

1 Bureau of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

APR - 4 2018

BUREAU OF REAL ESTATE

By *Zni - Z*

7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation Against)

No. H-40733 LA

12 HOMEBAY BROKER CA, INC.,)
13 formerly known as Broker Tech, Inc.;)
14 MARTIN JAMES BENNETT,)
15 individually and as Designated Officer)
of Broker Tech, Inc.; and THOMAS)
16 PATRICK OWEN, JR.,)

STIPULATION
AND
AGREEMENT

17 Respondents.)

18 It is hereby stipulated by and between Respondent MARTIN JAMES BENNETT,
19 individually and as Designated Officer of Broker Tech, Inc. ("BENNETT"), acting by and
20 through attorney Rizza Gonzales of Century Law Group, and the Complainant, acting by and
21 through Amelia V. Vetrone, Counsel for the Bureau of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on July 29, 2017, as against Respondent
23 BENNETT only in this matter:

24 1. All issues which were to be contested and all evidence which was to be
25 presented by Complainant and Respondent BENNETT at a formal hearing on the Accusation,
26 which hearing was to be held in accordance with the provisions of the Administrative Procedure
27 Act ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions

1 of this Stipulation and Agreement ("Stipulation").

2 2. Respondent BENNETT has received, read and understands the Statement to
3 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of
4 Real Estate ("Bureau") in this proceeding.

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

13 4. This Stipulation is based on the factual allegations contained in the
14 Accusation. In the interest of expedience and economy Respondent BENNETT chooses not to
15 contest these allegations but to remain silent and understands that, as a result thereof, these
16 factual allegations, without being admitted or denied, will serve as a prima facie basis for the
17 disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to
18 provide evidence to prove said factual allegations.

19 5. This Stipulation is made for the purpose of reaching an agreed disposition of
20 this proceeding and is expressly limited to this proceeding and not any other proceeding or case
21 in which the Bureau, or another licensing agency of this state, another state, or the federal
22 government is involved, and otherwise shall not be admissible in any criminal or civil
23 proceeding.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt
25 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
26 Respondent BENNETT's real estate licenses and license rights as set forth in the below "Order".
27 In the event that the Commissioner in his discretion does not adopt the Stipulation, the

1 Stipulation shall be void and of no effect and Respondent shall retain the right to a hearing and
2 proceed on the Accusation under the provisions of the APA and shall not be bound by any
3 stipulation or waiver made herein.

4 7. The Order or any subsequent Order of the Real Estate Commissioner made
5 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Bureau with respect to any matters which were not
7 specifically alleged to be causes for accusation in this proceeding.

8 8. Respondent BENNETT understands that, by agreeing to this Stipulation,
9 Respondent agrees to pay, pursuant to Business and Professions Code ("Code") Section 10106,
10 one half of the cost of the investigation of this matter. The amount of said cost is \$4,481.40, and
11 Respondent BENNETT agrees to pay the sum of \$2,240.70.

12 DETERMINATION OF ISSUES

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

15 The conduct, acts or omissions of MARTIN JAMES BENNETT, as described in
16 Paragraph 4, above, are in violation of Code Sections 10159.2, and 10177(h) and Section 2725 of
17 Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and are a basis for
18 discipline of Respondent's license and license rights as a violation of the Real Estate Law, Part 1
19 of Division 4 of the Code, pursuant to Code Sections 10177(g), and 10177(h).

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 I.

23 A. All licenses and licensed rights of Respondent MARTIN JAMES BENNETT
24 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
25 of this Decision; provided, however, that the initial thirty (30) days of that suspension shall be
26 stayed for two years upon the following terms and conditions:
27

1 1. Respondent BENNETT shall pay a monetary penalty pursuant to Code Section
2 10175.2 of \$500.00.

3 2. Said payment shall be in the form of a cashier's check made payable to the
4 Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section,
5 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
6 Order.

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

10 4. If Respondent BENNETT fails to pay the monetary penalty in accordance with
11 the terms and conditions of the Decision, the suspension shall go into effect automatically. In
12 that event, Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
13 for money paid to the Bureau under the terms of this Decision and Order.

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

17 B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed
18 for two (2) years upon the following terms and conditions:

19 1. That Respondent obey all laws, rules and regulations governing the rights,
20 duties and responsibilities of a real estate licensee in the State of California; and

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

27 ///

1 II.

2 Respondent BENNETT shall, within six (6) months from the effective date of this
3 Decision and Order herein, take and pass the Professional Responsibility Examination
4 administered by the Bureau including the payment of the appropriate examination fee. If
5 Respondent fails to satisfy this condition, his real estate license shall be automatically suspended
6 until he passes the examination.

7 III.

8 Respondent BENNETT shall, within nine (9) months from the effective date of
9 this Decision and Order, present evidence satisfactory to the Real Estate Commissioner that he
10 has, since the most recent issuance of an original or renewal real estate license, taken and
11 successfully completed the continuing education course on trust fund accounting and handling
12 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. If Respondent fails
13 to satisfy this condition, Respondent BENNETT's real estate license shall be automatically
14 suspended until he presents evidence satisfactory to the Commissioner of having taken and
15 successfully completed the trust fund accounting and handling course. Proof of completion of
16 the continuing education course must be delivered to the Bureau of Real Estate, Flag Section,
17 P.O. Box 137013, Sacramento, CA 95813-7013.

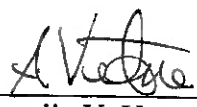
18 IV.

19 Prior to the effective date of this Decision, and pursuant to Code Section 10106,
20 Respondent shall pay half the Commissioner's reasonable cost for the investigation which led to
21 this disciplinary action in the amount of \$2,240.70. Said payment shall be in the form of a
22 cashier's check made payable to the Bureau of Real Estate. Said check must be delivered to the
23 Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013, prior to
24 the effective date of this Decision and Order.

25 If Respondent fails to satisfy this condition in a timely manner as provided for
26 herein, Respondent BENNETT's real estate license shall automatically be suspended until
27

1 payment is made in full, or until a decision providing otherwise is adopted following a hearing
2 held pursuant to this condition.

4 DATED: 3-15-18



Amelia V. Vetrone, Counsel for
Bureau of Real Estate

7 * * *

8 EXECUTION OF THE STIPULATION

9 I have read the Stipulation. Its terms are understood by me and are agreeable and
10 acceptable to me. I understand that I am waiving rights given to me by the California
11 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
12 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights,
13 including the right of requiring the Commissioner to prove the allegations in the Accusation at a
14 hearing at which I would have the right to cross-examine witnesses against me and to present
15 evidence in defense and mitigation of the charges.

16 MAILING

17 Respondent shall mail the original signed signature page of the stipulation herein
18 to Amelia V. Vetrone: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth St.,
19 Suite 350, Los Angeles, California 90013-1105.

20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///

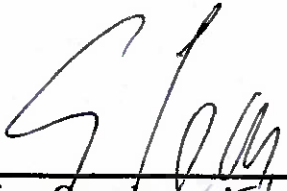
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Respondent's signature below constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondent BENNETT agrees, acknowledges and understands that by signing this Stipulation Respondent is bound by its terms as of the date of such signature and that this agreement is not subject to rescission or amendment at a later date except by a separate Decision and Order of the Real Estate Commissioner.

DATED: 2/28/18


MARTIN JAMES BENNETT
Respondent

DATED: 3/5/18


~~Rizza Gonzales~~ Edward O. Lear
Counsel for Respondents
Approved as to Form

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent MARTIN JAMES BENNETT only, and shall become effective at 12 o'clock noon on **APR 24 2018**.

IT IS SO ORDERED March 22, 2018.

WAYNE S. BELL
Real Estate Commissioner



By: DANIEL J. SANDRI
Chief Deputy Commissioner