

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

FILED
JUN 24 1998
DEPARTMENT OF REAL ESTATE

Laurie A. Zain

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11) NO. H-7568 SF
12) STIPULATION AND AGREEMENT
13) Respondent.)
14)

15 It is hereby stipulated by and between Respondent
16 FREDERIC E. BOOKEY (hereinafter "Respondent") and the Complainant,
17 acting by and through James L. Beaver, Counsel for the Department
18 of Real Estate, as follows for the purpose of settling and
19 disposing of the Accusation filed on April 13, 1998 in this matter
20 (hereinafter "the Accusation"):

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.

///

H-7568 SF

STIPULATION OF
FREDERIC E. BOOKEY

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 April 27, 1998, 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 Notices of Defense. Respondent acknowledges that Respondent
10 understands that by withdrawing said Notices of Defense Respondent
11 will thereby waive Respondent's right to require the Commissioner
12 to prove the allegations in the Accusation at a contested hearing
13 held in accordance with the provisions of the APA and that
14 Respondent will waive other rights afforded to Respondent in
15 connection with the hearing such as the right to present evidence
16 in defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

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

23 5. It is understood by the parties that the Real
24 Estate Commissioner may adopt the Stipulation and Agreement as his
25 decision in this matter, thereby imposing the penalty and
26 sanctions on Respondent's real estate license and license rights
27 as set forth in the "Order" set forth below. In the event that

1 Accusation without hearing, it is stipulated and agreed that the
2 following Determination of Issues shall be made:

3 I

4 The facts described in Paragraph III of the Accusation
5 constitute cause under Sections 490 and 10177(b) of the California
6 Business and Professions Code for suspension or revocation of all
7 licenses and license rights of Respondent FREDERIC E. BOOKEY under
8 the Real Estate Law.

9 ORDER

10 I

11 A. All licenses and licensing rights of Respondent
12 FREDERIC E. BOOKEY under the Real Estate Law are revoked;
13 provided, however, a restricted real estate broker license shall
14 be issued to said Respondent pursuant to Section 10156.5 of the
15 Business and Professions Code if, within 90 days from the
16 effective date of the Decision entered pursuant to this Order,
17 Respondent makes application for the restricted license and pays
18 to the Department of Real Estate the appropriate fee therefor.

19 B. The restricted license issued to Respondent shall
20 be subject to all of the provisions of Section 10156.7 of the
21 Business and Professions Code and to the following limitations,
22 conditions and restrictions imposed under authority of Section
23 10156.6 of that Code:

24 1. The restricted license issued to Respondent may be
25 suspended prior to hearing by Order of the Real Estate
26 Commissioner in the event of Respondent's conviction or plea of
27 ///

1 nolo contendere to a crime which is substantially related to
2 Respondent's fitness or capacity as a real estate licensee.

3 2. The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner on evidence satisfactory to the Commissioner that
6 Respondent has violated provisions of the California Real Estate
7 Law, the Subdivided Lands Law, Regulations of the Real Estate
8 Commissioner or conditions attaching to the restricted license.

9 3. Respondent shall not be eligible to apply for the
10 issuance of an unrestricted real estate license nor for the
11 removal of any of the conditions, limitations or restrictions of a
12 restricted license until two (2) years has elapsed from the
13 effective date of this Decision.

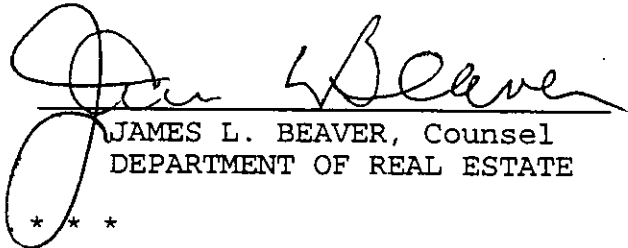
14 4. Respondent shall, within nine (9) months from the
15 effective date of the Decision, present evidence satisfactory to
16 the Real Estate Commissioner that Respondent has, since the most
17 recent issuance of an original or renewal real estate license,
18 taken and successfully completed the continuing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

26 5. Respondent shall, within six (6) months from the
27 issuance of the restricted license, take and pass the Professional

1 Responsibility Examination administered by the Department
2 including the payment of the appropriate examination fee. If
3 Respondent fails to satisfy this condition, the Commissioner may
4 order the suspension of the restricted license until Respondent
5 passes the examination.


6 6. Any restricted real estate broker license issued to
7 Respondent may be suspended or revoked for a violation by
8 Respondent of any of the conditions attaching to the restricted
9 license.

10
11 May 28, 1998
12 DATED

13 
14 JAMES L. BEAVER, Counsel
15 DEPARTMENT OF REAL ESTATE
16 * * *

17 I have read the Stipulation and Agreement, and its
18 terms are understood by me and are agreeable and acceptable to
19 me. I understand that I am waiving rights given to me by the
20 California Administrative Procedure Act (including but not
21 limited to Sections 11506, 11508, 11509, and 11513 of the
22 Government Code), and I willingly, intelligently, and voluntarily
23 waive those rights, including the right of requiring the
24 Commissioner to prove the allegations in the Accusation at a
25 hearing at which I would have the right to cross-examine
26 witnesses against me and to present evidence in defense and
27 mitigation of the charges.

28 5-19-98
29 DATED

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31 FREDERIC E. BOOKEY
32 Respondent

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The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
July 14, 1998.

IT IS SO ORDERED 6/15/, 1998.

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Lucie A. Zan

In the Matter of the Accusation of

FREDERIC E. BOOKEY,

}

Case No. H-7568 SF

OAH No. _____

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 Wednesday, June 10th, 1998, at the hour of 1:30 PM,
or as soon thereafter as the matter can be heard, upon the Accusation 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.

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: May 7, 1998

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

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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FILED
APR 13 1998
DEPARTMENT OF REAL ESTATE

Laurie A. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 FREDERIC E. BOOKEY,)
13 Respondent.)
14 _____)

NO. H-7568 SF

ACCUSATION

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

19 I

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

24 II

25 The Complainant, Les R. Bettencourt, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity.



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III

On or about December 9, 1996, in the Municipal Court of the State of California, County of Santa Clara, Santa Clara Judicial District, Respondent was convicted of the crime of PETTY THEFT, in violation of Penal Code Section 484 in conjunction with Penal Code Section 488, 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

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

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


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 1st day of April, 1998.

