

FILED

JAN 22 2008

DEPARTMENT OF REAL ESTATE

By Jean Arnold

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) No. H-8912 SF  
 )  
 KENT PEARCE, )  
 )  
 Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 9, 2005, a Decision was rendered herein  
 revoking the real estate salesperson license of Respondent  
 effective April 6, 2005, but granting Respondent the right to the  
 issuance of a restricted real estate salesperson license. A  
 restricted real estate salesperson license was issued to  
 Respondent on April 6, 2005, and Respondent has operated as a  
 restricted licensee since that time.

On May 3, 2007, Respondent petitioned for reinstatement  
 of said real estate salesperson license, and the Attorney General  
 of the State of California has been given notice of the filing of  
 said petition.

///

1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof. Respondent has  
3 demonstrated to my satisfaction that Respondent meets the  
4 requirements of law for the issuance to Respondent of an  
5 unrestricted real estate salesperson license and that it would  
6 not be against the public interest to issue said license to  
7 Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 petition for reinstatement is granted and that a real estate  
10 salesperson license be issued to Respondent if Respondent  
11 satisfies the following conditions within nine (9) months from  
12 the date of this Order:

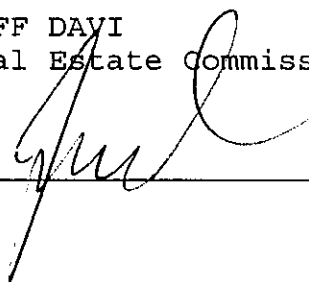
13 1. Submittal of a completed application and payment of  
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most  
16 recent issuance of an original or renewal real estate license,  
17 taken and successfully completed the continuing education  
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: 1-8-08

22 JEFF DAVI  
23 Real Estate Commissioner

24   
25  
26  
27

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0425

FILED  
MAR 17 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-8912 SF  
13 KENT PEARCE, )  
14 Respondent. ) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between KENT PEARCE,  
16 (Respondent), represented by Patrick E. Marshall, Attorney at  
17 Law, and the Complainant, acting by and through Deidre L.  
18 Johnson, Counsel for the Department of Real Estate, as follows  
19 for the purpose of settling and disposing of the Accusation  
20 filed on September 3, 2004:

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.

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

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

23           5. Without admitting the truth of the allegations  
24 pertaining to him contained in the remaining paragraphs of the  
25 Accusation, Respondent stipulates that he will not interpose a  
26 defense thereto. This Stipulation is based on the factual  
27 allegations as to Respondent contained in the Accusation. In the

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

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

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

25   DETERMINATION OF ISSUES

26           By reason of the foregoing stipulations, admissions and  
27 waivers, and for the purpose of settlement of the pending

1 Accusation without a hearing, it is stipulated and agreed that  
2 the following determination of issues shall be made:

3 The acts and/or omissions of Respondent KENT PEARCE, as  
4 stipulated above, constitute grounds for disciplinary action  
5 under the provisions of Sections 490 and 10177(b) of the Code.

6  
7 ORDER

- 8 A. All real estate license(s) and license rights of Respondent  
9 KENT PEARCE are hereby revoked.
- 10 B. A restricted real estate salesperson license shall be issued  
11 to Respondent pursuant to Section 10156.6 of the Code if he  
12 makes application therefor and pays to the Department of Real  
13 Estate the appropriate fee for said license within ninety  
14 (90) days from the effective date of the decision.
- 15 C. The restricted license issued to Respondent shall be subject  
16 to all of the provisions of Section 10156.7 of the Business  
17 and Professions Code and to the following limitations,  
18 conditions and restrictions imposed under authority of  
19 Section 10156.6 of that Code:
- 20 (1) The restricted license issued to Respondent may be  
21 suspended prior to hearing by Order of the Real  
22 Estate Commissioner in the event of Respondent's  
23 conviction or plea of nolo contendere to a crime  
24 which is substantial related to Respondent's fitness  
25 or capacity as a real estate licensee.
- 26 (2) The restricted license issued to Respondent may be  
27 suspended prior to hearing by Order of the Real

1 Estate Commissioner on evidence satisfactory to the  
2 Commissioner that Respondent has violated provisions  
3 of the California Real Estate Law, the Subdivided  
4 Lands Law, Regulations of the Real Estate  
5 Commissioner or conditions attaching to the  
6 restricted license.

7 (3) Respondent shall not be eligible to apply for the  
8 issuance of an unrestricted real estate license, nor  
9 the removal of any of the conditions of the  
10 restricted license, until two (2) years have elapsed  
11 from the effective date of this Decision.

12 (4) Respondent shall submit with any application for  
13 license under an employing broker, or any application  
14 for transfer to an new employing broker, a statement  
15 signed by the prospective employing real estate  
16 broker on a form approved by the Department of Real  
17 Estate which shall certify:

18 (a) That the employing broker has read the Decision  
19 of the Commissioner which granted the right to a  
20 restricted license; and,

21 (b) That the employing broker will exercise close  
22 supervision over the performance by the  
23 restricted licensee relating to activities for  
24 which a real estate license is required.

25 (5) Respondent shall, within nine (9) months from the  
26 effective date of this Decision, present evidence  
27 satisfactory to the Real Estate Commissioner that

1           Respondent has, since the most recent issuance of an  
2           original or renewal real estate license, taken and  
3           successfully completed the continuing education  
4           requirements of Article 2.5 of Chapter 3 of the Real  
5           Estate Law for renewal of a real estate license. If  
6           Respondent fails to satisfy this condition, the  
7           Commissioner may order the suspension of the restricted  
8           license until the Respondent presents such evidence.  
9           The Commissioner shall afford Respondent the  
10          opportunity for hearing pursuant to the Administrative  
11          Procedure Act to present such evidence.

12  
13  
14           December 14, 2004  
15           DATED

14             
15           DEIDRE L. JOHNSON  
16           Counsel for the Complainant

17  
18   \* \* \*

19  
20           I have read the Stipulation and Agreement, have  
21           discussed it with my counsel, and its terms are understood by me  
22           and are agreeable and acceptable to me. I understand that I am  
23           waiving rights given to me by the California Administrative  
24           Procedure Act, and I willingly, intelligently and voluntarily  
25           waive those rights, including the right of requiring the  
26           Commissioner to prove the allegations in the Accusation at a  
27           hearing at which I would have the right to cross-examine



1 witnesses against me and to present evidence in defense and  
2 mitigation of the charges.

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*December 7<sup>th</sup> 2004*

DATED

*Kent Pearce*

KENT PEARCE  
Respondent

APPROVED AS TO FORM:

*Dec 7, 2004*

DATED

*Patrick E. Marshall*

PATRICK E. MARSHALL  
Counsel for Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on April 6, 2005

IT IS SO ORDERED

*39-05*

JEFF DAVI  
Real Estate Commissioner

*Jeff Davi*

1 DEIDRE L. JOHNSON, Counsel  
2 State Bar No. 66322  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0789

FILED  
SEP - 3 2004

DEPARTMENT OF REAL ESTATE

By *Kathleen Conteras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 KENT PEARCE, ) NO. H-8912 SF  
13 Respondent. ) ACCUSATION  
14 )

15 The Complainant, LES R. BETTENCOURT, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against KENT PEARCE, is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

19 I

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

24 II

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

1 FIRST CAUSE OF ACTION

2 III

3 Respondent made application to the Department of Real  
4 Estate of the State of California for a real estate broker  
5 license on or about September 10, 2003. In response to Question  
6 20 of said application, to wit: "Have you ever been convicted of  
7 any violation of law?", Respondent answered "No." Respondent  
8 failed to disclose the convictions set forth in Paragraph IV  
9 below.

10 IV

11 On or about June 30, 1999, in the Superior Court of  
12 California, County of Monterey, Respondent was convicted of  
13 violation of Penal Code Section 242 (BATTERY), and Vehicle Code  
14 Section 23103 (RECKLESS DRIVING), crimes involving moral  
15 turpitude, and/or crimes which are substantially related under  
16 Section 2910, Title 10, California Code of Regulations to the  
17 qualifications, functions or duties of a real estate licensee.

18 V

19 Respondent's failure to disclose the convictions  
20 alleged in Paragraph IV above constitutes the attempt to procure  
21 a real estate license by fraud, misrepresentation, or deceit;  
22 and/or by making a material misstatement of fact; and/or by  
23 knowingly omitting to state a material fact in said application;  
24 and constitutes cause under Sections 498 and/or 10177(a) of the  
25 Code for suspension or revocation of all license(s) and license  
26 rights of Respondent under the Real Estate Law.

27 ///



1 all licenses and license rights of Respondent under the Real  
2 Estate Law.

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

10

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15

16 Dated at Oakland, California,

17 this 24<sup>th</sup> day of August, 2004.

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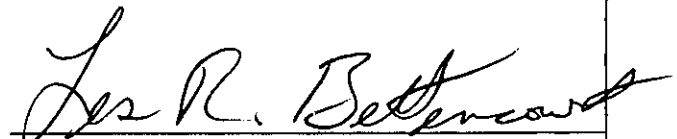
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LES R. BETTENCOURT  
Deputy Real Estate Commissioner