

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED
AUG 28 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 * * *

12 In the Matter of the Accusation of)
13 MITCHELL I. FINE,) NO. H-3177 SD
14 Respondent.) STIPULATION AND AGREEMENT
15)

16 It is hereby stipulated by and between MITCHELL I.
17 FINE (hereafter Respondent), and the Complainant, acting by and
18 through Deidre L. Johnson, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing the
20 Accusation in this case filed on April 8, 2005.

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.

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 these proceedings.

4 3. On April 22, 2005, Respondent filed a Notice of
5 Defense pursuant to Section 11505 of the Government Code, for
6 the 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
11 the 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 and the right to cross-examine witnesses.

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

21 5. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement as
23 the decision in this matter, thereby imposing the penalty and
24 sanctions on the real estate license(s) and license rights of
25 Respondent, and as set forth in the below "Order". In the event
26 that the Commissioner in his discretion does not adopt the
27 Stipulation and Agreement, it shall be void and of no effect, and

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

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

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

19 (3) Respondent shall not be eligible to apply for the issuance
20 of an unrestricted real estate license, nor the removal
21 of any of the conditions of the restricted license,
22 until two (2) years have elapsed from the effective date
23 of this Decision.

24 (4) Respondent shall submit with any application for license
25 under an employing broker, or any application for
26 transfer to an new employing broker, a statement signed
27 by the prospective employing real estate broker on a

1 form approved by the Department of Real Estate which
2 shall certify:

- 3 (a) That the employing broker has read the Decision
4 of the Commissioner which granted the right to a
5 restricted license; and,
6 (b) That the employing broker will exercise close
7 supervision over the performance by the restricted
8 licensee relating to activities for which a real
9 estate license is required.

10 (5) Respondent shall, within nine (9) months from the
11 effective date of this Decision, present evidence
12 satisfactory to the Real Estate Commissioner that
13 Respondent has, since the most recent issuance of an
14 original or renewal real estate license, taken and
15 successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real
17 Estate Law for renewal of a real estate license. If
18 Respondent fails to satisfy this condition, the
19 Commissioner may order the suspension of the restricted
20 license until the Respondent presents such evidence.
21 The Commissioner shall afford Respondent the opportunity
22 for hearing pursuant to the Administrative Procedure Act
23 to present such evidence.

24 (6) Respondent shall submit proof to the satisfaction of
25 the Commissioner on a quarterly basis of his attendance
26 at a compulsive gambling treatment or recovery program,
27 such as Gamblers Anonymous or other formal program, at

1 least once a week during the term of the restricted
2 license.

3 July 12, 2005
4 DATED

Deidre L. Johnson
5 DEIDRE L. JOHNSON
6 Counsel for the Complainant

7 * * *

8 I have read the Stipulation and Agreement, have discussed
9 it with my counsel or understand that I have the right to consult
10 with counsel, and its terms are understood by me and are agreeable
11 and acceptable to me. I understand that I am waiving rights given
12 to me by the California Administrative Procedure Act, and I
13 willingly, intelligently and voluntarily waive those rights,
14 including but not limited to the right of requiring the Commissioner
15 to prove the allegations in the Accusation at a hearing at which
16 I would have the right to cross-examine witnesses against me and
17 to present evidence in defense and mitigation of the charges.

18 7/6/05

19 DATED

Mitchell I. Fine

20 MITCHELL I. FINE
21 Respondent

22 * * *

23 The foregoing Stipulation and Agreement is hereby
24 adopted as my Decision and shall become effective at 12 o'clock
25 noon on September 15, 2005.

26 IT IS SO ORDERED 8-1, 2005.

27 JEFF DAVI
Real Estate Commissioner

Jeff Davi

1 DEIDRE L. JOHNSON, Counsel
2 SBN 66322
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0789

FILED
APR - 8 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 * * *

12 In the Matter of the Accusation of)
13 MITCHELL I. FINE,) NO. H-3177 SD
14 Respondent.) ACCUSATION
15)

16 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against MITCHELL I. FINE, is informed and alleges as follows:

19 I

20 MITCHELL I. FINE (hereafter Respondent) is presently
21 licensed and/or has license rights under the Real Estate Law,
22 Part 1 of Division 4 of the California Business and Professions
23 Code (hereafter the Code) as a real 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 and not otherwise.

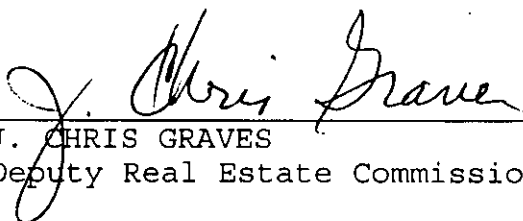
1 III

2 On or about April 30, 2002, in the Superior Court of
3 California, County of San Diego, Respondent was convicted of
4 violation of California Penal Code Sections 487(a) (GRAND THEFT),
5 a felony, a crime involving moral turpitude, and a crime which
6 is substantially related under Section 2910, Title 10, California
7 Code of Regulations to the qualifications, functions, or duties
8 of a real estate licensee.

9 IV

10 The facts alleged above constitute cause under Sections
11 490 and/or 10177(b) of the Code for suspension or revocation of
12 all license(s) and license rights of Respondent under the Real
13 Estate Law.

14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof
16 a decision be rendered imposing disciplinary action against all
17 license(s) and license rights of Respondent under the Real Estate
18 Law (Part 1 of Division 4 of the Business and Professions Code),
19 and for such other and further relief as may be proper under
20 other provisions of law.

21
22
23 
24 J. CHRIS GRAVES
25 Deputy Real Estate Commissioner

26 Dated at San Diego, California,
27 this 4th day of April, 2005.