

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
APR 12 2002

DEPARTMENT OF REAL ESTATE

By Lucie L. Zui

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

12 In the Matter of the Accusation of ) DRE No. H-7997 SF  
13 )  
14 BHMB, INC., a )  
15 California Corporation, ) STIPULATION AND AGREEMENT  
16 and JACK LEON LEBEAU, )  
Respondents. )

17 It is hereby stipulated by and between Respondents  
18 BHMB, INC., a California corporation, and JACK LEON LEBEAU  
19 (hereinafter "Respondents"), individually and by and through  
20 Stephen W. Thomas, Esq., attorney of record herein for  
21 Respondents, and the Complainant, acting by and through James L.  
22 Beaver, Counsel for the Department of Real Estate (herein "the  
23 Department"), as follows for the purpose of settling and  
24 disposing of the Accusation filed on September 4, 2001 in this  
25 matter (herein "the Accusation"):

26 DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in this proceeding.

3. On September 17, 2001, Respondents filed Notices of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents each hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that Respondents understand that by withdrawing said Notice of Defense Respondents will thereby waive Respondents' right to require the Real Estate Commissioner (herein "the Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other rights afforded to Respondents in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

1                   4.    This Stipulation is based on the factual  
2   allegations contained in the Accusation. In the interests of  
3   expediency and economy, Respondents choose not to contest these  
4   allegations, but to remain silent and understand that, as a  
5   result thereof, these factual allegations, without being admitted  
6   or denied, will serve as a prima facie basis for the disciplinary  
7   action stipulated to herein. The Real Estate Commissioner shall  
8   not be required to provide further evidence to prove said factual  
9   allegations.

10                   5.   It is understood by the parties that the  
11   Commissioner may adopt the Stipulation and Agreement as her  
12   decision in this matter, thereby imposing the penalty and  
13   sanctions on Respondents' real estate license and license rights  
14   as set forth in the "Order" below. In the event that the  
15   Commissioner in her discretion does not adopt the Stipulation and  
16   Agreement, it shall be void and of no effect, and Respondents  
17   shall retain the right to a hearing and proceeding on the  
18   Accusation under all the provisions of the APA and shall not be  
19   bound by any admission or waiver made herein.

20                   6.   This Stipulation and Agreement shall not  
21   constitute an estoppel, merger or bar to any further  
22   administrative or civil proceedings by the Department with  
23   respect to any matters which were not specifically alleged to be  
24   causes for accusation in this proceeding.

25   ///

26   DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondents as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of such Respondents under the following provisions of the California Business and Professions Code (herein "the Code"):

(a) As to Respondents BHMB and LEBEAU under Section 10137 the Code in conjunction with Section 10177(d) of the Code;

(b) As to Respondent BHMB under Section 2731(a) of the Regulations in conjunction with Sections 10159.5 and 10177(d) of the Code; and

(c) As to Respondent LEBEAU under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

ORDER

I

All licenses and licensing rights of Respondent BHMB, INC. under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of the Decision herein; provided, however,

DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

1                   (a) If Respondent petitions, fifty (50) days of said  
2 sixty (60) day suspension (or a portion thereof) shall be stayed  
3 upon condition that:

4                   (i) Respondent pays a monetary penalty pursuant to  
5 Section 10175.2 of the Code at the rate of \$200.00 for each day  
6 of the suspension for a total monetary penalty of \$10,000.00.

7                   (ii) Said payment shall be in the form of a cashier's  
8 check or certified check made payable to the Recovery Account of  
9 the Real Estate Fund. Said check must be received by the  
10 Department prior to the effective date of the Decision in this  
11 matter.

12                   (iii) If Respondent fails to pay the monetary penalty in  
13 accordance with the terms and conditions of the Decision, the  
14 Commissioner may, without a hearing, vacate and set aside the  
15 stay order, and order the immediate execution of all or any part  
16 of the stayed suspension.

17                   (iv) No final subsequent determination be made, after  
18 hearing or upon stipulation, that cause for disciplinary action  
19 against Respondent occurred within two (2) years of the effective  
20 date of the Decision herein. Should such a determination be made,  
21 the Commissioner may, in his or her discretion, vacate and set  
22 aside the stay order, and order the execution of all or any part  
23 of the stayed suspension, in which event the Respondent shall not  
24 be entitled to any repayment nor credit, prorated or otherwise,  
25 for money paid to the Department under the terms of this  
26 Decision.

27 DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

(v) If Respondent pays the monetary penalty and if no  
further cause for disciplinary action against the real estate  
license of Respondent occurs within two (2) years from the  
effective date of the Decision herein, then the stay hereby  
granted shall become permanent.

(b) Ten (10) days of said sixty (60) day suspension  
shall be stayed upon condition that no final subsequent  
determination be made, after hearing or upon stipulation, that  
cause for disciplinary action against Respondent occurred within  
two (2) years of the effective date of the Decision herein.

(i) Should such a determination be made, the  
Commissioner may, in his or her discretion, vacate and set aside the stay order, and order the execution of all or any part of the stayed suspension, in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(ii) If no order vacating the stay is issued, and if no  
further cause for disciplinary action against the real estate  
license of Respondent occurs within two (2) years from the  
effective date of the Decision, then the stay hereby granted  
shall become permanent.

## II

All licenses and licensing rights of Respondent JACK  
LEON LEBEAU under the Real Estate Law are suspended for a period  
of sixty (60) days from the effective date of the Decision

DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

1 herein; provided, however,

2 (a) If Respondent petitions, fifty (50) days of said  
3 sixty (60) day suspension (or a portion thereof) shall be stayed  
4 upon condition that:

5 (i) Respondent pays a monetary penalty pursuant to  
6 Section 10175.2 of the Code at the rate of \$200.00 for each day  
7 of the suspension for a total monetary penalty of \$10,000.00.

8 (ii) Said payment shall be in the form of a cashier's  
9 check or certified check made payable to the Recovery Account of  
10 the Real Estate Fund. Said check must be received by the  
11 Department prior to the effective date of the Decision in this  
12 matter.

13 (iii) If Respondent fails to pay the monetary penalty in  
14 accordance with the terms and conditions of the Decision, the  
15 Commissioner may, without a hearing, vacate and set aside the  
16 stay order, and order the immediate execution of all or any part  
17 of the stayed suspension.

18 (iv) No final subsequent determination be made, after  
19 hearing or upon stipulation, that cause for disciplinary action  
20 against Respondent occurred within two (2) years of the effective  
21 date of the Decision herein. Should such a determination be made,  
22 the Commissioner may, in his or her discretion, vacate and set  
23 aside the stay order, and order the execution of all or any part  
24 of the stayed suspension, in which event the Respondent shall not  
25 be entitled to any repayment nor credit, prorated or otherwise,  
26 for money paid to the Department under the terms of this

27 DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

Decision.

(v) If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision herein, then the stay hereby granted shall become permanent.

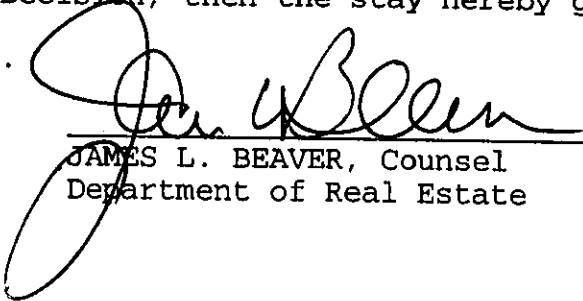
(b) Ten (10) days of said sixty (60) day suspension shall be stayed upon condition that no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent occurred within two (2) years of the effective date of the Decision herein.

(i) Should such a determination be made, the Commissioner may, in his or her discretion, vacate and set aside the stay order, and order the execution of all or any part of the stayed suspension, in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(ii) If no order vacating the stay is issued, and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision, then the stay hereby granted shall become permanent.

March 6, 2002

DATED

  
JAMES L. BEAVER, Counsel  
Department of Real Estate

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DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU



\* \* \*

I have read the Stipulation and Agreement and have discussed its terms with my attorney and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California 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 have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

2/20/2002  
DATED

BHMB INC.  
Respondent

By [Signature]  
JACK LEON LEBEAU  
Designated Officer

2/20/2002  
DATED

[Signature]  
JACK LEON LEBEAU  
Respondent

\* \* \*

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

4/27/02  
DATED

[Signature]  
STEPHEN W. THOMAS  
Attorney for Respondents

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DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

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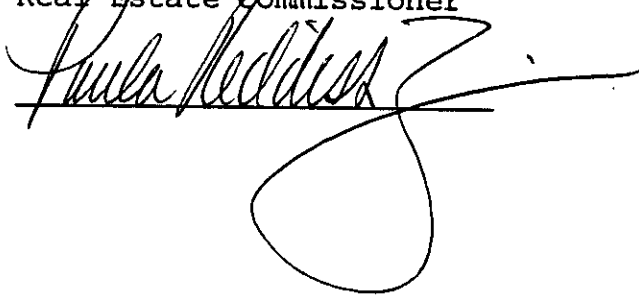
\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondents  
BHMB, INC. and JACK LEON LEBEAU and shall become effective at 12  
o'clock noon on

MAY 3, 2002.

IT IS SO ORDERED March 18, 2002.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



DRE No. H-7997 SF

BHMB, INC. and  
JACK LEON LEBEAU

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED

APR 12 2002

DEPARTMENT OF REAL ESTATE

By *Paulie A. Gini*

10 BEFORE THE DEPARTMENT OF REAL ESTATE  
11 STATE OF CALIFORNIA  
12

13 \* \* \*

14 In the Matter of the Accusation of ) DRE No. H-7997 SF  
15 URY BEARY, )  
16 Respondent. ) STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between Respondent URY  
18 BEARY (hereinafter "Respondent"), individually and by and through  
19 Maxine Monaghan, Esq., attorney of record herein for Respondent,  
20 and the Complainant, acting by and through James L. Beaver,  
21 Counsel for the Department of Real Estate (herein "the  
22 Department"), as follows for the purpose of settling and  
23 disposing of the Accusation filed on September 4, 2001 in this  
24 matter (herein "the Accusation"):

25 ///

26  
27 DRE No. H-7997 SF

URY BEARY

1           1.     All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondent  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act (APA), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement.

8           2.     Respondent has received, read and understands the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department in this proceeding.

11           3.     On September 11, 2001, Respondent filed a Notice  
12 of Defense pursuant to Section 11505 of the Government Code for  
13 the purpose of requesting a hearing on the allegations in the  
14 Accusation. Respondent hereby freely and voluntarily withdraws  
15 said Notice of Defense. Respondent acknowledges that Respondent  
16 understands that by withdrawing said Notice of Defense Respondent  
17 will thereby waive Respondent's right to require the Real Estate  
18 Commissioner (herein "the Commissioner") to prove the allegations  
19 in the Accusation at a contested hearing held in accordance with  
20 the provisions of the APA and that Respondent will waive other  
21 rights afforded to Respondent in connection with the hearing such  
22 as the right to present evidence in defense of the allegations in  
23 the Accusation and the right to cross-examine witnesses.

24           4.     This Stipulation is based on the factual  
25 allegations contained in the Accusation. In the interests of  
26 expediency and economy, Respondent chooses not to contest these

27 DRE No. H-7997 SF

URY BEARY

1 allegations, but to remain silent and understands that, as a  
2 result thereof, these factual allegations, without being admitted  
3 or denied, will serve as a prima facie basis for the disciplinary  
4 action stipulated to herein. The Real Estate Commissioner shall  
5 not be required to provide further evidence to prove said factual  
6 allegations.

7 5. It is understood by the parties that the  
8 Commissioner may adopt the Stipulation and Agreement as her  
9 decision in this matter, thereby imposing the penalty and  
10 sanctions on Respondent's real estate license and license rights  
11 as set forth in the "Order" below. In the event that the  
12 Commissioner in her discretion does not adopt the Stipulation and  
13 Agreement, it shall be void and of no effect, and Respondent  
14 shall retain the right to a hearing and proceeding on the  
15 Accusation under all the provisions of the APA and shall not be  
16 bound by any admission or waiver made herein.

17 6. This Stipulation and Agreement shall not  
18 constitute an estoppel, merger or bar to any further  
19 administrative or civil proceedings by the Department with  
20 respect to any matters which were not specifically alleged to be  
21 causes for accusation in this proceeding.

#### 22 DETERMINATION OF ISSUES

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

27 DRE No. H-7997 SF

URY BEARY

I

The acts and omissions of Respondent URY BEARY as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent URY BEARY under Section 10130 the Code in conjunction with Section 10177(d) of the Code.

ORDER

I

All licenses and licensing rights of Respondent URY BEARY under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of the Decision herein; provided, however,

(a) If Respondent petitions, fifty (50) days of said ninety (90) day suspension (or a portion thereof) shall be stayed upon condition that:

(i) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$200.00 for each day of the suspension for a total monetary penalty of \$10,000.00.

(ii) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

(iii) If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, vacate and set aside the

DRE No. H-7997 SF

URY BEARY

1 stay order, and order the immediate execution of all or any part  
2 of the stayed suspension.

3 (iv) No final subsequent determination be made, after  
4 hearing or upon stipulation, that cause for disciplinary action  
5 against Respondent occurred within two (2) years of the effective  
6 date of the Decision herein. Should such a determination be made,  
7 the Commissioner may, in his or her discretion, vacate and set  
8 aside the stay order, and order the execution of all or any part  
9 of the stayed suspension, in which event the Respondent shall not  
10 be entitled to any repayment nor credit, prorated or otherwise,  
11 for money paid to the Department under the terms of this  
12 Decision.

13 (v) If Respondent pays the monetary penalty and if no  
14 further cause for disciplinary action against the real estate  
15 license of Respondent occurs within two (2) years from the  
16 effective date of the Decision herein, then the stay hereby  
17 granted shall become permanent.

18 (b) Forty (40) days of said ninety (90) day suspension  
19 shall be stayed upon condition that no final subsequent  
20 determination be made, after hearing or upon stipulation, that  
21 cause for disciplinary action against Respondent occurred within  
22 two (2) years of the effective date of the Decision herein.

23 (i) Should such a determination be made, the  
24 Commissioner may, in his or her discretion, vacate and set aside  
25 the stay order, and order the execution of all or any part of the  
26 stayed suspension, in which event the Respondent shall not be

27 DRE No. H-7997 SF

URY BEARY

1 entitled to any repayment nor credit, prorated or otherwise, for  
2 money paid to the Department under the terms of this Decision.

3 (ii) If no order vacating the stay is issued, and if no  
4 further cause for disciplinary action against the real estate  
5 license of Respondent occurs within two (2) years from the  
6 effective date of the Decision, then the stay hereby granted  
7 shall become permanent.

8 2/19/02

DATED

  
JAMES L. BEAVER, Counsel  
Department of Real Estate

\* \* \*

10 I have read the Stipulation and Agreement and have  
11 discussed its terms with my attorney and its terms are understood  
12 by me and are agreeable and acceptable to me. I understand that I  
13 am waiving rights given to me by the California Administrative  
14 Procedure Act (including but not limited to Sections 11506,  
15 11508, 11509, and 11513 of the Government Code), and I willingly,  
16 intelligently, and voluntarily waive those rights, including the  
17 right of requiring the Commissioner to prove the allegations in  
18 the Accusation at a hearing at which I would have the right to  
19 cross-examine witnesses against me and to present evidence in  
20 defense and mitigation of the charges.

21 02/13/02

DATED

  
URY BEARY  
Respondent

23 ///

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25 ///

26  
27 DRE No. H-7997 SF

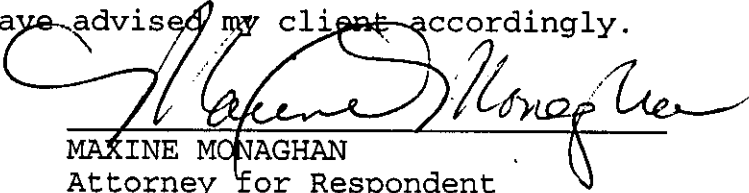
URY BEARY



\* \* \*

I have reviewed the Stipulation and Agreement as to  
form and content and have advised my client accordingly.

2/13/02  
DATED


  
MAXINE MONAGHAN  
Attorney for Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent URY  
BEARY and shall become effective at 12 o'clock noon on

MAY 3, 2002.

IT IS SO ORDERED

  
PAULA REDDISH ZINNEBANN  
Real Estate Commissioner

DRE No. H-7997 SF

URY BEARY

FILED  
JAN 16 2002

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

DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

BHMB, INC.,  
a California Corporation,  
JACK LEON LEBEAU, and  
URY BEARY,

Case No. H-7997 SF

OAH No. N-2001110097

*Respondents*

**FIRST AMENDED**  
**NOTICE OF HEARING ON ACCUSATION**

***To the above named respondents:***

***You are hereby notified*** that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **TUESDAY AND WEDNESDAY, APRIL 16 & 17, 2002**, at the hour of **9:00 A.M.**, 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.

*Dated:* JANUARY 16, 2002

DEPARTMENT OF REAL ESTATE

By

*James L. Beaver*  
JAMES L. BEAVER, Counsel

**FILED**

NOV 19 2001

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

DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

BHMB, INC.,  
a California Corporation,  
JACK LEON LEBEAU, and  
URY BEARY,

Case No. H-7997 SF

OAH No. N-2001110097

*Respondents*

**NOTICE OF HEARING ON ACCUSATION**

***To the above named respondents:***

***You are hereby notified*** that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **JANUARY 7 & 8, 2002**, at the hour of **9:00 A.M.**, 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.

***Dated:*** NOVEMBER 19, 2001

DEPARTMENT OF REAL ESTATE

By

**JAMES L. BEAVER, 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 (916) 227-0788 (Direct)

FILED

SEP -4 2001

DEPARTMENT OF REAL ESTATE

*Lucie P. Zia*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No.: H-7997 SF

12 BHMB, INC., )  
13 a California Corporation, )  
14 JACK LEON LEBEAU, and )  
15 URY BEARY, )

ACCUSATION

Respondents. )

16 The Complainant, Les R. Bettencourt, a Deputy Real  
17 Estate Commissioner of the State of California, as and for an  
18 Accusation herein against Respondents BHMB, INC., a California  
19 corporation, JACK LEON LEBEAU and URY BEARY (hereinafter  
20 "Respondents"), is informed and alleges as follows:

21 I

22 Respondents are presently licensed and/or have license  
23 rights under the Real Estate Law, Part 1 of Division 4 of the  
24 Business and Professions Code (hereinafter "Code").

25 ///

26 ///

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1  
2 II

3 The Complainant, Les R. Bettencourt, a Deputy Real  
4 Estate Commissioner of the State of California, makes this  
5 Accusation against Respondents in his official capacity.

6 III

7 At all times herein mentioned, Respondent BHMB INC.,  
8 (hereinafter "BHMB") was and now is licensed by the Department  
9 of Real Estate of the State of California (hereinafter "the  
10 Department") as a corporate real estate broker. At all times  
11 herein mentioned to and until May 10, 1999, BHMB was so licensed  
12 by and through Respondent URY BEARY (hereinafter "BEARY") as  
13 designated officer-broker of BHMB to qualify said corporation  
14 and to act for said corporation as a real estate broker. At all  
15 times herein mentioned from and after May 10, 1999, BHMB was so  
16 licensed by and through Respondent JACK LEON LEBEAU (hereinafter  
17 "LEBEAU") as designated officer-broker of BHMB to qualify said  
18 corporation and to act for said corporation as a real estate  
19 broker.

20 IV

21 At all times herein mentioned, LEBEAU was and now is  
22 licensed by the Department as a real estate broker, individually  
23 and, from and after May 10, 1999, as designated officer-broker  
24 of BHMB. As said designated officer-broker, LEBEAU was and now  
25 is responsible pursuant to Section 10159.2 of the Code for the  
26 supervision of the activities of the officers, agents, real  
27 estate licensees and employees of BHMB for which a license is  
required.

V

At all times mentioned herein to and until July 5, 1999, BEARY was licensed as a real estate broker, individually and, to and until May 10, 1999, as designated officer-broker of BHMB. As said designated officer-broker, BEARY was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of BHMB for which a license is required. On July 5, 1999, the real estate broker license of BEARY expired and was not renewed until on and after May 25, 2001. At no time mentioned herein from July 6, 1999 through May 24, 2001 was BEARY licensed by the Department as either a real estate broker or as a real estate salesperson. At all times mentioned herein from and after May 25, 2001, BEARY was and now is licensed by the Department as a real estate broker. At all times mentioned herein BEARY was an officer and director of BHMB and participated in the management and control of said corporation.

VI

Whenever reference is made in an allegation in this Accusation to an act or omission of BHMB, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with BHMB committed such act or omission while engaged in the furtherance of the business or operations of such corporate Respondent and while acting within the course and scope of their corporate authority and employment.

///

1  
2 VII

3 At all times herein mentioned, Respondents engaged in  
4 the business of, acted in the capacity of, advertised and  
5 assumed to act as real estate brokers in the State of California  
6 within the meaning of Section 10131(a) of the Code, including  
7 the operation and conduct of a real estate resale brokerage with  
8 the public wherein, on behalf of others, for compensation or in  
9 expectation of compensation, Respondents sold and offered to  
10 sell, bought and offered to buy, solicited prospective sellers  
11 and purchasers of, solicited and obtained listings of, and  
12 negotiated the purchase and sale of real property.

13 VIII

14 At all times mentioned herein from July 6, 1999  
15 through May 24, 2001, BHMB and LEBEAU employed and compensated  
16 BEARY to perform the acts and conduct the activities described  
17 in Paragraph VII, above, including but not limited to the  
18 activities described in Paragraph IX, below.

19 IX

20 Between July 6, 1999 through May 24, 2001, in the  
21 course of the activities and employment described in Paragraphs  
22 VII and VIII, above, BEARY, acting for and on behalf of another  
23 or others, for or in expectation of compensation, negotiated and  
24 arranged the purchase and sale of real property, including but  
25 not limited to the following lots, units or parcels of real  
26 property:

27 (a) 40 Gertrude Avenue, Richmond, California;

(b) 640 South 32nd Street, Richmond, California;

- 1 (c) 717-717 1/2 Johnson Street, Albany, California;  
2 (d) 2048 Junction Avenue, El Cerrito, California; and  
3 (e) 495 Grizzly Peak Blvd., Berkeley, California.  
4

5 X

6 In acting as described above, BEARY violated Section  
7 10130 of the Code, and BHMB and LEBEAU violated Section 10137 of  
8 the Code.

9 XI

10 At all times mentioned herein, in course of the real  
11 estate resale brokerage business described in Paragraph VII,  
12 above, BHMB used the fictitious business name "Re/Max Bay Area"  
13 without obtaining a license bearing such fictitious name, in  
14 violation of Section 2731(a) of Chapter 6, Title 10, California  
15 Code of Regulations ("the Regulations") in conjunction with  
16 Section 10159.5 of the Code.

17 XII

18 At all times mentioned herein to and until May 10,  
19 1999, BEARY failed to exercise reasonable supervision over the  
20 acts of BHMB and its agents and employees in such a manner as to  
21 allow the acts and omissions on the part of BHMB, described in  
22 Paragraph XI, above, to occur.

23 XIII

24 At all times mentioned herein from and after May 10,  
25 1999, LEBEAU failed to exercise reasonable supervision over the  
26 acts of BHMB and its agents and employees in such a manner as to  
27 allow the acts and omissions on the part of BHMB, described  
above, to occur.



XIV

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code:

(a) As to Respondents BHMB and LEBEAU under Section 10137 the Code in conjunction with Section 10177(d) of the Code;

(b) As to Respondent BEARY under Section 10130 the Code in conjunction with Section 10177(d) of the Code;

(c) As to Respondent BHMB under Section 2731(a) of the Regulations in conjunction with Sections 10159.5 and 10177(d) of the Code; and

(d) As to Respondents LEBEAU and BEARY under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

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 Respondents 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 provisions of law.

*Les R. Bettencourt by N. J. Catalano*  
LES R. BETTENCOURT *acting*  
Deputy Real Estate Commissioner

Dated at Oakland, California,  
this 17<sup>th</sup> day of August, 2001.