

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

MAR - 4 2004

DEPARTMENT OF REAL ESTATE

By Laurel A. Jones

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) NO. H-8581 SF
12 WAYNE REYNOLD DAVIS,)
13 Respondent.)
14 STIPULATION AND WAIVER

15 It is hereby stipulated by and between WAYNE REYNOLD
16 DAVIS (hereinafter "Respondent") and his attorney, ADAM G. SLOTE,
17 and the Complainant, acting by and through David B. Seals,
18 Counsel for the Department of Real Estate, as follows for the
19 purpose of settling and disposing of the Statement of Issues
20 filed on November 10, 2003 in this matter:

21 A. Respondent acknowledges that he has received and
22 read the Statement of Issues and the Statement to Respondent
23 filed by the Department of Real Estate in connection with his
24 application for a real estate salesperson license. Respondent
25 understands that the Real Estate Commissioner may hold a hearing
26 on this Statement of Issues for the purpose of requiring further
27 proof of Respondent's honesty and truthfulness and to prove other

1 allegations therein, or that he may in his discretion waive the
2 hearing and grant Respondent a restricted real estate salesperson
3 license based upon this Stipulation and Waiver. Respondent also
4 understands that by filing the Statement of Issues in this matter
5 the Real Estate Commissioner is shifting the burden to Respondent
6 to make a satisfactory showing that Respondent meet all the
7 requirements for issuance of a real estate salesperson license.
8 Respondent further understands that by entering into this
9 stipulation and waiver Respondent will be stipulating that the
10 Real Estate Commissioner has found that Respondent has failed to
11 make such a showing, thereby justifying the denial of the
12 issuance to Respondent of an unrestricted real estate salesperson
13 license.

14 B. Respondent hereby admits that the allegations of the
15 Statement of Issues filed against Respondent are true and correct
16 and requests that the Real Estate Commissioner in his discretion
17 issue a restricted real estate salesperson license to Respondent
18 under the authority of Section 10156.5 of the Business and
19 Professions Code. Respondent understands that any such
20 restricted license will be issued subject to and be limited by
21 Section 10153.4 of the Business and Professions Code.

22 C. Respondent is aware that by signing this Stipulation
23 and Waiver, Respondent is waiving Respondent's right to a hearing
24 and the opportunity to present evidence at the hearing to
25 establish Respondent's rehabilitation in order to obtain an
26 unrestricted real estate salesperson license if this Stipulation
27 and Waiver is accepted by the Real Estate Commissioner. However,

1 Respondent is not waiving Respondent's right to a hearing and to
2 further proceedings to obtain a restricted or unrestricted
3 license if this Stipulation and Waiver is not accepted by the
4 Commissioner.

5 D. Respondent further understands that the following
6 conditions, limitations, and restrictions will attach to a
7 restricted license issued by the Department of Real Estate
8 pursuant hereto:

9 1. The license shall not confer any property right in the
10 privileges to be exercised including the right of renewal,
11 and the Real Estate Commissioner may by appropriate order
12 suspend the right to exercise any privileges granted under
13 this restricted license in the event of:

14 a. The conviction of Respondent (including a plea of nolo
15 contendere) to a crime which bears a substantial
16 relationship to Respondent's fitness or capacity as a
17 real estate licensee; or

18 b. The receipt of evidence that Respondent has violated
19 provisions of the California Real Estate Law, the
20 Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner, or conditions attaching to this
22 restricted license.

23 2. Respondent shall not be eligible to apply for the issuance
24 of an unrestricted real estate license nor the removal of
25 any of the conditions, limitations or restrictions
26 attaching to the restricted license until two years have

27 ///

1 elapsed from the date of issuance of the restricted
2 license to Respondent.

3 3. With the application for license, or with the application
4 for transfer to a new employing broker, Respondent shall
5 submit a statement signed by the prospective employing
6 broker on a form approved by the Department of Real Estate
7 wherein the employing broker shall certify as follows:

8 a. That broker has read the Statement of Issues which is
9 the basis for the issuance of the restricted license;
10 and

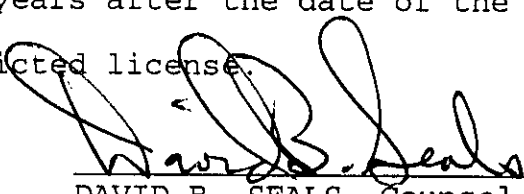
11 b. That broker will carefully review all transaction
12 documents prepared by the restricted licensee and
13 otherwise exercise close supervision over the
14 licensee's performance of acts for which a license is
15 required.

16 4. Respondent's restricted real estate salesperson license is
17 issued subject to the requirements of Section 10153.4 of
18 the Business and Professions Code, to wit: Respondent is
19 required, within eighteen (18) months of the issuance of
20 the restricted license, to submit evidence satisfactory to
21 the Commissioner of successful completion, at an
22 accredited institution, of two of the courses listed in
23 Section 10153.2, other than real estate principles,
24 advanced legal aspects of real estate, advanced real
25 estate finance, or advanced real estate appraisal. If
26 Respondent fails to timely present to the Department
27 satisfactory evidence of successful completion of the two

1 required courses, the restricted license shall be
2 automatically suspended effective eighteen (18) months
3 after the date of its issuance. Said suspension shall not
4 be lifted unless, prior to the expiration of the
5 restricted license, Respondent has submitted the required
6 evidence of course completion and the Commissioner has
7 given written notice to Respondent of the lifting of the
8 suspension.

- 9 5. Pursuant to Section 10154, if Respondent has not satisfied
10 the requirements for an unqualified license under Section
11 10153.4, Respondent shall not be entitled to renew the
12 restricted license, and shall not be entitled to the
13 issuance of another license which is subject to Section
14 10153.4 until four years after the date of the issuance of
15 the preceding restricted license.

16 Jan. 27, 2004
17 DATED


18 DAVID B. SEALS, Counsel
19 DEPARTMENT OF REAL ESTATE

20 * * *

21 I have read the Stipulation and Waiver, have
22 discussed it with my counsel, and its terms are understood by
23 me and are agreeable and acceptable to me. I understand that I
24 am waiving rights given to me by the California Administrative
25 Procedure Act (including but not limited to Sections 11506,
26 11508, 11509, and 11513 of the Government Code), and I
27 willingly, intelligently, and voluntarily waive those rights,
including the right of a hearing on the Statement of Issues at

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

4
5
6 DATED

1/19/2004


WAYNE REYNOLD DAVIS,
Respondent

7
8 *I have reviewed the Stipulation and Waiver as to form and content and*
9 *have advised my client accordingly.*

10
11 DATED

1/23/04


ADAM G. SLOTE,
Attorney for Respondent

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13
14 I have read the Statement of Issues filed herein and
15 the foregoing Stipulation and Waiver signed by Respondent. I am
16 satisfied that the hearing for the purpose of requiring further
17 proof as to the honesty and truthfulness of Respondent need not
18 be called and that it will not be inimical to the public interest
19 to issue a restricted real estate salesperson license to
20 Respondent.

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1 Therefore, IT IS HEREBY ORDERED that a restricted real
2 estate salesperson license be issued to Respondent if Respondent
3 has otherwise fulfilled all of the statutory requirements for
4 licensure. The restricted license shall be limited, conditioned,
5 and restricted as specified in the foregoing Stipulation and
6 Waiver.

7 This Order is effective immediately.

8 IT IS SO ORDERED February 10, 2004.

9 JOHN R. LIBERATOR
10 Acting Real Estate Commissioner

11 John R. Liberator

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

FILED
DEC 16 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

WAYNE REYNOLD DAVIS

Case No. H-8581 SF

OAH No.

Respondent

NOTICE OF HEARING ON APPLICATION

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, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **TUESDAY--JANUARY 20, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

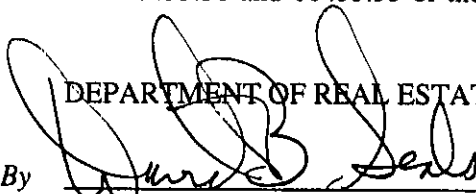
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: DECEMBER 16, 2003

DEPARTMENT OF REAL ESTATE
By 
DAVID B. SEALS, Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED

NOV 10 2003

DEPARTMENT OF REAL ESTATE

By Jean Arnold

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

No. H- 8581 SF

12 WAYNE REYNOLD DAVIS,)

STATEMENT OF ISSUES

13 Respondent.)
14

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against WAYNE REYNOLD DAVIS (hereinafter "Respondent")
18 alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about December 11, 2002 with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the California Business and Professions Code.

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1 II

2 Complainant, Les R. Bettencourt, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity.

5 III

6 On or about May 9, 1983, in the Chico Municipal Court,
7 County of Butte, Respondent was convicted of violation of
8 California Penal Code Section 484a (Theft), a crime involving
9 moral turpitude and/or which bears a substantial relationship
10 under Section 2910, Title 10, California Code of Regulations
11 (herein "the Regulations"), to the qualifications, functions or
12 duties of a real estate licensee.

13 IV

14 On or about May 31, 1990, in the Plumas County
15 Municipal Court in and for the County of Plumas, State of
16 California, Respondent was convicted of violation of California
17 Vehicle Code Section 23152(a) (Driving Under the Influence of
18 Alcohol), a crime involving moral turpitude and/or which bears a
19 substantial relationship under Section 2910 of the Regulations,
20 to the qualifications, functions or duties of a real estate
21 licensee.

22 V

23 On or about June 4, 1996, in the Plumas Justice Court,
24 County of Plumas, State of California, Respondent was convicted
25 of violation of California Vehicle Code Section 23152(a) with a
26 prior (Driving Under the Influence of Alcohol), a crime involving
27 moral turpitude and/or which bears a substantial relationship

1 under Section 2910 of the Regulations, to the qualifications,
2 functions or duties of a real estate licensee.

3 VI

4 On or about June 23, 2000, in the Superior Court of
5 California, County of Contra Costa, Richmond, Respondent was
6 convicted of violation of California Vehicle Code Section
7 23152(b) with a prior (Driving While Having a 0.08 or Higher
8 Blood Alcohol), a crime involving moral turpitude and/or which
9 bears a substantial relationship under Section 2910 of the
10 Regulations, to the qualifications, functions or duties of a real
11 estate licensee.

12 VII

13 The crimes of which Respondent was convicted, as
14 alleged in Paragraphs III through VI above constitute cause for
15 denial of Respondent's application for a real estate license
16 under Sections 480(a) and 10177(b) of the California Business and
17 Professions Code.

18 WHEREFORE, the Complainant prays that the above-
19 entitled matter be set for hearing and, upon proof of the charges
20 contained herein, that the Commissioner refuse to authorize the
21 issuance of, and deny the issuance of, a real estate salesperson
22 license to Respondent, and for such other and further relief as
23 may be proper under other provisions of law.

24 
25 LES R. BETTENCOURT
26 Deputy Real Estate Commissioner

26 Dated at Oakland, California,
27 this 27th day of October, 2003.