

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

FILED
JUN 22 2004

DEPARTMENT OF REAL ESTATE

By Lea Just

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8615 SF
12 DANIEL JOSEPH VENDL,) OAH No. N-2004020036
13 Respondent.)
14 STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between Respondent
16 DANIEL JOSEPH VENDL, individually and by and through Charles
17 Benninghoff, Respondent's representative herein, and the
18 Complainant, acting by and through James L. Beaver, Counsel for
19 the Department of Real Estate (herein "the Department"), as
20 follows for the purpose of settling and disposing of the
21 Accusation filed on January 12, 2004 in this matter (herein "the
22 Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative

27 DRE No. H-8615 SF

DANIEL JOSEPH VENDL

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

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

7 3. On January 21, 2004, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense Respondent
13 will thereby waive Respondent's right to require the Real Estate
14 Commissioner (herein "the Commissioner") to prove the allegations
15 in the Accusation at a contested hearing held in accordance with
16 the provisions of the APA and that Respondent will waive other
17 rights afforded to Respondent in connection with the hearing such
18 as the right to present evidence in defense of the allegations in
19 the Accusation and the right to cross-examine witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interests of
22 expediency and economy, Respondent chooses not to contest these
23 allegations, but to remain silent and understands that, as a
24 result thereof, these factual allegations, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. The Real Estate Commissioner shall
27

DRE No. H-8615 SF

DANIEL JOSEPH VENDL

1 not be required to provide further evidence to prove said factual
2 allegations.

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

14 6. The Order or any subsequent Order of the Real
15 Estate Commissioner made pursuant to this Stipulation and
16 Agreement in Settlement shall not constitute an estoppel,
17 merger or bar to any further administrative or civil
18 proceedings by the Department of Real Estate with respect to
19 any matters which were not specifically alleged to be causes
20 for accusation in this proceeding.

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:

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27 DRE No. H-8615 SF

DANIEL JOSEPH VENDL

I

1 The acts and omissions of Respondent DANIEL JOSEPH
2 VENDL as described in the Accusation are grounds for the
3 suspension or revocation of the licenses and license rights of
4 Respondent under the provisions of Sections 490 and 10177(b) of
5 the California Business and Professions Code (herein "the Code").
6

7 ORDER

8 I

9 All licenses and licensing rights of Respondent
10 DANIEL JOSEPH VENDL under the Real Estate Law are revoked;
11 provided, however, a restricted real estate broker license
12 shall be issued to said Respondent pursuant to Section 10156.5
13 of the Code if, within 90 days from the effective date of the
14 Decision entered pursuant to this Order, the Respondent, prior
15 to and as a condition of the issuance of said restricted
16 license, makes application for the restricted license and pays
17 to the Department of Real Estate the appropriate fee therefor.

18 The restricted license issued to such Respondent
19 shall be subject to all of the provisions of Section 10156.7 of
20 the Code and to the following limitations, conditions and
21 restrictions imposed under authority of Section 10156.6 of the
22 Code:

23 1. The restricted license issued to such Respondent
24 may be suspended prior to hearing by Order of the Real Estate
25 Commissioner in the event of the Respondent's conviction or
26 plea of nolo contendere to a crime which is substantially
27

DRE No. H-8615 SF

DANIEL JOSEPH VENDL

1 related to Respondent's fitness or capacity as a real estate
2 licensee.

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

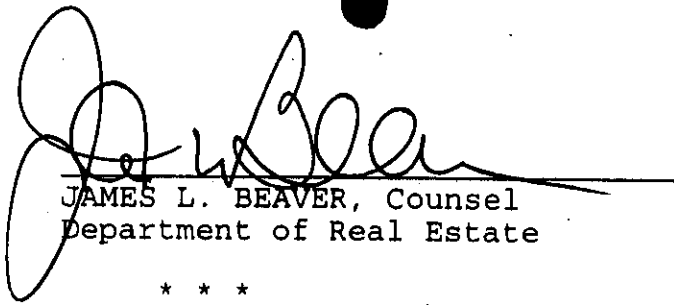
10 3. Respondent shall not be eligible to apply for the
11 issuance of an unrestricted real estate license or for the
12 removal of any of the conditions, limitations or restrictions
13 of a restricted license until two (2) years have elapsed from
14 the effective date of this Decision.

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

27 DRE No. H-8615 SF

DANIEL JOSEPH VENDL

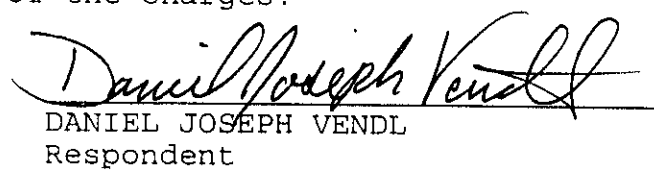
1 May 16, 2004
2 DATED


3 JAMES L. BEAVER, Counsel
4 Department of Real Estate

5 * * *

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

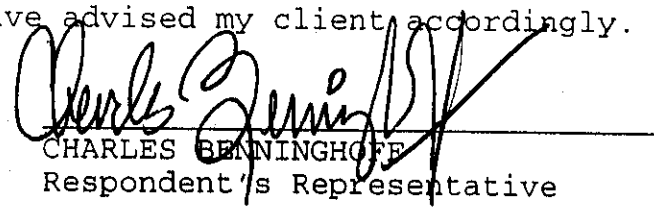
17 5-12-04
18 DATED


19 DANIEL JOSEPH VENDL
20 Respondent

21 * * *

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

24 5-11-04
25 DATED


26 CHARLES BENNINGHOFF
27 Respondent's Representative

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The foregoing Stipulation and Agreement is hereby
adopted by me as my Decision in this matter and shall become
effective at 12 o'clock noon on July 12, 2004.

IT IS SO ORDERED May 26, 2004.

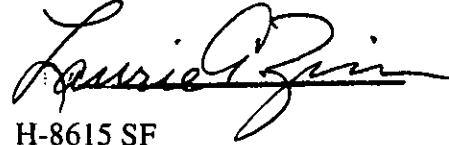
JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 27 2004

DEPARTMENT OF REAL ESTATE



In the Matter of the Accusation of

DANIEL JOSEPH VENDL,

Case No. H-8615 SF

OAH No.

Respondent

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 FRIDAY, MARCH 19, 2004, at the hour of 1:30 P.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 27, 2004

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 -or- (916) 227-0788 (Direct)

FILED
JAN 12 2004

DEPARTMENT OF REAL ESTATE

Laurel J. Green

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DANIEL JOSEPH VENDL,) No. H-8615 SF
13 Respondent.) 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 DANIEL JOSEPH VENDL (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 At all times herein mentioned, Respondent was and now
21 is licensed and/or has license rights under the Real Estate Law,
22 Part 1 of Division 4 of the Business and Professions Code
23 (hereinafter "Code") as a real 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.

1 III

2 On or about March 20, 2002, in the Superior Court of
3 the State of California, County of Contra Costa, Respondent was
4 convicted of the crime of Battery Against Spouse in violation of
5 Penal Code Section 242 in conjunction with Penal Code Section
6 243(e)(1), a misdemeanor and a crime involving moral turpitude
7 which bears a substantial relationship under Section 2910 of
8 Chapter 6, Title 10, California Code of Regulations (herein "the
9 Regulations"), to the qualifications, functions or duties of a
10 real estate licensee.

11 IV

12 PRIOR ADMINISTRATIVE PROCEEDING

13 Effective July 6, 1999, in case No. H-3418 SAC before
14 the Department of Real Estate of the State of California, all
15 Respondent's licenses and license rights were suspended by order
16 of the Real Estate Commissioner pursuant to the provisions of
17 Sections 10160, 10161, 8, 10177(d), 10177(h) and 10240, of the
18 Code in conjunction with Section 2725 of Chapter Six, Title 10,
19 California Code of Regulations (herein "the Regulations") for a
20 period of 365 days, said suspension being entirely stayed upon
21 condition, among others, that no final subsequent determination
22 be made, after hearing or upon stipulation, that cause for
23 disciplinary action against such Respondent occurred within two
24 (2) years after July 6, 1999.

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VI

Respondent's conviction described in Paragraph III, above, individually and in conjunction with the facts described in Paragraph IV, above, constitutes 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 provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 12th day of December, 2003.