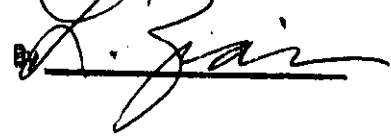


1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED
APR 12 2005

DEPARTMENT OF REAL ESTATE

By 

7 **DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11 **GARRETT TROY COLBURN,**

12
13
14 Respondent

)
) No. H- 3067 SD
)
)

) **STIPULATION AND**
) **WAIVER**
)
)

15 It is hereby stipulated by and between GARRETT TROY COLBURN (hereinafter "Respondent") and
16 Respondent's attorney, Cory J. Briggs, Esq, and the Complainant, acting by and through James L. Beaver,
17 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the
18 Statement of Issues filed on September 17, 2004 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and the
20 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
21 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
22 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
23 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the
24 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
25 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
26 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets
27 all the requirements for issuance of a real estate salesperson license. Respondent further understands that by

1 entering into this stipulation and waiver, Respondent will be stipulating that the Real Estate Commissioner
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
3 to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and
7 Professions Code.

8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's
9 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's
10 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver
11 is accepted by the Real Estate Commissioner. However, Respondent is not waiving Respondent's right to a
12 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and
13 Waiver is not accepted by the Commissioner.

14 Respondent further understands that the following conditions, limitations, and restrictions will attach
15 to a restricted license issued by the Department of Real Estate pursuant hereto:

- 16 1. The license shall not confer any property right in the privileges to be exercised including the
17 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
18 to exercise any privileges granted under this restricted license in the event of:
 - 19 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears
20 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or
 - 21 b. The receipt of evidence that Respondent has violated provisions of the California Real
22 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or
23 conditions attaching to this restricted license.
- 24 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license
25 nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted
26 license until two years have elapsed from the date of issuance of the restricted license to
27 Respondent.

- 1 3. With the application for license, or with the application for transfer to a new employing broker,
2 Respondent shall submit a statement signed by the prospective employing broker on a form
3 approved by the Department of Real Estate wherein the employing broker shall certify as
4 follows:
5 a. That broker has read the Statement of Issues which is the basis for the issuance of the
6 restricted license; and
7 b. That broker will carefully review all transaction documents prepared by the restricted
8 licensee and otherwise exercise close supervision over the licensee's performance of acts
9 for which a license is required.

10 3-10-05

11 Dated

12 
13 James L. Beaver, Counsel, Department of Real Estate


14 * * *

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

21 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
22 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
23 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
24 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt
25 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received
26 the original signed Stipulation and Waiver.

27 3/10/05

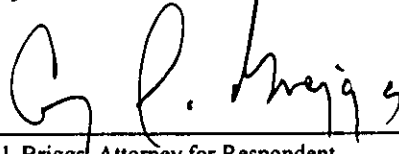
Dated


GARRETT TROY COLBURN, Respondent

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

3 12 MARCH 2005

4 Dated



Cory J. Briggs, Attorney for Respondent

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

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

13 This Order is effective immediately.

14 IT IS SO ORDERED

2/7-08

15 _____
16 
17 Jeff Davi
18 Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 21 2005

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

GARRETT T. COLBURN,

Case No. H-3067 SD

OAH No. L-2004100597

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 THURSDAY, MARCH 10, 2005, at the hour of 1:30 P.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.

DEPARTMENT OF REAL ESTATE

Dated: JANUARY 21, 2005

By James L. Beaver
JAMES L. BEAVER, Counsel

FILED

NOV - 9 2004

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Laurie A. Zini

In the Matter of the Application of

GARRETT TROY COLBURN,

} Case No. H-3067 SD

} OAH No. L-2004100597

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, 1350 FRONT STREET, SUITE 6022, SAN DIEGO, CA 92101 on THURSDAY, DECEMBER 30, 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.

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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: NOVEMBER 9, 2004

By *James L. Beaver*
JAMES L. BEAVER, Counsel (12)

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

SEP 17 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. J...

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)
11 GARRETT TROY COLBURN,)
12 Respondent.)

No. H-3067 SD

STATEMENT OF ISSUES

13
14 The Complainant, J. Chris Graves, a Deputy Real Estate
15 Commissioner of the State of California, for Statement of Issues
16 against GARRETT TROY COLBURN (herein "Respondent"), alleges as
17 follows:

18 I

19 Complainant, J. Chris Graves, a Deputy Real Estate
20 Commissioner of the State of California, makes this Statement of
21 Issues in his official capacity.

22 II

23 Respondent made application to the Department of Real
24 Estate of the State of California for a real estate salesperson
25 license on or about February 17, 2004.

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III

On or about October 28, 1999, in the Superior Court of the State of California, County of San Diego, Respondent was convicted of the crime of Driving With Blood Alcohol Over .08% in violation of Vehicle Code Section 23152(b), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

On or about March 14, 2002, in the Superior Court of the State of California, County of Butte, Respondent was convicted of the crime of Minor In Possession Of Alcohol in violation of Business and Professions Code Section 25662(a), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

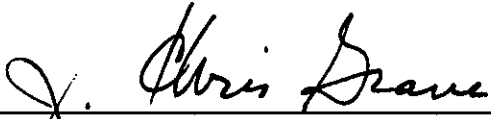
V

Respondent's criminal convictions described in Paragraphs III and IV, above, individually and jointly constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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WHEREFORE, Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 1st day of ~~August~~ ^{September}, 2004.
