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AUG 11 2004

DEPARTMENT OF REAL ESTATE

By *Juan Hernandez*

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

In the Matter of the Accusation of ) No. H-6748 SF  
ERIC BERNARD LEVIN, )  
Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 20, 1993, a Decision was rendered herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on February 11, 1993 and Respondent has operated as a restricted licensee since that time.

On July 29, 2002, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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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  
6 salesperson license and that it would not be against the public  
7 interest to 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 salesperson license be issued to Respondent if Respondent  
11 satisfies the following conditions within nine months from the  
12 date of this Order:

- 13 1. Submittal of a completed application and payment of  
14 the fee for a real estate salesperson 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: August 6, 2004

23 JOHN. R. LIBERATOR  
24 Acting Real Estate Commissioner

25 John R. Liberator  
26

27



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of ) NO. H-6748 SF  
ERIC BERNARD LEVIN, ) OAH NO. N 41682.  
Respondent. )

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PROPOSED DECISION

Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings, State of California, heard this matter in San Francisco, California, on December 15, 1992. Complainant was represented by Larry A. Alamao, Attorney in Charge. Respondent was present and was represented by Michael R. Hallinan, Attorney at Law.

FINDINGS OF FACT

I

The accusation herein was made by Edward V. Chiolo in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Respondent is presently licensed and has license rights as a real estate salesperson.

III

On November 16, 1990, in the Municipal Court of California, County of San Diego, San Diego Judicial District, respondent pleaded guilty to violating Section 11352 of the Health and Safety Code (sell/furnish controlled narcotic substance), a felony involving moral turpitude, which is substantially related to the qualifications, functions and duties of a real estate salesperson. He was thereafter sentenced to three years in prison, of which he served one and one-half years. He is on parole until approximately August 1993.

IV

According to respondent, the facts and circumstances resulting in his conviction were that he arranged a meeting between an acquaintance who was offering to sell 100 pounds of marijuana and another acquaintance whom respondent told about the marijuana and who expressed an interest in buying it. Unbeknownst to respondent at the time, the first acquaintance was working a sting operation for the authorities.

V

Respondent asserts that he was not to receive anything for arranging the meeting that resulted in his conviction. He is 48 years old and has apparently led an otherwise law-abiding life. Since his release from prison approximately four months ago, he has been supporting himself, his wife and his son by working as a salesperson at a winery. He is eager, however, to return to the real estate business. The broker for whom he worked before his imprisonment thinks highly of him, as do others who wrote letters on his behalf. Given the fact that his offense did not involve an activity for which a real estate license is required, his licensure on a restricted basis would pose no foreseeable danger to the consuming public.

DETERMINATION OF ISSUES

The facts set forth in Finding III constitute cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of respondent's license and license rights. The facts set forth in Finding V make the following order appropriate.

ORDER

All licenses and licensing rights of respondent Eric Bernard Levin under the Real Estate Law are revoked; provided, however, that a restricted real estate salesperson's license shall be issued to him pursuant to Section 10156.5 of the Business and Professions Code if he makes application and pays to the Department of Real Estate the appropriate fee therefor within ninety (90) days from the effective date of this decision. The restricted license shall be subject to all of the provisions of Section 10156.5 and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said code:

1. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner

in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated any provision of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.
3. Respondent shall submit with any application for a license under an employing real estate broker, or any application for transfer to a new employing broker, a statement signed by the employing broker which shall certify:
  - (a) That the employing broker has read the decision of the Real Estate Commissioner which granted the right to a restricted license; and
  - (b) That the employing broker will exercise close supervision over the performance by respondent of activities for which a real estate license is required.
4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three (3) years have elapsed from the effective date of this decision.
5. Respondent shall, within six (6) months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent presents such evidence.

The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: 23 Dec. 92



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JERRY MITCHELL  
Administrative Law Judge  
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Maria J. [Signature]

In the Matter of the Accusation of

ERIC BERNARD LEVIN,

Case No. H-6748 SF

OAH No. N-41682

Respondent

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 \_\_\_\_\_  
OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,  
455 Golden Gate Avenue, Room 2248, S.F., CA 94102

on December 15, 1992, at the hour of 9:00 a.m.,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: November 5, 1992

By David B. Seals  
DAVID B. SEALS, *mQ* Counsel



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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

OCT 30 1992

DEPARTMENT OF REAL ESTATE

By Maria J. [Signature]

In the Matter of the Accusation of

ERIC BERNARD LEVIN,

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Case No. H-6748 SF

OAH No. N-41682

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 \_\_\_\_\_

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, S.F., CA 94102

on December 30, 1992, at the hour of 9:30 am,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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.

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DEPARTMENT OF REAL ESTATE

Dated: October 30, 1992

By David B. Seals  
DAVID B. SEALS, MC Counsel

*Seals*

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JUL 0 1 1992

1 DAVID B. SEALS, Counsel  
2 Department of Real Estate  
3 185 Berry Street, Room 3400  
4 San Francisco, CA 94107-1770

DEPARTMENT OF REAL ESTATE

By *Maria Quilley*

4 Telephone: (415) 904-5917

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )	)	
ERIC BERNARD LEVIN )	)	NO. H-6748 SF
aka ERIC B. LEVIN )	)	
aka ERIC LEVIN, )	)	ACCUSATION
Respondent. )	)	

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ERIC BERNARD LEVIN aka ERIC B. LEVIN aka ERIC LEVIN (hereinafter Respondent), is informed and alleges as follows:

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

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1 II

2 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate  
3 Commissioner of the State of California, makes this Accusation  
4 against Respondent in his official capacity and not otherwise.

5 III

6 On or about November 16, 1990, in the Superior Court of  
7 California, County of San Diego, Respondent was convicted of  
8 violation of Section 11352 of the California Health and Safety  
9 Code (Transportation and Offer to Sell Cocaine), a felony and a  
10 crime involving moral turpitude which is substantially related  
11 under Section 2910, Title 10, California Code of Regulations to  
12 the qualifications, functions or duties of a real estate licensee.

13 IV

14 The facts in Paragraph III alleged above constitute  
15 cause under Sections 490 and 10177(b) of the Code for suspension  
16 or revocation of all licenses and license rights of Respondent  
17 under the Real Estate Law.

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

25 *Edward V. Chiolo*  
26 \_\_\_\_\_  
EDWARD V. CHIOLO  
Deputy Real Estate Commissioner

27 Dated at San Francisco, California  
this 30<sup>th</sup> day of JUNE, 19 92.