

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
AUG 11 2004

DEPARTMENT OF REAL ESTATE
Laurie A. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) DRE No. H-8757 SF
12 DOUGLAS EARL MANFUL,) OAH No. N-2004050323
13 Respondent.) STIPULATION
14) AND WAIVER

15 It is hereby stipulated by and between DOUGLAS EARL
16 MANFUL (hereinafter "Respondent"), individually and by and
17 through Edgardo Gonzalez, Esq., Respondent's attorney of record
18 herein, and the Complainant, acting by and through James L.
19 Beaver, Counsel for the Department of Real Estate (herein "the
20 Department"), as follows for the purpose of settling and
21 disposing of the First Amended Statement of Issues filed on July
22 20, 2004 (herein "Statement of Issues") in this matter:

23 A. Respondent acknowledges that Respondent has
24 received and read the Statement of Issues and the Statement to
25 Respondent filed by the Department in connection with his
26 application for a real estate salesperson license. Respondent
27

1 understands that the Real Estate Commissioner (herein "the
2 Commissioner") may hold a hearing on this Statement of Issues for
3 the purpose of requiring further proof of Respondent's honesty
4 and truthfulness and to prove other allegations therein, or that
5 the Commissioner may in the Commissioner's discretion waive the
6 hearing and grant Respondent a restricted real estate salesperson
7 license based upon this Stipulation and Waiver. Respondent also
8 understands that by filing the Statement of Issues in this matter
9 the Commissioner is shifting the burden to Respondent to make a
10 satisfactory showing that Respondent meets all the requirements
11 for issuance of a real estate salesperson license. Respondent
12 further understands that by entering into this stipulation and
13 waiver, Respondent will be stipulating that the Commissioner has
14 found that Respondent has failed to make such a showing, thereby
15 justifying the denial of the issuance to Respondent of an
16 unrestricted real estate salesperson license.

17
18 B. Respondent is aware that by signing this
19 Stipulation and Waiver, Respondent is waiving Respondent's right
20 to a hearing and the opportunity to present evidence at the
21 hearing to establish Respondent's rehabilitation in order to
22 obtain an unrestricted real estate salesperson license if this
23 Stipulation and Waiver is accepted by the Commissioner. However,
24 Respondent is not waiving Respondent's right to a hearing and to
25 further proceedings to obtain a restricted or unrestricted
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1 license if this Stipulation and Waiver is not accepted by the
2 Commissioner.

3 C. Respondent further understands that the following
4 conditions, limitations, and restrictions will attach to a
5 restricted license issued by the Department of Real Estate
6 pursuant hereto:

7 1. The license shall not confer any property right in
8 the privileges to be exercised including the right of renewal,
9 and the Commissioner may by appropriate order suspend the right
10 to exercise any privileges granted under this restricted license
11 in the event of:

12 a. The conviction of Respondent (including a plea of
13 nolo contendere) to a crime which bears a substantial
14 relationship to Respondent's fitness or capacity as a real estate
15 licensee; or

16 b. The receipt of evidence that Respondent has
17 violated provisions of the California Real Estate Law, the
18 Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner, or conditions attaching to this restricted license.

20 2. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor the removal
22 of any of the conditions, limitations or restrictions attaching
23 to the restricted license until two years have elapsed from the
24 date of issuance of the restricted license to Respondent.
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1 exercise close supervision over the licensee's performance of
2 acts for which a license is required.

3 5. Respondent's restricted real estate salesperson
4 license is issued subject to the requirements of Section 10153.4
5 of the Business and Professions Code, to wit: Respondent shall,
6 within eighteen (18) months of the issuance of the restricted
7 license, submit evidence satisfactory to the Commissioner of
8 successful completion, at an accredited institution, of two of
9 the courses listed in Section 10153.2, other than real estate
10 principles, advanced legal aspects of real estate, advanced real
11 estate finance or advanced real estate appraisal. If Respondent
12 fails to timely present to the Department satisfactory evidence
13 of successful completion of the two required courses, the
14 restricted license shall be automatically suspended effective
15 eighteen (18) months after the date of its issuance. Said
16 suspension shall not be lifted unless, prior to the expiration of
17 the restricted license, Respondent has submitted the required
18 evidence of course completion and the Commissioner has given
19 written notice to Respondent of lifting of the suspension.
20

21 6. Pursuant to Section 10154 of the Code, if
22 Respondent has not satisfied the requirements for an
23 unqualified license under Section 10153.4 of the Code,
24 Respondent shall not be entitled to renew the restricted
25 license, and shall not be entitled to the issuance of another
26 license which is subject to Section 10153.4 until four years
27

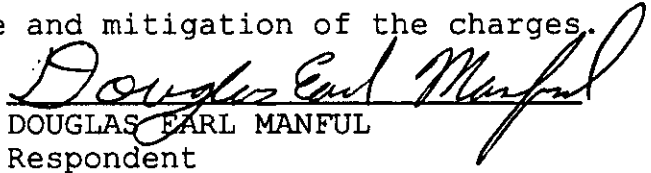
1 after the date of the issuance of the preceding restricted
2 license.

3 August 3, 2004
4 DATED


5 JAMES L. BEAVER, COUNSEL
6 DEPARTMENT OF REAL ESTATE
7 * * *

8 I have read the Stipulation and Waiver and discussed
9 it with my attorney and its terms are understood by me and are
10 agreeable and acceptable to me. I understand that I am waiving
11 rights given to me by the California Administrative Procedure
12 Act (including but not limited to Sections 11506, 11508, 11509,
13 and 11513 of the Government Code), and I willingly,
14 intelligently, and voluntarily waive those rights, including
15 the right of a hearing on the Statement of Issues at which I
16 would have the right to cross-examine witnesses against me and
17 to present evidence in defense and mitigation of the charges.

18 7-21-04
19 DATED


20 DOUGLAS EARL MANFUL
21 Respondent

22 I have reviewed the Stipulation and Waiver as to form
23 and content and have advised my client accordingly.

24 7-22-04
25 DATED


26 EDGARDO GONZALEZ
27 Attorney for Respondent

* * *


28 I have read the Statement of Issues filed herein and
29 the foregoing Stipulation and Waiver signed by Respondent. I am
30 satisfied that the hearing for the purpose of requiring further
31 proof as to the honesty and truthfulness of Respondent need
32 not be called and that it will not be inimical to the public

1 interest to issue a restricted real estate salesperson license
2 to Respondent.

3 Therefore, IT IS HEREBY ORDERED that a restricted real
4 estate salesperson license be issued to Respondent DOUGLAS EARL
5 MANFUL, if Respondent has otherwise fulfilled all of the
6 statutory requirements for licensure. The restricted license
7 shall be limited, conditioned, and restricted as specified in the
8 foregoing Stipulation and Waiver.

9 This Order is effective immediately.

10 IT IS SO ORDERED August 6, 2004.

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12 JOHN R. LIBERATOR
13 Acting Real Estate Commissioner

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1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

FILED
JUL 20 2004

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zini*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)	No. H-8757 SF
12)	
13 DOUGLAS EARL MANFUL,)	OAH No. N-2004050323
14)	
15 Respondent.)	<u>FIRST AMENDED</u>
	<u>STATEMENT OF ISSUES</u>

16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for First
18 Amended Statement of Issues against DOUGLAS EARL MANFUL (herein
19 "Respondent"), alleges as follows:

20 I

21 Complainant, Charles W. Koenig, a Deputy Real Estate
22 Commissioner of the State of California, makes this Statement of
23 Issues in his official capacity.

24 II

25 Respondent made application to the Department of Real
26 Estate of the State of California for a real estate salesperson
27 license on or about August 5, 2003 with the knowledge and

1 understanding that any license issued as a result of said
2 application would be subject to the conditions of Section
3 10153.4 of the Business and Professions Code (herein "the
4 Code").

5 III

6 In response to Question 25 of said application, to
7 wit: "Have you ever been convicted of any violation of law?
8 Convictions expunged under Penal Code Section 1203.4 must be
9 disclosed. However, you may omit minor traffic citations which
10 do not constitute a misdemeanor or felony offense." Respondent
11 concealed and failed to disclose the convictions described in
12 Paragraphs IV, V and X, below.

13 IV

14 On or about October 29, 1987, in the Municipal Court
15 of the State of California, County of Contra Costa, Respondent
16 was convicted of the crime of Driving With Blood Alcohol Over
17 .08% in violation of Vehicle Code Section 23152(b), a
18 misdemeanor and a crime involving moral turpitude which bears a
19 substantial relationship under Section 2910 of the Regulations
20 to the qualifications, functions or duties of a real estate
21 licensee.

22 V

23 On or about November 15, 1989, in the Municipal Court
24 of the State of California, County of Napa, Respondent was
25 convicted of the crime of Driving Under The Influence Of Alcohol
26 Or Drugs in violation of Vehicle Code Section 23152(a), a
27 misdemeanor and a crime involving moral turpitude which bears a

1 substantial relationship under Section 2910 of the Regulations
2 to the qualifications, functions or duties of a real estate
3 licensee.

4 VI

5 On or about May 25, 1993, in the Superior Court of the
6 State of California, County of Contra Costa, Respondent was
7 convicted of the crime of Possession Of Controlled Substance in
8 violation of Health and Safety Code Section 11377, a felony and
9 a crime involving moral turpitude which bears a substantial
10 relationship under Section 2910 of the Regulations to the
11 qualifications, functions or duties of a real estate licensee.

12 VII

13 On or about October 31, 1994, in the Municipal Court
14 of the State of California, County of Contra Costa, Respondent
15 was convicted of the crime of Driving Under The Influence Of
16 Alcohol Or Drugs in violation of Vehicle Code Section 23152(a),
17 and of the crime of Resisting Or Obstructing Peace Officer in
18 violation of Penal Code Section 148, each a misdemeanor and a
19 crime involving moral turpitude which bears a substantial
20 relationship under Section 2910 of the Regulations to the
21 qualifications, functions or duties of a real estate licensee.

22 VIII

23 On or about February 7, 1995, in the Superior Court of
24 the State of California, County of Napa, Respondent was
25 convicted of the crime of Driving Under The Influence Of Alcohol
26 Or Drugs With Two Priors in violation of Vehicle Code Section
27 23152(a), a misdemeanor and a crime involving moral turpitude

1 which bears a substantial relationship under Section 2910 of the
2 Regulations to the qualifications, functions or duties of a real
3 estate licensee.

4 IX

5 On or about February 7, 1995, in the Superior Court of
6 the State of California, County of Napa, Respondent was
7 convicted of the crime of Possession Of Controlled Substance in
8 violation of Health and Safety Code Section 11377, a felony and
9 a crime involving moral turpitude which bears a substantial
10 relationship under Section 2910 of the Regulations to the
11 qualifications, functions or duties of a real estate licensee.

12 X

13 On or about February 7, 1995, in the Municipal Court
14 of the State of California, County of Napa, Respondent was
15 convicted of the crime of Reckless Driving in violation of
16 Vehicle Code Section 23103, a misdemeanor and a crime involving
17 moral turpitude which bears a substantial relationship under
18 Section 2910 of the Regulations to the qualifications, functions
19 or duties of a real estate licensee.

20 XI

21 On or about April 10, 1995, in the Municipal Court of
22 the State of California, County of Napa, Respondent was
23 convicted of the crime of Battery On Former Girlfriend in
24 violation of Penal Code Section 243(e), a misdemeanor and a
25 crime involving moral turpitude which bears a substantial
26 relationship under Section 2910 of the Regulations to the
27 qualifications, functions or duties of a real estate licensee.

1 XII

2 In failing to reveal the convictions described in
3 Paragraphs IV, V and X, above, in said application, Respondent
4 attempted to procure a real estate license by fraud,
5 misrepresentation, or deceit, or by making a material
6 misstatement of fact in said application, which constitutes
7 cause for denial of Respondent's application for a real estate
8 license under Sections 480(c) and 10177(a) of the Code.

9 XIII

10 Respondent's criminal convictions described in
11 Paragraphs IV through XI, inclusive, above, individually and
12 collectively constitute cause for denial of Respondent's
13 application for a real estate license under Sections 480(a) and
14 10177(b) of the Code.

15 WHEREFORE, Complainant prays that the above-entitled
16 matter be set for hearing and, upon proof of the charges
17 contained herein, that the Commissioner refuse to authorize the
18 issuance of, and deny the issuance of a real estate salesperson
19 license to Respondent, and for such other and further relief as
20 may be proper in the premises.

21
22 
23 CHARLES W. KOENIG
24 Deputy Real Estate Commissioner

25 Dated at Sacramento, California,
26 this 20th day of July, 2004.
27

FILED

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

MAY 13 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zin

In the Matter of the Application of

DOUGLAS EARL MANFUL,

}
}

Case No. H-8757 SF

OAH No.

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, JULY 29, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: MAY 13, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel (12)

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED

APR 29 2004

DEPARTMENT OF REAL ESTATE

Laurie A. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)	
12 DOUGLAS EARL MANFUL,)	No. H-8757 SF
13 Respondent.)	<u>STATEMENT OF ISSUES</u>
14)	

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against DOUGLAS EARL MANFUL (herein "Respondent"),
18 alleges as follows:

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20 Complainant, Les R. Bettencourt, a Deputy Real Estate
21 Commissioner of the State of California, makes this Statement of
22 Issues in his official capacity.

23 II

24 Respondent made application to the Department of Real
25 Estate of the State of California for a real estate salesperson
26 license on or about August, 2003 with the knowledge and
27 understanding that any license issued as a result of said

1 application would be subject to the conditions of Section
2 10153.4 of the Business and Professions Code (herein "the
3 Code").

4 III

5 In response to Question 25 of said application, to
6 wit: "Have you ever been convicted of any violation of law?
7 Convictions expunged under Penal Code Section 1203.4 must be
8 disclosed. However, you may omit minor traffic citations which
9 do not constitute a misdemeanor or felony offense." Respondent
10 concealed and failed to disclose the convictions described in
11 Paragraphs IV, V and VII, below.

12 IV

13 On or about October 29, 1997, in the Municipal Court
14 of the State of California, County of Contra Costa, Respondent
15 was convicted of the crime of Driving With Blood Alcohol Over
16 .08% in violation of Vehicle Code Section 23152(b), a
17 misdemeanor and a crime involving moral turpitude which bears a
18 substantial relationship under Section 2910 of the Regulations
19 to the qualifications, functions or duties of a real estate
20 licensee.

21 V

22 On or about November 15, 1989, in the Municipal Court
23 of the State of California, County of Napa, Respondent was
24 convicted of the crime of Driving Under The Influence Of Alcohol
25 Or Drugs in violation of Vehicle Code Section 23152(a), a
26 misdemeanor and a crime involving moral turpitude which bears a
27 substantial relationship under Section 2910 of the Regulations

1 to the qualifications, functions or duties of a real estate
2 licensee.

3 VI

4 On or about October 31, 1994, in the Municipal Court
5 of the State of California, County of Contra Costa, Respondent
6 was convicted of the crime of Driving Under The Influence Of
7 Alcohol Or Drugs in violation of Vehicle Code Section 23152(a),
8 and of the crime of Resisting Or Obstructing Peace Officer in
9 violation of Penal Code Section 148, each a misdemeanor and a
10 crime involving moral turpitude which bears a substantial
11 relationship under Section 2910 of the Regulations to the
12 qualifications, functions or duties of a real estate licensee.

13 VII

14 On or about February 7, 1995, in the Municipal Court
15 of the State of California, County of Napa, Respondent was
16 convicted of the crime of Reckless Driving in violation of
17 Vehicle Code Section 23103, a misdemeanor and a crime involving
18 moral turpitude which bears a substantial relationship under
19 Section 2910 of the Regulations to the qualifications, functions
20 or duties of a real estate licensee.

21 VIII

22 On or about February 7, 1995, in the Superior Court of
23 the State of California, County of Napa, Respondent was
24 convicted of the crime of Driving Under The Influence Of Alcohol
25 Or Drugs With Two Priors in violation of Vehicle Code Section
26 23152(a), a misdemeanor and a crime involving moral turpitude
27 which bears a substantial relationship under Section 2910 of the

1 Regulations to the qualifications, functions or duties of a real
2 estate licensee.

3 IX

4 On or about February 7, 1995, in the Superior Court of
5 the State of California, County of Napa, Respondent was
6 convicted of the crime of Possession Of Controlled Substance in
7 violation of Health and Safety Code Section 11377, a felony and
8 a crime involving moral turpitude which bears a substantial
9 relationship under Section 2910 of the Regulations to the
10 qualifications, functions or duties of a real estate licensee.

11 X

12 On or about April 10, 1995, in the Municipal Court of
13 the State of California, County of Napa, Respondent was
14 convicted of the crime of Battery On Former Girlfriend in
15 violation of Penal Code Section 243(e), a misdemeanor and a
16 crime involving moral turpitude which bears a substantial
17 relationship under Section 2910 of the Regulations to the
18 qualifications, functions or duties of a real estate licensee.

19 XI

20 On or about May 23, 1995, in the Superior Court of the
21 State of California, County of Contra Costa, Respondent was
22 convicted of the crime of Possession Of Controlled Substance in
23 violation of Health and Safety Code Section 11377, a felony and
24 a crime involving moral turpitude which bears a substantial
25 relationship under Section 2910 of the Regulations to the
26 qualifications, functions or duties of a real estate licensee.

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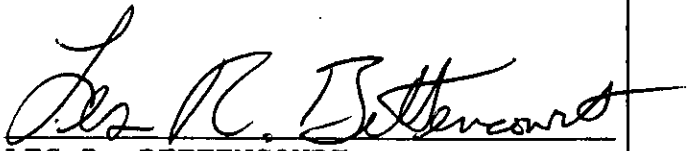
XII

In failing to reveal the convictions described in Paragraphs IV, V and VII, above, in said application, Respondent attempted to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which constitutes cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the Code.

XIII

Respondent's criminal convictions described in collectively constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the Code.

WHEREFORE, Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 22nd day of April, 2004.