

FILED
NOV - 3 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Gini

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

ROBERT BENJAMIN KIRKLAND, IV,

Respondent

)
) No. H- 3879 SAC
)
)
)
) **STIPULATION AND**
) **WAIVER**

I, ROBERT BENJAMIN KIRKLAND, IV, respondent herein, do hereby affirm that I have applied to the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefor.

I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on SEPTEMBER 23, 2003, in connection with my application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that she may in her discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

3 I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and
4 request that the Real Estate Commissioner in her discretion issue a restricted real estate salesperson license
5 to me under the authority of Section 10156.5 of the Business and Professions Code. I understand that any
6 such restricted license will be issued subject to and be limited by Section 10153.4 of the Business and
7 Professions Code.

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

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

- 15 1. The license shall not confer any property right in the privileges to be exercised including the
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
17 to exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until two years have elapsed from the date of issuance of the restricted license to respondent.
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- 1 3. With the application for license, or with the application for transfer to a new employing broker, I
2 shall submit a statement signed by the prospective employing broker on a form approved by the
3 Department of Real Estate wherein the employing broker shall certify as follows:
- 4 a. That broker has read the Statement of Issues which is the basis for the issuance of the
5 restricted license; and
- 6 b. That broker will carefully review all transaction documents prepared by the restricted
7 licensee and otherwise exercise close supervision over the licensee's performance of acts
8 for which a license is required.
- 9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18)
11 months of the issuance of the restricted license, to submit evidence satisfactory to the
12 Commissioner of successful completion, at an accredited institution, of two of the courses listed
13 in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,
14 advanced real estate finance, or advanced real estate appraisal. If I fail to timely present to the
15 Department satisfactory evidence of successful completion of the two required courses, the
16 restricted license shall be automatically suspended effective eighteen (18) months after the date
17 of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted
18 license, I have submitted the required evidence of course completion and the Commissioner has
19 given written notice to me of the lifting of the suspension.
- 20 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license
21 under Section 10153.4, I shall not be entitled to renew the restricted license, and shall not be
22 entitled to the issuance of another license which is subject to Section 10153.4 until four years
23 after the date of the issuance of the preceding restricted license.

24 DATED this 24TH day of OCTOBER, 2003.

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26 
27 ROBERT BENJAMIN KIRKLAND, IV
, Respondent

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

5 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
6 respondent ROBERT BENJAMIN KIRKLAND, IV if respondent has otherwise fulfilled all of the statutory
7 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in
8 the foregoing Stipulation and Waiver.

9 This Order is effective immediately.

10 DATED this 30th day of OCTOBER, 2003

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13 Paula Reddish Zinnemann
14 Real Estate Commissioner
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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 -or- (916) 227-0788 (Direct)

FILED
OCT 21 2003

DEPARTMENT OF REAL ESTATE

By *Amiel J. [Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 ROBERT BENJAMIN KIRKLAND, IV,)
13 Respondent.)

No. H-3879 SAC

FIRST AMENDED
STATEMENT OF ISSUES

14
15 The Complainant, Steven J. Ellis, a Deputy Real Estate
16 Commissioner of the State of California, for First Amended
17 Statement of Issues against ROBERT BENJAMIN KIRKLAND, IV
18 (hereinafter "Respondent"), also known as Robert B. Kirkland,
19 alleges as follows:

20 I

21 Complainant, Steven J. Ellis, a Deputy Real Estate
22 Commissioner of the State of California, makes this Statement of
23 Issues in his official capacity.

24 II

25 On or about June 25, 2003, Respondent made application
26 (hereinafter "the current application") to the Department of
27 Real Estate of the State of California (hereinafter "the

1 Department") for a real estate salesperson license with the
2 knowledge and understanding that any license issued as a result
3 of said application would be subject to the conditions of
4 Section 10153.4 of the California Business and Professions Code
5 (hereinafter "the Code").

6 III

7 On or about January 30, 2001, Respondent made
8 application (hereinafter "the initial application") to the
9 Department for a real estate salesperson license.

10 IV

11 In response to Question 25 of said application, to
12 wit: "Have you ever been convicted of any violation of law?
13 Convictions expunged under Penal Code Section 1203.4 must be
14 disclosed. However, you may omit minor traffic citations which
15 do not constitute a misdemeanor or felony offense", Respondent
16 answered "No", thereby concealing and failing to disclose the
17 conviction described in Paragraph V, below.

18 V

19 On or about March 4, 1999, in the Superior Court of
20 the State of California, County of Orange, Respondent was
21 convicted of the crime of False Identification To Police Officer
22 in violation of Penal Code Section 148.9(a), a misdemeanor and a
23 crime involving moral turpitude which bears a substantial
24 relationship under Section 2910, Title 10, California Code of
25 Regulations (herein "the Regulations"), to the qualifications,
26 functions or duties of a real estate licensee.

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1 VI

2 In failing to reveal the conviction described in
3 Paragraph V, above, in the initial application, Respondent
4 attempted to procure a real estate license by fraud,
5 misrepresentation, or deceit, or by making a material
6 misstatement of fact in said application.

7 VII

8 Respondent's failure to reveal the conviction
9 described in Paragraph V, above, in the initial application
10 constitutes cause for denial of the current application for a
11 real estate license under Sections 480(c) and 10177(a) of the
12 California Business and Professions Code (hereinafter "the
13 Code").

14 VIII

15 Respondent's criminal conviction described in
16 Paragraph V, above, constitutes cause for denial of Respondent's
17 current application for a real estate license under Sections
18 480(a) and 10177(b) of the Code.

19 PRIOR ADMINISTRATIVE PROCEEDINGS

20 Effective January 4, 2002, in Case No. H-29280 LA
21 before the Department, Respondent's initial application for a
22 real estate salesperson license described in Paragraphs III and
23 IV, above, was denied by the Real Estate Commissioner pursuant
24 to the provisions of Section 11520 of the Government Code.

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

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8 
9 STEVEN J. ELLIS
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 2nd day of October, 2003.

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 -or- (916) 227-0788 (Direct)

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DEPARTMENT OF REAL ESTATE

By Laurie A. Zier

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 ROBERT BENJAMIN KIRKLAND, IV,) No. H-3879 SAC
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, Steven J. Ellis, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against ROBERT BENJAMIN KIRKLAND, IV (hereinafter "Respondent"),
18 also known as Robert B. Kirkland, alleges as follows:

19 I

20 Complainant, Steven J. Ellis, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

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25 (hereinafter "the current application") to the Department of
26 Real Estate of the State of California (hereinafter "the
27 Department") for a real estate salesperson license with the

1 knowledge and understanding that any license issued as a result
2 of said application would be subject to the conditions of
3 Section 10153.4 of the California Business and Professions Code
4 (hereinafter "the Code").

5 III

6 On or about January 30, 2001, Respondent made
7 application (hereinafter "the initial application") to the
8 Department for a real estate salesperson license.

9 IV

10 In response to Question 25 of the initial application,
11 to wit: "Have you ever been convicted of any violation of law?
12 You may omit convictions for drunk driving, reckless driving,
13 and minor traffic citations which do not constitute a
14 misdemeanor or felony offense." Respondent answered "No",
15 thereby concealing and failing to disclose the conviction
16 described in Paragraph V, below.

17 V

18 On or about March 4, 1999, in the Superior Court of
19 the State of California, County of Orange, Respondent was
20 convicted of the crime of False Identification To Police Officer
21 in violation of Penal Code Section 148.9(a), a misdemeanor and a
22 crime involving moral turpitude which bears a substantial
23 relationship under Section 2910, Title 10, California Code of
24 Regulations (herein "the Regulations"), to the qualifications,
25 functions or duties of a real estate licensee.

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4 attempted to procure a real estate license by fraud,
5 misrepresentation, or deceit, or by making a material
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10 constitutes cause for denial of the current application for a
11 real estate license under Sections 480(c) and 10177(a) of the
12 California Business and Professions Code (hereinafter "the
13 Code").

14 VIII

15 Respondent's criminal conviction described in
16 Paragraph V, above, constitutes cause for denial of Respondent's
17 current application for a real estate license under Sections
18 480(a) and 10177(b) of the Code.

19 PRIOR ADMINISTRATIVE PROCEEDINGS

20 Effective January 4, 2002, in Case No. H-29280 LA
21 before the Department, Respondent's initial application for a
22 real estate salesperson license described in Paragraphs III and
23 IV, above, was denied by the Real Estate Commissioner pursuant
24 to the provisions of Section 11520 of the Government Code.

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

7
8 
9 STEVEN J. ELLIS
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 19th day of September, 2003.