

FILED

MAY 28 2010

DEPARTMENT OF REAL ESTATE

By L. Zin

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
SEDALIA AMILLIOTT BENTON,
Respondent.

No. H-8800 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On October 19, 2004, a Decision was rendered in Case No. H-8800 SF revoking the real estate broker license of Respondent effective November 29, 2004, 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 November 29, 2004, and Respondent has operated as a restricted licensee since that time.

On November 30, 2009, 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 submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5 The Department has developed criteria in Section 2911 of Title 10, California
6 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
7 reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(j) Discharge of, or bona fide efforts toward discharging,
9 adjudicated debts or monetary obligations to others.

10 Respondent has not provided any information that multiple liens against property
11 she owns have been satisfied.

12 Regulation 2911(l) Significant or conscientious involvement in community,
13 church or privately-sponsored programs designed to provide social benefits or to ameliorate
14 social problems.

15 Respondent has provided no information that she has any significant or
16 conscientious involvement in community, church or privately-sponsored programs designed to
17 provide social benefits or to ameliorate social problems.

18 Regulation 2911(n) Change in attitude from that which existed at the time of the
19 conduct in question as evidenced by any or all of the following:

20 (1) Testimony of applicant.

21 (2) Evidence from family members, friends or other persons familiar with
22 applicant's previous conduct and with his subsequent attitudes and behavioral
23 patterns.

24 Respondent has not demonstrated a sufficient change in attitude from that which
25 existed at the time of the conduct in question.

26 Given the violations found and the fact that Respondent has not established that
27 Respondent has satisfied Regulations 2911(j), (l), and (n)(1) & (2), I am not satisfied that

1 Respondent is sufficiently rehabilitated to receive a real estate broker license.

2 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
3 reinstatement of Respondent's real estate broker license is denied.

4 This Order shall become effective at 12 o'clock noon on JUN 18 2010

5 IT IS SO ORDERED

5/22/2010

6 JEFF DAVI
7 Real Estate Commissioner

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

FILED
NOV 09 2004

DEPARTMENT OF REAL ESTATE

By Shelly Ely

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) No. H-8800 SF
11)
12)
12 SEDALIA AMILLIOTT BENTON) STIPULATION AND AGREEMENT
13 dba)
13 PRIME PROPERTY MANAGEMENT,)
14)
14)
15 Respondent.)

16 It is hereby stipulated by and between Respondent
17 SEDALIA AMILLIOTT BENTON formerly doing business under the
18 fictitious name of PRIME PROPERTY MANAGEMENT, (hereinafter
19 "Respondent") appearing in propria persona, and the
20 Complainant, acting by and through Michael B. Rich, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on May 21, 2004,
23 in this matter (hereinafter "the Accusation"):

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and
26 Respondents at a formal hearing on the Accusation, which
27

1 hearing was to be held in accordance with the provisions of the
2 Administrative Procedure Act (APA), shall instead and in place
3 thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.

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

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

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interests of
24 expedience and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understands that, as a
26 result thereof, these factual allegations, without being
27

1 admitted or denied, will serve as a prima facie basis for the
2 disciplinary action stipulated to herein. The Real Estate
3 Commissioner shall not be required to provide further evidence
4 to prove said factual allegations.

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

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

23 7. Respondent understands that by agreeing to this
24 Stipulation and Agreement in Settlement, Respondent agrees to
25 pay, pursuant to Section 10148 of the Business and Professions
26
27

1 Code, the cost of the audit that led to this disciplinary action.
2 The amount of said costs is \$7,350.70.

3 8. Respondent has received, read, and understands
4 the "Notice Concerning Costs of Audits". Respondent further
5 understands that by agreeing to this Stipulation and Agreement
6 in Settlement, the findings set forth below in the DETERMINATION
7 OF ISSUES become final, and that the Commissioner may charge
8 Respondent for the costs of any subsequent audit conducted
9 pursuant to Section 10148 of the Business and Professions Code
10 to determine if the violations have been corrected. The maximum
11 costs of said audit will not exceed \$7,350.70.

12
13 DETERMINATION OF ISSUES

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

18 I

19 The conduct of Respondent, as described in the
20 Accusation, constitutes cause for the suspension or revocation
21 of the real estate license and license rights of Respondent
22 under the provisions of: Section 10177(d) of the Business and
23 Professions Code (hereinafter the "Code") in conjunction with
24 Sections 10145 and 10176(e) of the Code, and Sections 2831,
25 2831.1, 2831.2, 2832, 2832.1 and 2835 of Title 10, California
26 Code of Regulations.

- 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

The real estate broker license and all license rights of Respondent SEDALIA AMILLOT BENTON under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of 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 that Code:

21 2. The restricted license issued to Respondent may be
22 suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated any provision of the California Real
25 Estate Law, the Subdivided Lands Law, Regulations of the Real

1 Estate Commissioner or conditions attaching to the restricted
2 license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations, or restrictions
6 of a restricted license until two (2) years have elapsed from
7 the effective date of this Decision.

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

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

1 6. Pursuant to Section 10148 of the Business and
2 Professions Code, Respondent shall pay the Commissioner's
3 reasonable cost for: a) the audit which led to this disciplinary
4 action and, b) a subsequent audit to determine if Respondent has
5 corrected the trust fund violations found in Paragraph I of the
6 Determination of Issues. In calculating the amount of the
7 Commissioner's reasonable cost, the Commissioner may use the
8 estimated average hourly salary for all persons performing
9 audits of real estate brokers, and shall include an allocation
10 for travel time to and from the auditor's place of work.
11 Respondent shall pay such cost within sixty (60) days of
12 receiving an invoice from the Commissioner detailing the
13 activities performed during the audit and the amount of time
14 spent performing those activities. The Commissioner may suspend
15 the restricted license issued to Respondent pending a hearing
16 held in accordance with Section 11500, et seq., of the
17 Government Code, if payment is not timely made as provided for
18 herein, or as provided for in a subsequent agreement between the
19 Respondent and the Commissioner. The suspension shall remain in
20 effect until payment is made in full or until Respondent enters
21 into an agreement satisfactory to the Commissioner to provide
22 for payment, or until a decision providing otherwise is adopted
23 following a hearing held pursuant to this condition.

24 7. Respondent shall prior to the effective date of
25 the Decision provide evidence satisfactory to the Commissioner
26
27

1 that Respondent has cured the trust fund shortages alleged in
2 the Accusation.

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

7 9. Respondent shall, prior to and as a condition of
8 the issuance of the restricted license, submit proof
9 satisfactory to the Commissioner of having taken and
10 successfully completed the continuing education course on trust
11 fund accounting and handling specified in subdivision (a) of
12 Section 10170.5 of the Business and Professions Code. Proof of
13 satisfaction of this requirement includes evidence that
14 Respondent has successfully completed the trust fund account and
15 handling continuing education course within 120 days prior to
16 the effective date of the Decision in this matter.

17
18
19 October 7, 2004

20 DATED

Michael B. Rich

21 MICHAEL B. RICH, Counsel
22 DEPARTMENT OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement and its
25 terms are understood by me and are agreeable and acceptable to
26 me. I understand that I am waiving rights given to me by the
27

1 California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509, and 11513 of the
3 Government Code), and I willingly, intelligently, and
4 voluntarily waive those rights, including the right of
5 requiring the Commissioner to prove the allegations in the
6 Accusation at a hearing at which I would have the right to
7 cross-examine witnesses against me, and to present evidence in
8 defense and mitigation of the charges.

9
10 9-28-04

Sedalia Amilliotte Benton

11 DATED

SEDALIA AMILLIOTT BENTON
Respondent

12
13 * * *

14 The foregoing Stipulation and Agreement for
15 Settlement is hereby adopted by the Real Estate Commissioner as
16 his Decision and Order and shall become effective at 12 o'clock
17 noon on November 29, 2004.

18 IT IS SO ORDERED

October 19, 2004

19 JOHN R. LIBERATOR
20 Acting Real Estate Commissioner

21
22 *John R. Liberator*
23
24
25
26
27

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
MAY 21 2004

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) H-8800 SF
12)
13 SEDALIA AMILLIOTT BENTON dba) ACCUSATION
14 PRIME PROPERTY MANAGEMENT;)
15 Respondent.)

16 The Complainant, LES R. BETTENCOURT, a Deputy Real
17 Estate Commissioner of the State of California, for Causes of
18 Accusation against SEDALIA AMILLIOTT BENTON doing business under
19 the fictitious business names of PRIME PROPERTY MANAGEMENT,
20 ACTION MORTGAGE, REALTY WORLD UNLIMITED REAL ESTATE, and REALTY
21 WORLD-WORLD CLASS PROPERTIES is informed and alleges as follows:

22 I

23 At all times herein mentioned, SEDALIA AMILLIOTT BENTON
24 doing business under the fictitious business names of PRIME
25 PROPERTY MANAGEMENT, ACTION MORTGAGE, REALTY WORLD UNLIMITED REAL
26 ESTATE, and REALTY WORLD-WORLD CLASS PROPERTIES (hereinafter
27 "Respondent") was and is presently licensed and/or has license

1 rights under the Real Estate Law, Part 1 of Division 4 of the
2 California Business and Professions Code (hereafter the "Code")
3 as a Real Estate Broker.

4 II

5 The Complainant, LES R. BETTENCOURT, a Deputy Real
6 Estate Commissioner of the State of California, makes this
7 Accusation against Respondent in his official capacity and not
8 otherwise.

9 III

10 Within the last three years, Respondent engaged in
11 activities on behalf of others for which a real estate license is
12 required, for or in expectation of compensation, by:

- 13 (a) Leasing or renting, offering to lease or rent,
14 soliciting prospective tenants for, collecting
15 rents on, and/or managing certain real properties
16 in California; and,
17 (b) Soliciting borrowers or lenders for or negotiating
18 loans or collecting payments or performing
19 services for borrowers or lenders or note owners
20 in connection with loans secured directly or
21 collaterally by liens on real property or on a
22 business opportunity in California.

23 IV

24 Beginning in April of 2003, the Department conducted an
25 audit of the above business activities of Respondent for the time
26 period of January 1, 2000 through February 6, 2003. During the
27

1 course of the activities described above, Respondent received and
2 disbursed funds in trust on behalf of others.

3 V

4 Within the last three years, Respondent deposited the
5 above trust funds into a bank account at Wells Fargo Bank in
6 Sacramento, California, bearing account number 0187525159, in the
7 name of "Prime Property Management Sedalia Benton Owner"
8 (hereinafter referred to as Account #1").

9 VI

10 Within the last three years, Respondent deposited the
11 above trust funds into a bank account at Wells Fargo Bank in
12 Sacramento, California, bearing account number 038382412, in the
13 name of "Prime Property Management Sedalia Benton Owner"
14 (hereinafter referred to as Account #2").

15 VII

16 In connection with the collection and disbursement of
17 trust funds, Respondent failed to deposit and maintain the trust
18 funds in a trust account or neutral escrow depository, or to
19 deliver them into the hands of the owners of the funds, as
20 required by Section 10145 of the Code, in such a manner that as
21 of February 6, 2003, there was a trust fund shortage in Account
22 #2 in the approximate sum of \$2,639.58.

23 VIII

24 Respondent failed to obtain the prior written consents
25 of the principals for the reduction of the aggregate balance of
26 trust funds in the Account #2 to an amount less than the
27 existing aggregate trust fund liability to the owners of said

1 funds in conformance with Section 2832.1 of Chapter 6, Title 10,
2 California Code of Regulations (hereinafter "Regulations").

3 IX

4 In connection with the receipt and disbursement of
5 trust funds as above alleged, and as set forth in Audit No. OK-
6 020126/OK-020132/OK-020133, dated June 30, 2003, and accompanying
7 working papers and exhibits, Respondent:

8 (a) Failed to maintain a written control record of all
9 trust funds received and disbursed for Account #1
10 containing all information required by Section
11 2831 of the Regulations, including but not limited
12 to recordation of all deposits, recordation of
13 dates of receipt, and recordation of accurate
14 dates of deposit of trust funds;

15 (b) Failed to keep a separate record for each
16 beneficiary or transaction, accounting for all
17 funds that have been deposited to Account #1 and
18 Account #2, containing all of the information
19 required by Section 2831.1 of the Regulations,
20 including, but not limited to an accurate daily
21 balance after posting transactions;

22 (c) Failed to reconcile the balance of separate
23 beneficiary or transaction records with the
24 control records of trust funds received and
25 disbursed at least once a month, and/or failed
26 to maintain a record of such reconciliations
27 as required by Section 2831.2 of the Regulations;

- 1 (d) Failed to designate Accounts #1 and #2, inclusive,
2 which contained trust funds, as trust accounts as
3 required by Section 2832 of the Regulations; and,
4 (e) Failed to disburse management fees earned within
5 25 days after rent funds were deposited to Account
6 #1 and thereby commingled trust funds with
7 Respondent's own money or property by in violation
8 of Section 2835 of the Regulations.

9 X

10 The acts and/or omissions of Respondents as alleged
11 above constitute grounds for disciplinary action under the
12 following provisions:

- 13 (a) As to Paragraph VII, under Section 10145 of the
14 Code in conjunction with Section 10177(d) of the
15 Code;
16 (b) As to Paragraph VIII, under Section 2832.1 of the
17 Regulations in conjunction with Section 10177(d)
18 of the Code.
19 (c) As to Paragraph IX(a), under Section 10145 of the
20 Code and Section 2831 of the Regulations in
21 conjunction with Section 10177(d) of the Code;
22 (d) As to Paragraph IX(b), under Section 2831.1 of the
23 Regulations in conjunction with Section 10177(d)
24 of the Code;
25 (e) As to Paragraph IX(c), under Section 2831.2 of the
26 Regulations in conjunction with Section 10177(d)
27 of the Code;

1 (f) As to Paragraph IX(d), under Section 2832 of the
2 Regulations in conjunction with Section 10177(d)
3 of the Code; and,

4 (g) As to Paragraph IX(e), under Section 2835 of the
5 Regulations in conjunction with Sections 10176(e)
6 and/or 10177(d) of the Code.

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

14 

15 LES R. BETTENCOURT
16 Deputy Real Estate Commissioner

17
18 Dated at Oakland, California,
19 this 13th day of May, 2004