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Dept. of Real Estate
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FILED
DEC 02 2004
DEPARTMENT OF REAL ESTATE
By Carne Shaw

7 **DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

10 *In the Matter of the Application of*
11 **ZELBY NELSON**

)
) No. H- 8961 SF
)
)
) **STIPULATION AND**
) **WAIVER**
)
)
) Respondent
)

15 I, ZELBY NELSON, respondent herein, do hereby affirm that I have applied to the Department of
16 Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of
17 the statutory requirements for the issuance of the license, including the payment of the fee therefor.

18 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
19 filed by the Department of Real Estate on October 1, 2004, in connection with my application for a real
20 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this
21 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove
22 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real
23 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
24 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
25 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
26 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

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Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the issuance to me of an unrestricted real estate salesperson license.

I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and request that the Real Estate Commissioner in his discretion issue a restricted real estate salesperson license to me under the authority of Section 10156.5 of the Business and Professions Code.

I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing and the opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

I further understand that the following conditions, limitations, and restrictions will attach to a restricted license issued by the Department of Real Estate pursuant hereto:

1. The license shall not confer any property right in the privileges to be exercised including the right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - b. The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.
3. With the application for license, or with the application for transfer to a new employing broker, I shall submit a statement signed by the prospective employing broker on a form approved by the Department of Real Estate wherein the employing broker shall certify as follows:

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- 1 a. That broker has read the Statement of Issues which is the basis for the issuance of the
2 restricted license; and
3 b. That broker will carefully review all transaction documents prepared by the restricted
4 licensee and otherwise exercise close supervision over the licensee's performance of acts
5 for which a license is required.

6 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
7 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
8 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
9 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt
10 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received
11 the original signed Stipulation and Waiver.

12
13 11/2/04

14 Dated

13 Zelby Nelson

14 ZELBY NELSON, Respondent

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

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to respondent ZELBY NELSON if respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED

November 29, 2004

JEFF DAVI
Real Estate Commissioner



1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

OCT 01 2004

DEPARTMENT OF REAL ESTATE

By Jean A. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 ZELBY NELSON,)
13 Respondent.)

No. H- 8961 SF

STATEMENT OF ISSUES

14
15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against ZELBY NELSON (hereinafter "Respondent"), is
18 informed and 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 April 5, 2004.

23 II

24 Complainant, LES R. BETTENCOURT, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity and not otherwise.

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III

On or about July 16, 1990, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 20002(A) of the California Vehicle Code (Hit and Run: Property Damage), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

On or about March 11, 1991, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 12020(A) of the California Penal (Possession/Manufacture/Sell Dangerous Weapon), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

On or about May 6, 1994, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 23103(A) of the California Vehicle Code (Wet Reckless Driving), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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VI

On or about January 9, 1995, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 11351.5 of the California Health and Safety Code (Possession/Purchase Cocaine Base), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

VII

On or about April 30, 1996, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 273.5(A) of the California Penal Code (Inflicting Corporal Injury Spouse/Cohabitant), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IX

The crimes of which Respondent was convicted, as above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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Les R. Bettencourt
LES R. BETTENCOURT
Deputy Real Estate Commissioner

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