

FILED
MAY 20 2003

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID ALBERT LEVY,) NO. H-7389 SF
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 14, 1997, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on May 22, 1997.

On September 14, 2001, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to

1 my satisfaction that Respondent meets the requirements of law for
2 the issuance to Respondent of an unrestricted real estate broker
3 license and that it would not be against the public interest to
4 issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's
6 petition for reinstatement is granted and that a real estate
7 broker license be issued to Respondent, if Respondent satisfies
8 the following conditions within nine months from the date of
9 this Order:

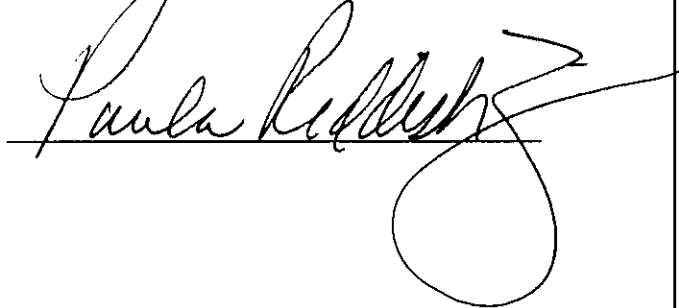
10 1. Submittal of a completed application and payment
11 of the fee for a real estate broker license.

12 2. Submittal of evidence of having, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license.

17 This Order shall be effective immediately.

18 DATED: April 18, 2003.
19

20 PAULA REDDISH ZINNEMANN
21 Real Estate Commissioner

22 
23
24
25
26
27

FILED
OCT 08 1999

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
DAVID ALBERT LEVY,)
Respondent..)

NO. H-7389 SF

ORDER VACATING ORDER OF SUSPENSION

An ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE in Case No. H-7710 SF was filed on May 13, 1999, against Respondent DAVID ALBERT LEVY upon the filing, on May 13, 1999, of the Accusation in said case.

Good cause appearing therefor, the ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE is hereby vacated.

IT IS SO ORDERED this 30th day of September, 1999.

John R. Liberator
Acting Real Estate Commissioner

John R. Liberator

1 Department of Real Estate
P. O. Box 187000
2 Sacramento, CA 95818-7000
3 Telephone: (916) 227-0789
4
5
6
7

FILED
MAY 13 1999

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-7389 SF
12 DAVID ALBERT LEVY,)
13 Respondent.)
14

15 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: DAVID ALBERT LEVY

17 On March 4, 1997, a restricted real estate broker
18 license was issued by the Department of Real Estate to
19 Respondent DAVID ALBERT LEVY on the terms, conditions and
20 restrictions set forth in the Real Estate Commissioner's
21 Decision of May 22, 1997, in Case No. H-7389 SF. This Decision
22 granted the right to the issuance of a restricted real estate
23 broker license subject to the provisions of Section 10156.7 of
24 the Business and Professions Code and to enumerated additional
25 terms, conditions and restrictions imposed under authority of
26 Section 10156.6 of said Code.

27 ///

1 Included in said terms, conditions and restrictions
2 was the following:

3 "E. Respondent shall make payments to Oscar Koolpe and
4 Gary Koolpe in the amount of \$202.00 per month in forty-one (41)
5 equal installments and (1) final installment of \$218.00 for a
6 total amount of \$8,500.00 pursuant to the terms and conditions of
7 the Judgment on Stipulation that Debt is Nondischargeable Under 11
8 U.S.C. Section 523(a)(6), United States Bankruptcy Court for the
9 Northern District of California, Bankruptcy No. 95-33424,
10 Adversary No. 96-32-52 DM1, dated October 29, 1996. If Respondent
11 pays Oscar Koolpe and Gary Koolpe in full pursuant to above
12 referenced Judgment on Stipulation within a two (2) year period
13 from the issuance of the restricted license, Respondent may apply
14 for an unrestricted real estate license or for the removal of any
15 conditions, limitations or restrictions attaching to the
16 restricted license after two (2) years have elapsed from the date
17 of issuance of a restricted license to Respondent notwithstanding
18 Paragraph (2) herein above."

19 Respondent has failed to satisfy the condition described
20 above in that he has not paid to Oscar and Gary Koolpe the monthly
21 payments in the amount of \$202.00 for the months of January and
22 March, 1999.

23 NOW, THEREFORE, IT IS ORDERED under authority of
24 Section 10156.7 of the Business and Professions Code of the
25 State of California that the restricted real estate broker
26 license heretofore issued to Respondent, and the exercise of any
27 privileges thereunder, is hereby suspended until Respondent

1 provides evidence satisfactory to the Commissioner that
2 Respondent has complied with the condition described above.

3 IT IS FURTHER ORDERED that all license certificates
4 and identification cards issued by the Department which are in
5 possession of Respondent be immediately surrendered by personal
6 delivery or by mailing in the enclosed, self-addressed envelope
7 to:

8 Department of Real Estate
9 Attn: Flag Section
10 P. O. Box 187000
11 Sacramento, CA 95818-7000

12 HEARING RIGHTS: Pursuant to the provisions of Section
13 10156.7 of the Business and Professions Code, you have the right
14 to a hearing to contest the Commissioner's determination that
15 you are in violation of Section 10177(k). If you desire a
16 hearing, you must submit a written request. The request may be
17 in any form, as long as it is in writing and indicates that you
18 want a hearing. Unless a written request for a hearing, signed
19 by or on behalf of you, is delivered or mailed to the Department
20 at:

21 Department of Real Estate
22 Attn: David A. Peters, Legal Section
23 P. O. Box 187000
24 Sacramento, CA 95818-7000

25 within 20 days after the date that this Order was mailed to or
26 served on you, the Department will not be obligated or required
27 to provide you with a hearing.

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

This Order shall be effective immediately.

IT IS SO ORDERED May 4, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
MAY - 2 1997
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	NO. H-7389 SF
12)	
13 DAVID ALBERT LEVY,)	OAH NO. N-9610001
14)	
15 Respondent.)	<u>STIPULATION AND</u>
	<u>AGREEMENT IN</u>
	<u>SETTLEMENT AND ORDER</u>

16 It is hereby stipulated by and between DAVID ALBERT LEVY
17 (hereinafter "Respondent"), and the Complainant, acting by and
18 through David A. Peters, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the Accusation filed on September 10, 1996, 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 Procedure Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement in Settlement.

H-7389 SF

- 1 -

STIPULATION OF
DAVID ALBERT LEVY

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

5 3. On September 19, 1996, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that he will waive
14 other rights afforded to her in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

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

22 5. It is understood by the parties that the Real
23 Estate Commissioner may adopt the Stipulation and Agreement as his
24 decision in this matter thereby imposing the penalty and sanctions
25 of Respondent's real estate license and license rights as set
26 forth in the below "Order". In the event that the Commissioner in
27 his discretion does not adopt the Stipulation and Agreement in

1 Settlement, it shall be void and of no effect, and Respondent
2 shall retain the right to a hearing and proceeding on the
3 Accusation under all the provisions of the APA and shall not be
4 bound by any admission or waiver made herein.

5 6. The Order or any subsequent Order of the Real
6 Estate Commissioner made pursuant to this Stipulation and
7 Agreement in Settlement shall not constitute an estoppel, merger
8 or bar to any further administrative or civil proceedings by the
9 Department of Real Estate with respect to any matters which were
10 not specifically alleged to be causes for accusation in this
11 proceeding.

12 7. Respondent has received, read and understands the
13 "Notice Concerning Costs of Subsequent Audits". Respondent
14 understands that by agreeing to this Stipulation and Agreement in
15 Settlement, the findings set forth below in the Determination of
16 Issues become final, and that the Commissioner may charge
17 Respondent for the costs of any audit conducted pursuant to
18 Section 10148 of the Business and Professions Code to determine if
19 the violations have been corrected. The maximum costs of said
20 audit will not exceed \$3,440.25.

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations, admissions and
23 waivers and solely for the purpose of settlement of the pending
24 Accusation without hearing, it is stipulated and agreed that the
25 following Determination of Issues shall be made:

26 ///

27 ///

I

The acts and/or omissions of Respondent as described in Paragraphs V through IX of the Accusation, violate Sections 10176(i) and 10176(e) of the Business and Professions Code and Section 10177(d) of the Business and Professions Code in conjunction with Section 10145 of the Business and Professions Code and Sections 2830, 2831 and 2832 of Title 10, California Code of Regulations and are grounds for the suspension or revocation of the real estate license and all license rights of Respondent under the provisions of the Real Estate Law.

ORDER

I

A. The real estate broker license and all license rights of Respondent under the Real Estate Law are revoked.

B. A restricted real estate broker license shall be issued to Respondent pursuant to Business and Professions Code Section 10156.5, if Respondent makes application therefor and pays to the Department the appropriate fee for said license within ninety (90) days from the effective date of this Order.

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

///

///

///

1 (1) The license shall not confer any property right in
2 the privileges to be exercised, and the Real Estate
3 Commissioner may, be appropriate order suspend the
4 right to exercise any privileges granted under the
5 restricted license in the event of:

6 (a) The conviction of Respondent (including a plea
7 of nolo contendere) to a crime which bears a
8 significant relation to Respondent's fitness
9 or capacity as a real estate licensee; or,

10 (b) The receipt of evidence that Respondent has
11 violated provisions of the California Real
12 Estate Law, Subdivided Lands Law, Regulations
13 of the Real Estate Commissioner or conditions
14 attaching to the restricted license.

15 (2) Respondent shall not be eligible to apply for
16 issuance of an unrestricted real estate license nor
17 removal of any of the conditions, limitations or
18 restrictions attaching to the restricted license
19 until three (3) years have elapsed from the date of
20 issuance of a restricted license to Respondent.

21 D. Respondent shall, within six (6) months from the
22 effective date of the restricted license, take and pass the
23 Professional Responsibility Examination administered by the
24 Department including the payment of the appropriate examination
25 fee. If Respondent fails to satisfy this condition, the
26 Commissioner may order the suspension of the restricted license
27 until Respondent passes the examination.

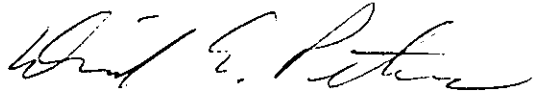
1 E. Respondent shall make payments to Oscar Koolpe and
2 Gary Koolpe in the amount of \$202.00 per month in forty-one (41)
3 equal installments and one (1) final installment of \$218.00 for a
4 total amount of \$8,500.00 pursuant to the terms and conditions of
5 the Judgment on Stipulation that Debt is Nondischargeable Under 11
6 U.S.C. Section 523(a)(6), United States Bankruptcy Court for the
7 Northern District of California, Bankruptcy No. 95-33424,
8 Adversary No. 96-32-52 DML, dated October 29, 1996. If Respondent
9 pays Oscar Koolpe and Gary Koolpe in full pursuant to above
10 referenced Judgment on Stipulation within a two (2) year period
11 from the issuance of the restricted license, Respondent may apply
12 for an unrestricted real estate license or for the removal of any
13 conditions, limitations or restrictions attaching to the
14 restricted license after two (2) years have elapsed from the date
15 of issuance of a restricted license to Respondent notwithstanding
16 Paragraph (2) herein above.

17 F. Pursuant to Section 10148 of the Business and
18 Professions Code, Respondent shall pay the Commissioner's
19 reasonable cost for an audit to determine if Respondent has
20 corrected the trust fund violations found in Paragraph I of the
21 Determination of Issues. In calculating the amount of the
22 Commissioner's reasonable cost, the Commissioner may use the
23 estimated average hourly salary for all persons performing audits
24 of real estate brokers, and shall include an allocation for travel
25 time to and from the auditor's place of work. Respondent shall
26 pay such cost within forty-five (45) days of receiving an invoice
27 from the Commissioner detailing the activities performed during

1 the audit and the amount of time spent performing those
2 activities. The Commissioner may suspend the restricted license
3 issued to Respondent pending a hearing held in accordance with
4 Section 11500, et seq., of the Government Code, if payment is not
5 timely made as provided for herein, or as provided for in a
6 subsequent agreement between the Respondent and the Commissioner.
7 The suspension shall remain in effect until payment is made in
8 full or until Respondent enters into an agreement satisfactory to
9 the Commissioner to provide for payment, or until a decision
10 providing otherwise is adopted following a hearing held pursuant
11 to this condition.

12 G. Any restricted real estate broker license issued to
13 Respondent may be suspended or revoked for a violation by
14 Respondent of any of the conditions attaching to the restricted
15 license.

16 3/14/97
17 _____
18 DATED

19 
20 _____
21 DAVID A. PETERS, Counsel
22 DEPARTMENT OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement, and its terms
25 are understood by me and are agreeable and acceptable to me. I
26 understand that I am waiving rights given to me by the California
27 Administrative Procedure Act (including but not limited to
Sections 11506, 11508, 11509, and 11513 of the Government Code),
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

1 have the right to cross-examine witnesses against me and to
2 present evidence in defense and mitigation of the charges.

3 March 20, 1997

4 DATED

5 DAVID ALBERT LEVY
Respondent

6 * * *

7 The foregoing Stipulation and Agreement for Settlement
8 is hereby adopted by the Real Estate Commissioner as Decision and
9 Order and shall become effective at 12 o'clock noon on

10 May 22, 1997.

11 IT IS SO ORDERED 4/14/97, 1997.

12 JIM ANTT, JR.
Real Estate Commissioner

13 J. Antt Jr.
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
OCT 11 1996

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Lucille A. Zinn

In the Matter of the Accusation of

DAVID ALBERT LEVY,

Case No. H-7389 SF

OAH No. N-9610001

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, World Savings Tower, 1970 Broadway,
Second Floor, OAKLAND, CA 94612

on Friday, March 14th, 1997, at the hour of 9:00 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.

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: October 11, 1996

By

David A. Peters
DAVID A. PETERS
Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
SEP 10 1996

DEPARTMENT OF REAL ESTATE

Laurie A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DAVID ALBERT LEVY,)
13 Respondent.)

No. H-7389 SF

ACCUSATION

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against DAVID ALBERT LEVY (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 The Complainant, Les R. Bettencourt, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

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



III

Within the three-year period immediately preceding the filing of this Accusation, Respondent for, or in expectation of a compensation and acting on behalf of another or others, solicited prospective tenants for, collected rents from and otherwise managed a real property owned by Oscar B. Koolpe and Gary Koolpe commonly known as 124-126-128 Fillmore Street, San Francisco, California.

IV

During the course of the property management activities described in Paragraph III above, Respondent received and disbursed funds held in trust on behalf of another or others.

V

Beginning on or before July 1, 1994 and continuing through on or about December 31, 1995, Respondent maintained the following trust fund account:

ACCOUNT NO. & TITLE

BANK

No. 02994-16853	Bank of America
David A. Levy	San Francisco, CA
David A. Levy & Co.	
(hereinafter "Trust Fund Account")	

The Trust Fund Account was not in the name of Respondent as trustee at a bank or other financial institution as required by Section 2830 of Title 10, California Code of Regulations (hereinafter "Regulations").

VI

In connection with the collection and disbursement of trust funds described in Paragraph IV above, Respondent failed to deposit and maintain said trust funds in the Trust Fund Account in

1 such manner that as of March 31, 1995, there was a shortage of
2 \$9,061.94 of trust funds.

3 VII

4 In connection with the collection and disbursement of
5 trust funds described in Paragraph IV above, Respondent failed to
6 maintain adequate columnar records of all trust funds received and
7 disbursed in the manner required by Section 2831 of Title 10,
8 California Code of Regulations (hereinafter "Regulations").

9 VIII

10 In connection with the collection and disbursement of
11 trust funds described in Paragraph IV above, Respondent commingled
12 with his own money or property the money or property of others
13 which was received and held by Respondent.

14 IX

15 In connection with the collection and disbursement of
16 trust funds described in Paragraph IV above, Respondent converted
17 trust funds to his own use or uses or for purposes not authorized
18 by the owner of said funds. The total amount of said converted
19 trust funds is unknown to the Complainant, but is well known to
20 Respondent and is not less than \$6,000.00.

21 X

22 The acts and/or omissions of Respondent described above,
23 are grounds for the suspension or revocation of all licenses
24 and/or license rights of Respondent under the following sections
25 of the Code and Regulations:

26 (1) As to Paragraph V under Section 10177(d) of the
27 Code in conjunction with Section 2830 of the Regulations;



1 (2) As to Paragraph VI under Section 10177(d) of the
2 Code in conjunction with Section 10145 of the Code and Sections
3 2830 and 2832 of the Regulations;

4 (3) As to Paragraph VII under Section 10177(d) of the
5 Code in conjunction with Section 2831 of the Regulations;

6 (4) As to Paragraph VIII under Section 10176(e) of the
7 Code; and

8 (5) As to Paragraph IX under Section 10176(i) of the
9 Code or in the alternative under Section 10177(j) of the Code.

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

17 
18 LES R. BETTENCOURT
19 Deputy Real Estate Commissioner

20 Dated at San Francisco, California,
21 this 28th day of August, 1996.