCES IN AGGRAVATION

V

On or about August 17, 1988, after giving Respondent fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act, Respondent's license as a real estate salesperson in the State of Arizona was suspended for fourteen days by the Arizona Real Estate Department upon an express finding of

1 violation of Sections 32-2153(a)(1), 32-2153(a)(8),  
2 32-2153(a)(14), 32-2153(a)(19), and 32-2153(a)(25), Arizona  
3 Revised Statutes, for acts which, if done by a real estate  
4 licensee, would be grounds for the suspension or revocation of a  
5 California real estate license pursuant to the provisions of  
6 Sections 10177(d) and 10177(g) of the Code.

7  
8 WHEREFORE, Complainant prays that a hearing be  
9 conducted on the allegations of this Accusation and that upon  
10 proof thereof, a decision be rendered imposing disciplinary  
11 action against all licenses and license rights of Respondent  
12 under the Real Estate Law (Part 1 of Division 4 of the Business  
13 and Professions Code), and for such other and further relief as  
14 may be proper under other provisions of law.

15  
16   
17 J. CHRIS GRAVES  
18 Deputy Real Estate Commissioner

19 Dated at San Diego, California,  
20 this 23<sup>rd</sup> day of July, 2003.  
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