

FILED
MAR 30 2005
DEPARTMENT OF REAL ESTATE

By 

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013
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(213) 576-6913

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) No. H-31507 LA
12)
13 RONALD ELWOOD FUNK,)
14) Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between RONALD ELWOOD
16 FUNK (sometimes referred to as Respondent), and his
17 representative, Charles Benninghoff, and the Complainant, acting
18 by and through James R. Peel, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the Accusation filed on November 19, 2004, in this matter.

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 November 29, 2004, Respondent filed a Notice of
6 Defense pursuant to Section 11506 of the Government Code for the
7 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 his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that he will waive
14 other rights afforded to him in connection with the hearing such
15 as the right to present evidence in defense of the allegations
16 in the Accusation and the right to cross-examine witnesses.

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

22 5. The stipulations herein and Respondent's decision
23 not to contest the Accusation are made solely for the purpose of
24 reaching an agreed disposition of this proceeding and are
25 expressly limited to this proceeding and any other proceeding or
26 case in which the Department of Real Estate ("Department") or
27 another licensing agency of this state, another state or if the

1 federal government is involved, and otherwise shall not be
2 admissible in any other criminal or civil proceedings.

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

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

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions
22 and waivers and solely for the purpose of settlement of the
23 pending Accusation without a hearing, it is stipulated and
24 agreed that the following determination of issues shall be made:

25 The conduct of Respondent, as described in Paragraph
26 4, above, is grounds for the suspension or revocation of all of
27 the real estate licenses and license rights of Respondent under

1 the provisions of Section 490 of the Business and Professions
2 Code.

3 ORDER

4 Respondent RONALD ELWOOD FUNK is hereby publicly
5 reproved.

6 DATED: March 1, 2005

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8
9 James R. Peel
10 JAMES R. PEEL
11 Counsel for Complainant

12 * * *

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

25 Respondent can signify acceptance and approval of the
26 terms and conditions of this Stipulation and Agreement by faxing
27 a copy of the signature page, as actually signed by Respondent,

1 to the Department at the following telephone/fax number:
2 (213) 576-6917. Respondent agrees, acknowledges and understands
3 that by electronically sending to the Department a fax copy of
4 his actual signature as it appears on the Stipulation and
5 Agreement that receipt of the faxed copy by the Department shall
6 be as binding on Respondent as if the Department had received
7 the original signed Stipulation and Agreement.

8 Further, if the Respondent is represented in these
9 proceedings, the Respondent's representative can signify his
10 agreement to the terms and conditions of the Stipulation and
11 Agreement by submitting that signature via fax. The Commissioner
12 has asked that the representative's signature be under penalty
13 of perjury that he will concurrently or within 24 hours of
14 obtaining Respondent's signature to the agreement deposit in the
15 mail the original settlement/stipulation containing the original
16 signatures of both the Respondent and Respondent's
17 representative.

18
19 DATED: _____

RONALD ELWOOD FUNK
Respondent

20
21 DATED: _____

CHARLES BENNINGHOFF
Respondent's Representative

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 14 obtaining Respondent's signature to the agreement deposit in the
 15 mail the original settlement/stipulation containing the original
 16 signatures of both the Respondent and Respondent's
 17 representative.

19 DATED: _____
 20 *Executed under the penalty*
 21 *of perjury by:* 1-31-05

RONALD ELWOOD FUNK
 Respondent

 CHARLES BENNINGHOFF
 Respondent's Representative

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 25 ///
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JAN-31-05 MON 03:29 PM

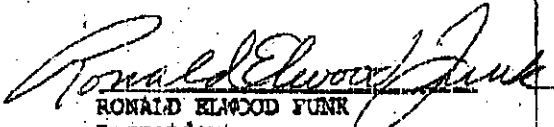
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 14 obtaining Respondent's signature to the agreement deposit in the
 15 mail the original settlement/stipulation containing the original
 16 signatures of both the Respondent and Respondent's
 17 representative.

18 DATED: 2/1/05

19 
 20 RONALD ELWOOD FUNK
 Respondent

21 DATED: _____

22 _____
 23 CHARLES BENNINGHOFF
 Respondent's Representative

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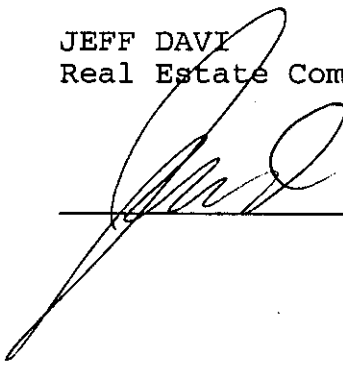
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on March 22, 2005.

IT IS SO ORDERED 3-22-05

JEFF DAVI
Real Estate Commissioner



SACB
Clay

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)

FILED
NOV 19 2004
DEPARTMENT OF REAL ESTATE
[Signature]

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-31507 LA
12 RONALD ELWOOD FUNK,) ACCUSATION
13 Respondent.)
14 _____)

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against RONALD ELWOOD FUNK, alleges as follows:

18 I

19 The Complainant, Maria Suarez, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation in
21 her official capacity.

22 II

23 RONALD ELWOOD FUNK (hereinafter referred to as
24 "Respondent") is presently licensed and/or has license rights
25 under the Real Estate Law (Part 1 of Division 4 of the Business
26 and Professions Code, hereinafter referred to as the "Code").
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III

Respondent was licensed by the Department of Real Estate of the State of California as a real estate broker effective September 6, 1977.

IV

On or about March 28, 1988, in the Municipal Court of California, County of Los Angeles, Respondent was convicted of violating Vehicle Code Section 23152(a) (driving under the influence) and Vehicle Code Section 14601.2(a) (driving on suspended license).

V

On or about April 22, 2002, in the Superior Court of California, County of Los Angeles, Respondent was convicted of violating Vehicle Code Section 23152(b) (driving with blood alcohol .08% or higher).

VI

The above referenced matters bear a substantial relationship to the qualifications, functions, or duties of a real estate licensee.

VII

Respondent's convictions alleged in Paragraphs III and IV are cause under Code Section 490 for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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

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10 Dated at Los Angeles, California,
11 this 18th day of November, 2004.

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13 
14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
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24 cc: Ronald Elwood Funk
25 Maria Suarez
26 Sacto.
27 EE