

1 I have considered Respondent's petition and the
2 evidence submitted in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for removal of restrictions is granted and that a real
10 estate broker license be issued to Respondent if Respondent
11 satisfies the following conditions within nine (9) months from
12 the date of this order:

13 (a) Submittal of a completed application and payment
14 of the appropriate fee for a real estate broker license, and

15 (b) Submittal of evidence satisfactory to the Real
16 Estate Commissioner that Respondent has, since the most recent
17 issuance of an original or renewal real estate license, taken and
18 successfully completed the continuing education requirements of
19 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
20 real estate license.

21 This Order shall become effective immediately.

22 DATED: 12-13, 2005.

23 JEFF DAVI
24 Real Estate Commissioner

COPY

FILED
MAY 22 1996

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

Sydney [Signature]

* * *

In the Matter of the Accusation of)	No. H-7280 SF
QUINCY ANTHONY VIRGILIO, JR.,)	OAH N-9508054
Respondent.)	

DECISION

The Proposed Decision dated April 19, 1996, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on June 13th, 1996.

IT IS SO ORDERED 5/14, 1996.

JIM ANTT, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	No. H-7280 SF
QUINCY ANTHONY VIRGILIO, JR.,)	OAH No. N 9509054
)	
Respondent.)	
)	

PROPOSED DECISION

This matter was heard before Robert Walker, Administrative Law Judge, Office of Administrative Hearings, State of California, on March 25, 1996, at Oakland, California.

Susan M. Rossi, Counsel, represented the Department of Real Estate ("Department").

Quincy Anthony Virgilio, Jr. ("Respondent") appeared in propria persona.

FINDINGS OF FACT

1. Les R. Bettencourt filed the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Respondent has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

3. Respondent was licensed as a real estate salesperson in 1995. In his application for a license Respondent failed to disclose that a criminal charge was pending against him.

4. The pending charge was for petty theft and had arisen out of Respondent's attempt to steal groceries. In 1994 Respondent was a single parent with two children, a girl who was 13 and a boy who was 11. In December of 1994, Respondent was unemployed and had no money. He was getting food once a month from a food bank and had applied for, but was not yet receiving, public assistance. One evening he had nothing in the house to feed his children and was feeling desperate. He went to a Lucky store, filled a basket with milk, vegetables, and other food items, and left without paying. A security guard caught him, and he was cited.

5. Regarding his license application, Respondent contends that he now recognizes that it was wrong of him not to disclose the pending charge. He contends that at the time he submitted his application he felt justified in not disclosing because, he says, the form was somewhat ambiguous and confusing. Item 25 read, "have you ever been convicted...? If yes, complete #27 below." Item 26 read, "are there any criminal charges pending against you at this time? If yes, complete #27 below." Item 27 said, in part, "indicate whether each conviction was a misdemeanor or felony at the time the conviction occurred." Respondent contends that it was possible to read item 27 as limiting that series of items to convictions, and he had not been convicted. Respondent now admits that such a reading is not defensible, and he is apologetic about his failure to disclose.

6. On January 20, 1995, in the Municipal Court, Santa Clara County Judicial District, State of California, Respondent was convicted, on a plea of guilty, of a violation of Section 484/488 of the California Penal Code (petty theft).

7. The crime of which Respondent was convicted is one involving moral turpitude. It is a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee.

8. The court suspended the imposition of a sentence and placed Respondent on court probation for one year on condition that he do two days of community service. The court imposed no fine, and there was no issue of restitution.

9. Respondent did his community service and completed his criminal probation. Pursuant to Penal Code section 1203.4, he has applied to have his conviction set aside and the citation dismissed. That application is pending.

10. Respondent contends that he has never been in trouble with the law before, that this was a humiliating experience, and that it has become a driving force in his determination to succeed in the real estate industry. He says that he is a person of strong moral beliefs. He attends church regularly and occasionally helps with cleaning and setting up the Sunday school rooms. His son is an acolyte in their church. Respondent is active on the membership board of the California Association of Real Estate Lenders. He also attends regular monthly meetings of the association. He is a member of the Italian American Heritage Foundation and helps to raise money for charitable causes that it supports by cooking once a month and working three days each year at a fund raising festival.

11. Respondent admits to his wrongdoing and is extremely contrite. He says that he made a mistake and has paid for it.

12. Since receiving his license, Respondent has worked with Christenson Realty in Campbell, California. At the hearing he submitted seven current letters of recommendation from escrow officers, loan officers, and associates. The authors of the letters, variously, described respondent as sincere, helpful, intelligent, reliable, forthright, and honest.

DETERMINATION OF ISSUES

1. By reason of the matters set forth in Finding 3, cause to revoke Respondent's license exists pursuant to Business and Professions Code sections 498 and 10177(a).

2. By reason of the matters set forth in Findings 6 and 7, cause to revoke Respondent's license exists pursuant to Business and Professions Code sections 490 and 10177(b).

3. While it has been only 15 months since his conviction, by reason of the matters set forth in Findings 9 through 12, it appears that Respondent has made truly significant strides toward rehabilitation. Respondent's success in satisfying the terms of his criminal probation indicates that he would be able to comply with the terms of a restricted license. The fact that so many colleagues with whom he has worked recommend him so highly is reassuring. It appears that it would not be contrary to the public interest to issue a restricted license subject to terms of probation.

ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event of Respondent's conviction or plea of guilty or nolo contendere to a crime that is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations, or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. Respondent shall submit, with any application for license under an employing broker or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate, which shall certify:
 - a. That the employing broker has read the Decision of the Commissioner that granted the right to a restricted license; and
 - b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED:

April 19, 1996

Robert Walker
ROBERT WALKER

Administrative Law Judge

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FILED
OCT 30 1995

BEFORE THE DEPARTMENT OF REAL ESTATE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By *Victoria Dillon*
Victoria Dillon

In the Matter of the Accusation of

QUINCY ANTHONY VIRGILIO, JR.,

Case No. H-7280 SF
OAH No. N 9509054

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, World Savings Tower

1970 Broadway, Second Floor, Oakland, CA 94612

on Monday, March 25, 1996 (2 hrs. hearing), at the hour of 10:30 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 30, 1995

By *Susan M. Rossi*
SUSAN M. ROSSI, Counsel

Yud

1 SUSAN M. ROSSI, Counsel
Department of Real Estate
2 185 Berry Street, Room 3400
San Francisco, California 94107-1770

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4 Telephone: (415) 904-5917

FILED
AUG 15 1995

DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*
Victoria Dillon

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 QUINCY ANTHONY VIRGILIO, JR.,)
13 Respondent.)

No. H-7280 SF

ACCUSATION

14

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against QUINCY ANTHONY VIRGILIO, JR. (hereinafter
18 "Respondent"), is informed and alleges as follows:

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20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 California Business and Professions Code (hereinafter "Code") as a
23 real estate salesperson subject to Section 10153.4 of the
24 California Business Professions Code (Code).

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The Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

III

Respondent was issued a real estate salesperson license on or about January 24, 1995, following Respondent's application therefor filed on or about January 18, 1995.

IV

In response to Question 26 of said application, to wit: "Are there any criminal charges pending against you at this time?", Respondent did not disclose the criminal charges which resulted in the conviction, described below.

V

On or about January 20, 1995, in the Municipal Court, Santa Clara County Judicial District, State of California, Respondent was convicted of a violation of Section 484/488 of the California Penal Code (Petty Theft), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

VI


The facts alleged above constitute cause under Sections 498 and 10177(a) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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The crime of which Respondent was convicted, as alleged above, constitutes cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California,
this 9th day of August, 1995.