

1 Department of Real Estate  
320 W. 4<sup>TH</sup> Street, Suite 350  
2 Los Angeles, CA 90013-1105  
3 Telephone: (213) 576-6982  
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**FILED**

APR 12 2010

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 BENTON HUGH LAMSON, doing ) No. H-35788 LA  
13 business as Bluestar Properties, ) L-2009040492  
14 Respondent, ) STIPULATION  
15 ) AND  
16 ) AGREEMENT

17 It is hereby stipulated by and between Respondent  
18 BENTON HUGH LAMSON, (sometimes referred to as "Respondent"),  
19 represented by Samuel Spital, Esq., and the Complainant, acting  
20 by and through Elliott Mac Lennan, Counsel for the Department of  
21 Real Estate, as follows for the purpose of settling and disposing  
22 of the Accusation filed on March 17, 2009, in this matter:

- 23  
24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondent  
26 at a formal hearing on the Accusation, which hearing was to be  
27 held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement ("Stipulation").

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

8 3. Respondent filed a Notice of Defense pursuant to  
9 Section 11506 of the Government Code for the purpose of  
10 requesting a hearing on the allegations in the Accusation.  
11 Respondent hereby freely and voluntarily withdraws said Notice of  
12 Defense. Respondent acknowledges that he understands that by  
13 withdrawing said Notice of Defense he thereby waives his right to  
14 require the Commissioner to prove the allegations in the  
15 Accusation at a contested hearing held in accordance with the  
16 provisions of the APA and that he will waive other rights  
17 afforded to him in connection with the hearing such as the right  
18 to present evidence in his defense the right to cross-examine  
19 witnesses.  
20

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

4 5. This Stipulation is made for the purpose of  
5 reaching an agreed disposition of this proceeding and is  
6 expressly limited to this proceeding and any other proceeding or  
7 case in which the Department of Real Estate ("Department"), or  
8 another licensing agency of this state, another state or if the  
9 federal government is involved, and otherwise shall not be  
10 admissible in any other criminal or civil proceeding.

11 6. It is understood by the parties that the Real  
12 Estate Commissioner may adopt this Stipulation as his Decision in  
13 this matter thereby imposing the penalty and sanctions on  
14 Respondent's real estate licenses and license rights as set forth  
15 in the below "Order". In the event that the Commissioner in his  
16 discretion does not adopt the Stipulation, the Stipulation shall  
17 be void and of no effect and Respondent shall retain the right to  
18 a hearing and proceeding on the Accusation under the provisions  
19 of the APA and shall not be bound by any stipulation or waiver  
20 made herein.  
21

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

2 DETERMINATION OF ISSUES

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

5 I.

6 The conduct of BENTON HUGH LAMSON, as described in  
7 Paragraph 4, above, is in violation of Section 10145 of the  
8 Business and Professions Code ("Code") and Sections 2831, 2831.2,  
9 2832.1 and 2832(a) of Title 10, Chapter 6 of the California Code  
10 of Regulations ("Regulations") and is a basis for discipline of  
11 Respondent's license and license rights as a violation of the  
12 Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

13 II.

14 The conduct, acts and omissions of BENTON HUGH LAMSON,  
15 as described in Paragraph 4, above, constitutes a failure to  
16 ensure that his brokerage, Rancho Funding, was in compliance with  
17 the Real Estate Law and is a basis for the suspension or  
18 revocation of Respondent's license pursuant to Code Section  
19 10177(h).

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ORDER

1 WHEREFORE, THE FOLLOWING ORDER is hereby made:

2 I.

3 The real estate broker license of Respondent  
4 BENTON HUGH LAMSON under the Real Estate Law is revoked;  
5 provided, however, a restricted real estate salesperson license  
6 shall be issued to Respondent, pursuant to Section 10156.5 of the  
7 Business and Professions Code, if Respondent:

8 A. Makes application therefor and pays to the  
9 Department of Real Estate the appropriate fee for the restricted  
10 license within ninety (90) days from the effective date of this  
11 Decision.

12 B. Respondent shall, prior to and as a condition of  
13 the issuance of the restricted license, submit proof satisfactory  
14 to the Commissioner of having taken and successfully completed  
15 the continuing education course on trust fund accounting and  
16 handling specified in paragraph (3) of subdivision (a) of Section  
17 10170.5 of the Business and Professions Code. Proof of  
18 satisfaction of this requirement includes evidence that  
19 respondent has successfully completed the trust fund account and  
20 handling continuing education course within 120 days prior to the  
21 effective date of the Decision in this matter.

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1                   The restricted license issued to Respondent shall be  
2 subject to all of the provisions of Section 10156.7 of the Code  
3 and the following limitations, conditions and restrictions  
4 imposed under authority of Section 10156.6 of that Code.

5           1. The restricted license issued to Respondent may be  
6 suspended prior to hearing by Order of the Real Estate  
7 Commissioner in the event of Respondent's conviction or plea of  
8 nolo contendere to a crime which is substantially related to  
9 Respondent's fitness or capacity as a real estate licensee.

10           2. The restricted license issued to Respondent may  
11 be suspended prior to hearing by Order of the Real Estate  
12 Commissioner on evidence satisfactory to the Commissioner that  
13 Respondent has violated provisions of the California Real Estate  
14 Law, the Subdivided Lands Law, Regulations of the Real Estate  
15 Commissioner or conditions attaching to the restricted license.

16           3. Respondent shall not be eligible to apply for the  
17 issuance of an unrestricted real estate license nor for the  
18 removal of any of the conditions, limitations or restrictions of  
19 a restricted license until two (2) years has elapsed from the  
20 effective date of the issuance of the restricted license.

21           4. Respondent shall submit with any application for  
22 license under an employing broker, or any application for  
23 transfer to a new employing broker, a statement signed by the  
24 prospective employing real estate broker on a form approved by  
25 the Department of Real Estate which shall certify:  
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1 (a) That the employing broker has read the  
2 Decision of the Commissioner which granted  
3 the right to a restricted license; and

4 (b) That the employing broker will exercise  
5 close supervision over the performance by the  
6 restricted licensee relating to activities  
7 for which a real estate license is required.

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

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

II.

The restricted real estate salesperson license and  
licensing rights of Respondent BENTON HUGH LAMSON, under the Real  
Estate Law are suspended for a period of three hundred sixty five  
(365) days from the issuance of the restricted license.

A. Provided, however, that if Respondent requests, the  
initial one hundred (100) days of said suspension (or a portion  
thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to  
Section 10175.2 of the Business and Professions Code at the rate  
of \$100.00 per day for each day of the suspension for a total  
monetary penalty of \$10,000.

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

3. No further cause for disciplinary action against  
the real estate license of Respondent occurs within two (2) years  
from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in  
accordance with the terms of the Decision, the Commissioner may,  
without a hearing, order the immediate execution of all or any  
part of the stayed suspension, in which event the Respondent



1 shall not be entitled to any repayment nor credit, prorated or  
2 otherwise, for money paid to the Department under the terms of  
3 this Decision.

4 5. If Respondent pays the monetary penalty and if no  
5 further cause for disciplinary action against the real estate  
6 license of Respondent occurs within two (2) years from the  
7 effective date of the Decision, the stay hereby granted shall  
8 become permanent.

9 B. The remaining two hundred sixty five (265) days of  
10 the three hundred sixty five (365) day suspension shall be stayed  
11 for two (2) years upon the following terms and conditions:

12 1. Respondent shall obey all laws, rules and  
13 regulations governing the rights, duties and responsibilities of  
14 a real estate licensee in the State of California; and

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

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26 DATED: \_\_\_\_\_

3-17-10

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\_\_\_\_\_  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

\* \* \*

EXECUTION OF THE STIPULATION

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

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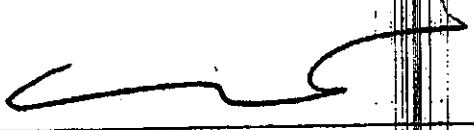
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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of the signature page, as actually signed by Respondent, to the Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917. Respondent agrees, acknowledge and understand that by electronically sending to the Department a fax copy of Respondent' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation.

DATED: 3-23-10

  
BENTON HUGH LAMSON,  
Respondent

DATED: 3-22-10

  
SAM SPITAL, ESQ.,  
Attorney for Respondent  
Approved as to form

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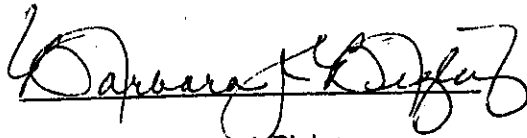
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1                    The foregoing Stipulation and Agreement is hereby  
2                    adopted as my Decision as to Respondent BENTON HUGH LAMSON and  
3                    shall become effective at 12 o'clock noon on  
4                    May 12, 2010.

5                    IT IS SO ORDERED 4/1, 2010.

6  
7                    JEFF DAVI  
8                    Real Estate Commissioner

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11                    BY: Barbara J. Bigby  
12                    Chief Deputy Commissioner

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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**

MAR 17 2009

DEPARTMENT OF REAL ESTATE

BY: *Helly*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
BENTON HUGH LAMSON, doing )  
business as Bluestar Properties, )  
 )  
Respondent. )  
 )

No. H-35788 LA

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, acting in her official  
capacity, for cause of Accusation against BENTON HUGH LAMSON dba  
Bluestar Properties, is informed and alleges as follows:

1.

All references to the "Code" are to the California  
Business and Professions Code and all references to "Regulations"  
are to Title 10, Chapter 6, California Code of Regulations or to  
the California Financial Code.

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1 2.

2 At all times mentioned, BENTON HUGH LAMSON  
3 ("LAMSON"), was licensed or had license rights issued by the  
4 Department of Real Estate ("Department") as a real estate broker.  
5 On November 15, 1993, LAMSON was originally licensed as a real  
6 estate salesperson. On February 13, 1996, LAMSON was originally  
7 licensed as a real estate broker.

8 3.

9 At all times mentioned, in the City of Victorville,  
10 County of Riverside, LAMSON engaged in the business of a property  
11 management brokerage dba Bluestar Properties.

12 4.

13 On January 23, 2009, the Department completed an audit  
14 examination of the books and records of LAMSON, pertaining to the  
15 residential resale activities described in Paragraph 3, that  
16 require a real estate license. The audit examination covered a  
17 period of time beginning on March 1, 2006 to June 30, 2008. The  
18 audit examination revealed violations of the Code and the  
19 Regulations as set forth below, and more fully discussed in Audit  
20 Report LA 070383 and the exhibits and work papers attached.

21 5.

22 At all times mentioned, in connection with the  
23 activities described in Paragraph 4, above, LAMSON accepted or  
24 received funds including funds in trust (hereinafter "trust  
25 funds") from or on behalf of actual or prospective parties to  
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1 transactions handled by LAMSON including property owners and  
2 tenants. LAMSON maintained the follow four trust accounts and  
3 one bank account:

4 "Bluestar Properties Trust Account  
5 251230013"  
6 Citizens Business Bank  
7 Victorville, CA

(T/A #1)

8 "Bluestar Properties Trust Account  
9 251231273"  
10 Citizens Business Bank  
11 Victorville, CA

(T/A #2)

12 "Bluestar Properties Trust Account  
13 251231281"  
14 Citizens Business Bank  
15 Victorville, CA

(T/A #3)

16 "Bluestar Properties Trust Account  
17 251231265"  
18 Citizens Business Bank  
19 Victorville, CA

(T/A #4)

20 "Benton H. Lamson dba Bluestar Properties  
21 01259025-01"  
22 Citizens Business Bank  
23 Victorville, CA

(B/A #1)

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2 With respect to the licensed activities referred to in  
3 Paragraph 3, and the audit examination including the exhibits and  
4 work papers referenced in Paragraph 4, it is alleged that LAMSON:

5 (a) Permitted, allowed or caused the disbursement of  
6 trust funds from T/A #1 where the disbursement of funds reduced  
7 the total of aggregate funds in T/A #1, to an amount which, on  
8 June 30, 2008, was \$216,147.48 less than the existing aggregate  
9 trust fund liability of LAMSON to every principal who was an  
10 owner of said funds, without first obtaining the prior written  
11 consent of the owners of said funds, in violation of Code Section  
12 10145 and Regulation 2832.1. The unidentified shortage was  
13 restored on January 21, 2009.

14 (b) Failed to place trust funds, including earnest  
15 money deposits, accepted on behalf of another into the hands of  
16 the owner of the funds, a neutral escrow depository or into a  
17 trust fund account in the name of the trustee at a bank or other  
18 financial institution, in violation of Code Section 10145 and  
19 Regulation 2832(a).

20 (c) Failed to maintain an accurate control record in  
21 the form of a columnar record in chronological order of all trust  
22 funds received for T/A #1 and B/A #1, in violation of Code  
23 Section 10145 and Regulation 2831; and

24 (d) Failed to perform a monthly reconciliation of the  
25 balance of all separate beneficiary or transaction records  
26  
27



1 maintained pursuant to Regulation 2831.1 with the record of all  
2 trust funds received and disbursed by T/A #1 and B/A #1, in  
3 violation of Code Section 10145 and Regulation 2831.2.

4 7.

5 The conduct of Respondent LAMSON described in Paragraph  
6 6, above, violated the Code and the Regulations as set forth:

7 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8 6(a)	Code Section 10145 and Regulation 2832.1
9	
10 6(b)	Code Section 10145 and Regulation
11	2832(a)
12	
13 6(c)	Code Section 10145 and Regulation 2831
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15 6(d)	Code Section 10145 and Regulation 2831.2
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22 Each of the foregoing violations constitute cause for the  
23 suspension or revocation of the real estate license and license  
24 rights of Respondent LAMSON under the provisions of Code Sections  
25 10177(d) and/or 10177(g).

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8.

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

9.

The overall conduct of LAMSON constitutes a failure to exercise supervision and control over the licensed activities of Respondent's brokerage. Nor did LAMSON maintain a system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing policies to reviewing trust fund handling and record keeping for his client's trust funds, in violation of Code Sections 10177(d) and/or 10177(g) and 10177(h).

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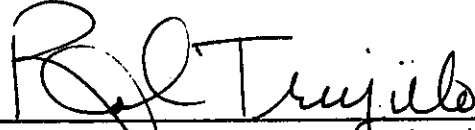
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1  
2 WHEREFORE, Complainant prays that a hearing be  
3 conducted on the allegations of this Accusation and that upon  
4 proof thereof, a decision be rendered imposing disciplinary  
5 action against the license and license rights of Respondent 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

10  
11 Dated at Los Angeles, California

12 this 10 day of March 2009.

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15 Deputy Real Estate Commissioner

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26 cc: Benton Hugh Lamson  
27 Robin Trujillo  
Sacto  
Audits - Lisa Kwong