

FILED

DEC - 3 2007

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 (213) 576-6982

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 PRIME CHOICE ESCROW CORPORATION;)
13 and DARYL SCOTT BEANS,)
14 individually and as)
15 designated officer of)
16 Prime Choice Escrow Corporation,)
17 Respondents.)

No. H-34132 LA

STIPULATION
AND
AGREEMENT

18 It is hereby stipulated by and between Respondents
19 PRIME CHOICE ESCROW CORPORATION, a corporate real estate broker,
20 and DARYL SCOTT BEANS, individually and as designated officer of
21 Prime Choice Escrow Corporation (sometimes collectively referred
22 to as "Respondents"), acting by and through Elliott Mac Lennan,
23 Counsel for the Department of Real Estate, as follows for the
24 purpose of settling and disposing of the Accusation
25 ("Accusation") filed on July 19, 2007, in this matter:

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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense and the right to cross-
23 examine witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
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1 expedience and economy, Respondents choose not to contest these
2 allegations, but to remain silent and understand that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

8 5. This Stipulation and Respondents decision not to
9 contest the Accusation is made for the purpose of reaching an
10 agreed disposition of this proceeding and is expressly limited to
11 this proceeding and any other proceeding or case in which the
12 Department of Real Estate ("Department"), the state or federal
13 government, or any agency of this state, another state or federal
14 government is involved.

15 6. It is understood by the parties that the Real
16 Estate Commissioner may adopt this Stipulation as his Decision in
17 this matter thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth
19 in the "Order" herein below. In the event that the Commissioner
20 in his discretion does not adopt the Stipulation, it shall be
21 void and of no effect and Respondents shall retain the right to a
22 hearing and proceeding on the Accusation under the provisions of
23 the APA and shall not be bound by any stipulation or waiver made
24 herein.
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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for Accusation in this proceeding but do
7 constitute a bar, estoppel and merger as to any allegations
8 actually contained in the Accusations against Respondent herein.

9 8. Respondents understand that by agreeing to this
10 Stipulation, Respondents agree to pay, pursuant to Business and
11 Professions Code Section 10148, the cost of the audit (LA 060054)
12 which led to this disciplinary action. The amount of said cost
13 for the audit is \$4,783.65.

14 9. Respondents have received, read, and understand the
15 "Notice Concerning Costs of Subsequent Audit". Respondents
16 further understand that by agreeing to this Stipulation, the
17 findings set forth below in the Determination of Issues become
18 final, and the Commissioner may charge Respondents for the cost
19 of any subsequent audit conducted pursuant to Business and
20 Professions Code Section 10148 to determine if the violations
21 have been corrected. The maximum cost of the subsequent audit
22 will not exceed \$4,783.65.

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DETERMINATION OF ISSUES

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2 By reason of the foregoing, it is stipulated and agreed
3 that the following determination of issues shall be made:

4 I.

5 The conduct, acts or omissions of PRIME CHOICE ESCROW
6 CORPORATION and DARYL SCOTT BEANS as described in Paragraph 4,
7 above, is in violation of Section 10145 of the Business and
8 Professions Code ("Code") and Sections 2832.1, 2834, 2950(d) and
9 2950(h) of Title 10, Chapter 6 of the California Code of
10 Regulations ("Regulations") and is a basis for the suspension or
11 revocation of Respondent's license and license rights as a
12 violation of the Real Estate Law pursuant to Code Section
13 10177(d).

14 II.

15 The conduct, acts or omissions of DARYL SCOTT BEANS, as
16 described in Paragraph 4, constitutes a failure to keep Prime
17 Choice Escrow Corporation in compliance with the Real Estate Law
18 during the time that he was the officer designated by a corporate
19 broker licensee in violation of Section 10159.2 of the Code.
20 This conduct is a basis for the suspension or revocation of
21 Respondent's license pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

A. All licenses and licensing rights of Respondents

PRIME CHOICE ESCROW CORPORATION and DARYL SCOTT BEANS under the
Real Estate Law are suspended for a period of ninety (90) days

from the effective date of this Decision; provided, however, that sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondents shall obey all laws, rules and
regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

2. That no final subsequent determination be made,
after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

B. The initial thirty (30) day portion of said ninety
(90) day suspension shall commence on the effective date of this Decision; provided, however, that if Respondents petition, said suspension shall be stayed upon condition that:

1. Pursuant to Section 10175.2 of the Business and

1 Professions Code, Respondents shall pay a monetary penalty of
2 eighty three dollars and thirty three cents (\$83.33) per day each
3 or Two Thousand Five Hundred Dollars (\$2,500), totaling Five
4 Thousand Dollars (\$5,000) for both Respondents.

5 2. Said payment shall be in the form of a cashier's
6 check or certified check made payable to the Recovery
7 Account of the Real Estate Fund. Said check must be received
8 by the Department prior to the effective date of the Decision.

9 3. No further cause for disciplinary action against
10 the real estate license of Respondents occur within two (2) years
11 from the effective date of the Decision in this matter.

12 4. If Respondents fail to pay the monetary penalty in
13 accordance with the terms and conditions of the Decision, the
14 Commissioner may, without a hearing, order the immediate
15 execution of all or any part of the stayed suspension in which
16 event Respondents shall not be entitled to any repayment nor
17 credit, prorated or otherwise, for money paid to the Department
18 under the terms of this Decision.

19 5. If Respondents pay the monetary penalty and provide
20 evidence, above, and if no further cause for disciplinary action
21 against the real estate licenses of Respondents occurs within two
22 (2) years from the effective date of the Decision, the stay
23 hereby granted shall become permanent.
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II.

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2 Pursuant to Section 10148 of the Business and
3 Professions Code, Respondents PRIME CHOICE ESCROW CORPORATION and
4 DARYL SCOTT BEANS shall pay the Commissioner's reasonable cost
5 for (a) the audit which led to this disciplinary action (b) a
6 subsequent audit to determine if Respondents are now in
7 compliance with the Real Estate Law. The cost of the audit which
8 led to this disciplinary action is \$4,783.65. In calculating the
9 amount of the Commissioner's reasonable cost, the Commissioner
10 may use the estimated average hourly salary for all persons
11 performing audits of real estate brokers, and shall include an
12 allocation for travel time to and from the auditor's place of
13 work. Said amount for the prior and subsequent audits shall not
14 exceed \$9,567.30.

15
16 Respondents shall pay such cost within 60 days of
17 receiving an invoice from the Commissioner detailing the
18 activities performed during the audit and the amount of time
19 spent performing those activities.

20 The Commissioner may suspend the license of Respondents
21 pending a hearing held in accordance with Section 11500, et seq.,
22 of the Government Code, if payment is not timely made as provided
23 for herein, or as provided for in a subsequent agreement between
24 the Respondent and the Commissioner. The suspension shall remain
25 in effect until payment is made in full or until Respondents
26 enter into an agreement satisfactory to the Commissioner to
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1 provide for payment, or until a decision providing otherwise is
2 adopted following a hearing held pursuant to this condition.

3 III.

4 All licenses and licensing rights of Respondent DARYL
5 SCOTT BEANS are indefinitely suspended unless or until Respondent
6 provides proof satisfactory to the Commissioner, of having taken
7 and successfully completed the continuing education course on
8 trust fund accounting and handling specified in paragraph (3) of
9 subdivision (a) of Section 10170.5 of the Business and
10 Professions Code. Proof of satisfaction of this requirement
11 includes evidence that respondent has successfully completed the
12 trust fund account and handling continuing education course
13 within 120 days prior to the effective date of the Decision in
14 this matter.

15 DATED: 9-10-07

16 EJL
ELLIOTT MAC LENNAN, Counsel for
17 the Department of Real Estate

18 * * *

19 EXECUTION OF THE STIPULATION

20 We have read the Stipulation. Its terms are understood
21 by us and are agreeable and acceptable to us. We understand that
22 we are waiving rights given to us by the California
23 Administrative Procedure Act (including but not limited to
24 Sections 11506, 11508, 11509 and 11513 of the Government Code),
25 and we willingly, intelligently and voluntarily waive those
26 rights, including the right of requiring the Commissioner to
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1 prove the allegations in the Accusation at a hearing at which we
2 would have the right to cross-examine witnesses against us and to
3 present evidence in defense and mitigation of the charges.

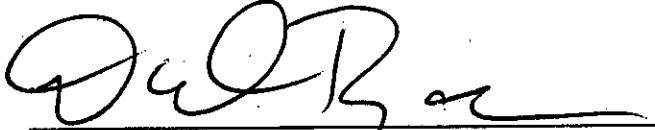
4 MAILING AND FACSIMILE

5 Respondents (1) shall mail the original signed
6 signature page of the stipulation herein to Elliott Mac Lennan:
7 Attention: Legal Section, Department of Real Estate, 320 W.
8 Fourth St., Suite 350, Los Angeles, California 90013-1105.

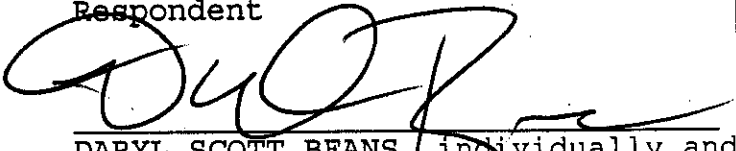
9 Respondents shall also (2) facsimile a copy of signed signature
10 page, to the Department at the following telephone/fax number:
11 (213) 576-6917, Attention: Elliott Mac Lennan.

12 A facsimile constitutes acceptance and approval of the
13 terms and conditions of this stipulation. Respondents agree,
14 acknowledge and understand that by electronically sending to the
15 Department a facsimile copy of Respondents' actual signature as
16 it appears on the stipulation, that receipt of the facsimile copy
17 by the Department shall be as binding on Respondents as if the
18 Department had received the original signed stipulation.
19

20
21 DATED: 10-11-07


PRIME CHOICE ESCROW CORPORATION, a
corporate real estate broker,
BY: DARYL SCOTT BEANS D.O.,
Respondent

22
23
24 DATED: 10-11-07


DARYL SCOTT BEANS, individually and
as designated officer of Prime
Choice Escrow Corporation,
Respondent

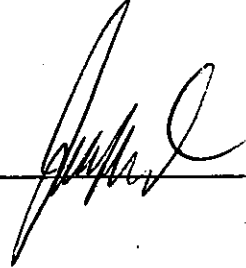
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents PRIME CHOICE ESCROW
CORPORATION and DARYL SCOTT BEANS, individually and as designated
officer of Prime Choice Escrow Corporation, and shall become
effective at 12 o'clock noon on January 2, 2008.

IT IS SO ORDERED 11-13, 2007.

JEFF DAVI
Real Estate Commissioner



Sacto

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

JUL 19 2007

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
)
PRIME CHOICE ESCROW CORPORATION;)
and DARYL SCOTT BEANS,)
individually and as designated)
Officer of Prime Choice Escrow)
Corporation,)
)
Respondents.)

No. H-34132 LA

A C C U S A T I O N

The Complainant, Janice Waddell, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against PRIME CHOICE ESCROW CORPORATION; and DARYL SCOTT BEANS,
individually and as designated officer of Prime Choice Escrow
Corporation, alleges as follows:

1.

The Complainant, Janice Waddell, acting in her official
capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes this Accusation against PRIME CHOICE ESCROW
2 CORPORATION and DARYL SCOTT BEANS.

3 2.

4 All references to the "Code" are to the California
5 Business and Professions Code and all references to "Regulations"
6 are to Title 10, Chapter 6, California Code of Regulations except
7 as otherwise specified.

8 LICENSE HISTORY
9

10 3.

11 A. At all times mentioned, PRIME CHOICE ESCROW
12 CORPORATION ("PCEC") was licensed or had license rights issued by
13 the Department of Real Estate ("Department") as a corporate real
14 estate broker. On October 30, 2002, PCEC was originally licensed
15 as a real estate broker.

16 B. At all times material herein, DARYL SCOTT BEANS
17 ("BEANS"), was licensed by the Department as a corporate real
18 estate broker. BEANS was originally licensed as a salesperson on
19 December 29, 1994. BEANS was originally licensed as a broker on
20 May 9, 1995.

21 C. At all times material herein, BEANS was the
22 designated officer and broker responsible for PCEC, pursuant to
23 Code Section 10159.2 of the Business and Professions Code for
24 supervising the activities requiring a real estate license
25 conducted on behalf PCEC of by PCEC's officers, agents and
26 employees. BEANS became the designated officer of PCEC on
27 October 30, 2002, and continues thereon to date.

BROKERAGE

4.

At all times mentioned, in the City of Rancho Cucamonga, County of Los Angeles, PCEC acted as a corporate real estate broker and conducted licensed activities by means of broker-controlled escrows through its escrow division under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

AUDIT

5.

On December 28, 2006, the Department completed an audit examination of the books and records of PCEC pertaining to the broker-escrow activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2005 to October 31, 2006. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 060054 and the exhibits and workpapers attached to said audit report.

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TRUST ACCOUNT

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, PCEC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by PCEC including escrow holders and thereafter made deposits and or disbursements of such funds.

From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by PCEC in the bank accounts as follows:

"Prime Choice Escrow Corp. Escrow Trust Account"
Acct. No 1891976696
Commerica Bank
El Segundo, California ("escrow trust account")

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents PCEC and BEANS acted in violation of the Code and the Regulations in that they:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account, where the disbursement of funds reduced the total of aggregate funds in the escrow trust account, to an amount which, on October 31, 2006, was \$19,357.96, less than the existing aggregate trust fund liability of PCEC to

1 every principal who was an owner of said funds, without first
2 obtaining the prior written consent of the owners of said funds,
3 as required by Code Section 10145 and Regulations 2832.1,
4 2950(d), 2950(g) and 2951. On December 12, 2006, the shortage
5 was cured.

6 (b) Permitted unlicensed and unbonded persons Carlos
7 Zamudio and Humberto Zamudio to be authorized signatories on the
8 escrow trust account, in violation of Code Section 10145 and
9 Regulation 2834.

10 (c) Received undisclosed compensation by means of an
11 earning credit agreement with the Commerica Bank. Bank service
12 charges were deducted from the earning credit from for the escrow
13 trust account. The earnings credit arrangement was not disclosed
14 by PCEC to the beneficiaries of the escrow trust account, in
15 violation of Code Section 10176(g).

16 (d) Failed to disclose in writing to all parties of
17 PCEC's financial interest and ownership of PCEC's escrow
18 division, Prime Choice Escrow, as required by Code Section
19 10176(g) and Regulation 2950(h).

20 (e) Falsely represented to escrow holders on sales
21 escrow instructions that PCEC was licensed by the California
22 Department of Corporations to perform escrow services, in
23 violation of Code Section 10176(a).

24 (f) Continued to engage in licensed activities from
25 October 29, 2006, after which its corporate broker license had
26
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1 expired, in violation of Code Section 10130. PCEC's license was
2 renewed and reinstated on December 12, 2006.

3 (g) Used the fictitious names of "Prime Choice Escrow",
4 to conduct licensed activities including broker-controlled
5 escrows without holding a license bearing said fictitious
6 business name, in violation of Code Section 10159.5 and
7 Regulation 2731.

8 8.

9 The conduct of Respondent PCEC, described in Paragraph
10 7, above, violated the Code and the Regulations as set forth
11 below:

12 PARAGRAPH

PROVISIONS VIOLATED

13
14 7(a)

Code Section 10145 and Regulations
15 2832.1, 2950(d), 2950(g), and 2951
16

17
18 7(b)

Code Section 10145 and Regulation
19 2834

20
21 7(c)

Code Section 10176(g)

22
23 7(c)

Code Section 10176(g)

24
25 7(d)

Code Section 10176(g) and
26 Regulation 2950(h)
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- 7(d) Code Section 10176(g) and Regulation 2950(h)
- 7(e) Code Section 10176(a)
- 7(f) Code Section 10130
- 7(g) Code Section 10159.5 and Regulation 2731

The foregoing violations constitutes cause for the suspension or revocation of the real estate license and license rights of PCEC, under the provisions of Code Sections 10176(a), 10176(g), 10177(d) and/or 10177(g).

NEGLIGENCE ,

9.

The overall conduct of Respondent PCEC and BEANS constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

SUPERVISION AND COMPLIANCE

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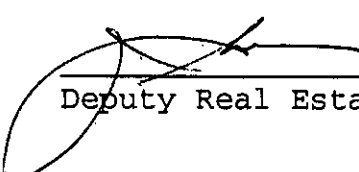
The overall conduct of Respondent BEANS constitutes a failure on his part, as officer designated by a corporate broker

1 10159.2, and to keep PCEC in compliance with the Real Estate Law,
2 and is cause for the suspension or revocation of the real estate
3 license and license rights of BEANS pursuant to the provisions of
4 Code Section 10177(h).

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against the license and license rights of Respondent PRIME
9 CHOICE ESCROW CORPORATION and DARYL SCOTT BEANS, under the Real
10 Estate Law (Part 1 of Division 4 of the Business and Professions
11 Code) and for such other and further relief including restitution
12 as may be proper under other applicable provisions of law.

13 Dated at Los Angeles, California

14 this *10 July 2007*

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16 _____
17 Deputy Real Estate Commissioner

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24 cc: Prime Choice Escrow Corporation
25 c/o Daryl Scott Beans D.O.
26 Janice Waddell
27 Sacto
Audits - Lisa Kwong