DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0791

FILED

JUN 23 2009

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL A. TRAP, Respondent.	No. H-3136 SD

ORDER REVOKING REAL ESTATE LICENSE

TO: MICHAEL A. TRAP

On January 12, 2006, a Decision After Rejection was rendered in the above – entitled matter revoking all licenses and license rights of Respondent MICHAEL A. TRAP under the Real Estate Law. The Decision was to become effective at 12 o'clock noon on February 3, 2006.

An Order Staying the Effective Date was issued January 31, 2006, staying the effective date for a total period of thirty (30) days until 12 o'clock noon on March 6, 2006.

On February 1, 2006, in the Superior Court of the State of California, County of San Diego, Central Division, Case No. GIC860686, Respondent filed a Petition for a Writ of Administrative Mandamus. On February 3, 2006, in said Court and Cause, an Order was entered staying the Decision After Rejection pending the outcome of the proceeding on the merits of the Petition for Writ of Administrative Mandamus.

On July 12, 2006, at the hearing on the merits of the Petition for Writ of Administrative Mandamus, the court denied Respondent's Petition.

On June 18, 2009, the Department of Real Estate first learned that the Respondent's Petition for Writ of Administrative Mandamus had been denied.

ACCORDINGLY, IT IS HEREBY ORDERED THAT the Decision after Rejection of January 12, 2006 is hereby reinstated in full force and effect revoking all licenses and license rights of Respondent MICHAEL A. TRAP under the Real Estate Law.

This Order shall be effective immediately.

DATED: 6-23-09

JEFF DAVI
Real Estate Commissioner

FILED
MAR 10 2006
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	No. H-3136 SD OAH No. L-2005050407

ORDER DENYING RECONSIDERATION

On January 12, 2006, a Decision After Rejection was rendered in the above-entitled matter. The Decision After Rejection is to become effective March 16, 2006.

On January 30, 2006, Respondent petitioned for reconsideration of the Decision After Rejection of January 12, 2006.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision After Rejection of January 12, 2006, and reconsideration is hereby denied.

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IT IS HEREBY ORDERED 3-8-06.

JEFF DAVI
Real Estate Commissioner

FILED
MAR -6 2006
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	No. H-3136 SD OAH No. L-2005050407

ORDER FURTHER STAYING EFFECTIVE DATE

On January 12, 2006, a Decision After Rejection was rendered in the above-entitled matter to become effective February 3, 2006. On January 31, 2006, Respondent petitioned for reconsideration of the Decision After Rejection of January 12, 2006.

Additional time is needed to evaluate the petition, which was timely filed, and therefore I am granting a further stay of the effective date of the January 12, 2006 Decision solely for the purpose of considering the petition.

IT IS HEREBY ORDERED that the effective date of the Decision After Rejection of the Commissioner of January 12, 2006, is stayed for an additional ten (10) days.

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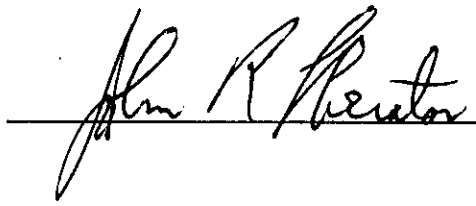
The Decision After Rejection of the Commissioner of January 12, 2006, shall become effective at 12 o'clock noon on March 16, 2006.

DATED: March 6, 2006

JEFF DAVI
Real Estate Commissioner



FILED
FEB - 1 2006
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	No. H-3136 SD OAH No. L-2005050407

ORDER STAYING EFFECTIVE DATE

On January 12, 2006, a Decision After Rejection was rendered in the above-entitled matter to become effective February 3, 2006.

IT IS HEREBY ORDERED that the effective date of the Decision After Rejection of the Real Estate Commissioner of January 12, 2006, is stayed for a period of thirty (30) days.

The Decision After Rejection of the Real Estate Commissioner of January 12, 2006, shall become effective at 12 o'clock noon on March 6, 2006.

DATED: January 31, 2006

JEFF DAVI
Real Estate Commissioner

FILED
JAN 14 2006
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	NO. H-3136 SD OAH NO. L2005050407

DECISION AFTER REJECTION

The matter came for hearing before an Administrative Law Judge (hereinafter "ALJ") of the Office of Administrative Hearings, on July 19, 2005, at San Diego, California.

Deidre L. Johnson, Counsel, represented the Complainant.

Julie B. Dubick, Esq., Dysart & Dubick, represented Respondent MICHAEL ARTHUR TRAP, who was present.

The record was closed and the matter submitted on July 19, 2005.

On August 24, 2005, the Administrative Law Judge (hereinafter "ALJ") submitted a Proposed Decision that I declined to adopt as my Decision herein. Pursuant to Section

11517(c) of the Government Code of the State of California, Respondent was served with notice of my determination not to adopt the Proposed Decision of the Administrative Law Judge along with a copy of said Proposed Decision. Respondent was notified that the case would be decided by me upon the record, the transcript of proceedings held on July 19, 2005, and upon any written argument offered by Respondent and Complainant.

Respondent and Complainant submitted written argument.

I have given careful consideration to the record in this case including the transcript of proceedings held on July 19, 2005, and both Respondent's and Complainant's written arguments.

The following shall constitute the Decision of the Real Estate Commissioner in this proceeding:

FACTUAL FINDINGS

1. On April 5, 2004, In the United States District Court, Southern District of California, in the case entitled *United States of America v. Michael Arthur Trap,* Case Number CR-0227, on his plea of guilty, Respondent was convicted of a violation of Title 18, United States Code, Section 1623 (False Declaration Before Grand Jury or Court), a felony.

2. The facts and circumstances underlying the conviction are that, on November 14, 2002, Respondent appeared before a federal grand jury as a witness, under oath, and made statements that he knew to be false and material to matters being investigated by the grand jury.

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The grand jury was conducting an investigation. It was material to the investigation that the grand jury determines certain facts, including:

- whether business files had been removed from the offices of PinnLease USA, Inc. (a wholly-owned subsidiary of PinnFund USA, Inc.) upon PinnFund's takeover by a receiver appointed by a federal judge in a civil proceeding brought by the Securities and Exchange Commission on March 23, 2001;
- the nature of the files removed;
- the persons who removed those files; and
- the person (s) who directed removal.

Respondent knowingly and intentionally deceived the grand jury when he denied knowledge of the foregoing. As part of the plea agreement, Respondent admitted the true facts, to wit: On March 23, 2001, Respondent participated in a concerted effort to remove business files from PinnLease USA, Inc., during which PinnLease USA, Inc. business files were placed in Respondent's personal vehicle and the vehicles of other PinnLease USA, Inc. employees; thereafter Respondent and others transported the files to Respondent's residence.

3. The crime of which Respondent has been convicted is a felony, involves moral turpitude and bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, as defined in California Code of Regulations, title 10, section 2910.

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4. By way of aggravation, Complainant established:

On November 16, 1995, in the Municipal Court of the State of California, County of San Diego, North County Judicial District, Respondent was convicted of violation of Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol), a misdemeanor.

On October 28, 1994, in the Municipal Court of the State of California, County of San Diego, North County Judicial District, Respondent was convicted of violation of Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol), a misdemeanor.

5. Respondent offered evidence of explanation, mitigation and rehabilitation.

He explained that on March 23, 2001, Respondent was employed by PinnLease USA, Inc., a commercial leasing company; there is no evidence that he had any relationship with PinnFund USA, Inc. prior to the time that the receiver was appointed, that the company was closed, and the files were removed. Respondent admitted that he lied when he testified before the grand jury; he testified that he did so out of loyalty to his business acquaintances that were the target of the grand jury proceeding; he was not represented by an attorney and stated that he did not understand the severity of his acts. He also claimed that he recognizes he was wrong and made a serious error in judgment; Respondent also claims that he accepts responsibility for his actions and has learned from the experience.

Early in his criminal case, Respondent entered into the plea agreement with the federal government. He complied with the terns and conditions thereof, including cooperating with the federal investigation and all court orders. The Court reduced the terms of his sentence one week after he completed home confinement; the Court placed him on unsupervised probation. On April 4, 2005, the Court terminated his criminal probation.

He cooperated with the Department's investigation of his case.

There is no evidence that alcohol influenced the misconduct that resulted in his conviction in April 2004.

Since 1999, Respondent has been licensed by the Department as a broker; he is a mortgage loan broker and has been in the mortgage lending business for 17 years. With the exception of the two alcohol convictions noted above, there is no evidence that he has suffered other convictions, that he has been previously disciplined by the Department, that he has engaged in dishonest or fraudulent acts or any other conduct that would cause one to question whether he is honest and trustworthy.

Since his most recent conviction, Respondent claims to have changed his business associates and business practices.

Since he engaged in the misconduct that resulted in his conviction, Respondent states that he has done "some soul-searching" and has become more spiritual and that in his effort

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to cope with his actions, he has discussed the incident with Rex Lamb, a minister at Universal Life Church.

He is divorced and the sole support of his three children, ages 16, 14 and 13 years. He makes his support payments in a timely manner and values his role as a father. Respondent is proud of his children and describes them as good, well-adjusted and happy children.

Respondent offered the testimony of Thomas Johansen, a business associate, and Raymond Thexton, his AA sponsor, and five letters of support from various members of his community, including business associates, clients, criminal defense attorney and minister, in support of the evidence in this case.

LEGAL CONCLUSIONS

1. Pursuant to Section 2910, subdivision (a)(4), respondent's conviction for lying to a grand jury bears a substantial relationship to the qualifications, functions and duties of a real estate licensee because he employed "... bribery, fraud, deceit, falsehood or misrepresentation to achieve an end."

2. The Real Estate Commissioner is charged with the responsibility to enforce all laws in Division 4, Part 1 and Chapter 1 of Part 2 of the Business and Professions Code, in a manner that achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees. (Section 10050, Business and Professions Code).

3. It is well established that the qualities of honesty and integrity bear on a person's fitness and

qualification to be a real estate licensee whether the person is acting in a business or private capacity. In *Golde, supra, 98* Cal. App.3d at p. 176, the Court of Appeal stated:

> "Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. If appellant's offense reflects unfavorably on his honesty, it may be said to be substantially related to his qualifications. (Citations omitted.)
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> * * * * *
>
> The crime here, of course, does not relate to the technical or mechanical qualifications of a real estate licensee, but there is more to being a licensed professional than mere knowledge and ability. Honesty and integrity are deeply and daily involved in various aspects of the practice. [Business and Professions Code] Section 10152 provides: 'the commissioner may require such proof as he may deem advisable concerning the honesty and truthfulness of any applicant for a real estate license, or of the officers of any corporation making such application, before authorizing the issuance of a real estate license ...." (Emphasis added.)

The *Golde* court further explained:

> "'Where the occupation is one wherein those following it act as the agents and representatives of others and in a more or less confidential and fiduciary capacity, it certainly can be fairly said that those pursuing it should have in a particular degree the qualifications of 'honesty, truthfulness and good reputation.' The occupation of a real estate agent is just this sort. He acts for others and in a more or less confidential and fiduciary capacity." (98 Cal.App.3d at p. 177, quoting *Riley v. Chambers* (1919) 181 Cal.589, 593594.)
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> * * * *

The public exposing themselves to a real estate licensee has reason to believe that the licensee must have demonstrated a degree of honesty and integrity in order to have obtained such a license." (*Golde, supra,* 98 Cal.App.3d at p. 178; see also *Thorpe v. Board of Examiners* (1980) 104 Cal.App. 3d 111-117). The word "honesty" as used in the applicable

statutes governing the qualification of real estate licenses (Sections 10150-10152) "has the broadest possible meaning. (*Rhoades v. Savage* (1963) 219 Cal.App.2d 294, 299.) "It has been defined as 'a fastidious allegiance to the standards of one's profession, calling or position; fairness and straightforwardness of conduct, speech, integrity; truthfulness; freedom from fraud.' (Webster's New International Dictionary, Second Edition." *(Ibid.)*

4. Respondent relies heavily, in his argument, on his cooperation with the federal government, his community work, and his increased spirituality, as he should to establish his rehabilitation. However, rehabilitation can only reasonably be discussed if it occurs after arrest and/or conviction. However, equally important is that any such "rehabilitation" which occurs while Respondent is on probation or parole - Respondent was on probation until April 2005 - is suspect. Under these circumstances, the Supreme Court has held that little weight should be put on such changed behavior because of the dire consequences if probation is violated. (In re Gossage (2000) 23 Cal.4th 1080, 1099 citing In re Menna (1995) 11 Cal.4th 975, 989 and Seide v. Committee of Bar Examiners (1989) 49 Cal.3d 933, 941.

5. In light of the seriousness of Respondent's crime coupled with a less than 2 year period since his conviction and his recent release from probation, at this time, the public would not be adequately protected if Respondent is allowed retain a real estate license of any kind.

ORDER

All licenses and licensing rights of Respondent MICHAEL ARTHUR TRAP under the Real Estate Law are revoked.

This Decision shall become effective at 12 o'clock noon on FEB - 3 2006.

IT IS SO ORDERED 1-12-06.

JEFF DAVI
Real Estate Commissioner

FILED
SEP 23 2005
DEPARTMENT OF REAL ESTATE
By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	No. H-3136 SD N-2005050407

NOTICE

TO: MICHAEL ARTHUR TRAP, Respondent, and JULIE B. DUBICK, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 24, 2005, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 24, 2005, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on July 19,

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2005, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of July 19, 2005, at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of Complainant to be considered by me must be submitted within 15 days after receipt of the argument of Respondent at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: 9-14-05

JEFF DAVI
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	File No. H-3136 SD
MICHAEL ARTHUR TRAP,	OAH No. L2005050407
Respondent.	

PROPOSED DECISION

Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, heard this matter in San Diego, California on July 19, 2005.

Deidre L. Johnson, Counsel, represented Complainant, J. Chris Graves, Deputy Real Estate Commissioner, Department of Real Estate, State of California.

Julie B. Dubick, Esq., Dysart & Dubick, represented Respondent Michael Arthur Trap, who was present during the hearing.

The matter was submitted on July 19, 2005.

FACTUAL FINDINGS

1. J. Chris Graves made Accusation, File No. H-3136 SD, dated November 24, 2004, against Michael Arthur Trap (Respondent), in his official capacity as Deputy Real Estate Commissioner, State of California, Department of Real Estate (Department) and not otherwise.

On January 31, 2005, Respondent filed Notice of Defense on Application, requesting a hearing in this matter.

2. Respondent is licensed and/or has license rights as a real estate broker under the Real Estate Law.

3. On April 5, 2004, In the United States District Court, Southern District of California, in the case entitled *United States of America v. Michael Arthur Trap*, Case Number CR-0227, on his plea of guilty, Respondent was convicted of a violation of Title 18, United States Code, section 1623 (False Declaration Before Grand Jury or Court), a felony.

4. The facts and circumstances underlying the conviction are that, on November 14, 2002, Respondent appeared before a federal grand jury as a witness, under oath, and made statements that he knew to be false and material to matters being investigated by the grand jury.

The grand jury was conducting an investigation. It was material to the investigation that the grand jury determines certain facts, including:

- whether business files had been removed from the offices of PinnLease USA, Inc. (a wholly-owned subsidiary of PinnFund USA, Inc.) upon PinnFund's takeover by a receiver appointed by a federal judge in a civil proceeding brought by the Securities and Exchange Commission on March 23, 2001;
- the nature of the files removed;
- the persons who removed those files; and
- the person (s) who directed removal.

Respondent knowingly and intentionally deceived the grand jury when he denied knowledge of the foregoing. As part of the plea agreement, Respondent admitted the true facts, to wit: On March 23, 2001, Respondent participated in a concerted effort to remove business files from PinnLease USA, Inc., during which PinnLease USA, Inc. business files were placed in Respondent's personal vehicle and the vehicles of other PinnLease USA, Inc. employees; thereafter Respondent and others transported the files to Respondent's residence.

5. According to Respondent, as a consequence of his conviction (Findings 3 and 4), the Court sentenced him to two years supervised probation, 30-days home confinement and ordered him to pay a fine.

6. The crime of which Respondent has been convicted is a felony, involves moral turpitude and bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, as defined in California Code of Regulations, title 10, section 2910.

7. By way of aggravation, Complainant established:

- On November 16, 1995, in the Municipal Court of the State of California, County of San Diego, North County Judicial District, Respondent was convicted of violation of Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol), a misdemeanor.
- On October 28, 1994, in the Municipal Court of the State of California, County of San Diego, North County Judicial District, Respondent was convicted of violation of Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol), a misdemeanor.

Collectively, these crimes involve moral turpitude[1] and bear a substantial relationship to the qualifications, functions or duties of a real estate licensee, as defined in California Code of Regulations, title 10, section 2910.

8. Respondent offered evidence of explanation, mitigation and rehabilitation.

He explained that on March 23, 2001, Respondent was employed by PinnLease USA, Inc., a commercial leasing company; there is no evidence that he had any relationship with PinnFund USA, Inc. prior to the time that the receiver was appointed, that the company was closed, and the files were removed. Respondent admitted that he lied when he testified before the grand jury; he testified that he did so out of loyalty to his business acquaintances who were the target of the grand jury proceeding; he was not represented by an attorney and did not understand the severity of his acts. He recognizes that he was wrong and made a serious error in judgment; he is remorseful for his dishonest criminal conduct, accepts responsibility for his actions and has learned from the experience.

Early in his criminal case, Respondent entered into the plea agreement with the federal government. He complied with the terms and conditions thereof, including cooperating with the federal investigation and all court orders. The Court reduced the terms of his sentence one week after he completed home confinement; the Court placed him on unsupervised probation. On April 4, 2005, the Court terminated his criminal probation.

He cooperated with the Department's investigation of his case. He candidly disclosed all convictions, including his offenses for driving under the influence of alcohol.

His most recent alcohol related conviction occurred almost ten years ago. His sobriety date is June 19, 1997. He received alcohol treatment at San Luis Rey Hospital in Encinitas, California, is actively involved with Alcoholics' Anonymous (AA); he attends AA meetings regularly, sponsors other members, "carries the message" to hospitals, institutions and other health facilities. There is no evidence that alcohol influenced the misconduct that resulted in his conviction in April 2004.

Since 1999 Respondent has been licensed by the Department as a broker; he is a mortgage loan broker and has been in the mortgage lending business for 17 years. With the exception of the two alcohol convictions (Finding 7), there is no evidence that he has suffered other convictions, that he has been previously disciplined by the Department, that he has engaged in dishonest or fraudulent acts or any other conduct that would cause one to question whether he is honest and trustworthy.

Since his most recent conviction, Respondent has changed his business associates and business practices. He is no longer involved in the commercial leasing business and no longer associates with the individuals employed by PinnLease USA, Inc. or PinnFund, USA. Inc. He has an excellent reputation as a mortgage broker and has maintained this reputation, despite his conviction.

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[1] *People v. Forster* (1994) 29 Cal.App.4th 1746.

Since he engaged in the misconduct that resulted in his conviction, Respondent has done "some soul-searching" and has become more spiritual; in his effort to cope with his actions, he has discussed the incident with Rex Lamb, a minister at Universal Life Church, and has a better relationship with his God. He understands that honesty and integrity are more important values than loyalty for his friends and/or business associates. Since his conviction, he has been more diligent about "following rules" and is more likely to act in an ethical manner.

He is divorced and the sole support of his three children, ages 16, 14 and 13 years. He makes his support payments in a timely manner and values his role as a father. Respondent is proud of his children and describes them as good, well-adjusted and happy children.

Respondent offered the testimony of Thomas Johansen, a business associate, and Raymond Thexton, his AA sponsor, and five letters of support from various members of his community, including business associates, clients, criminal defense attorney and minister, in support of the evidence in this case.

9. Administrative proceedings to discipline a professional license are intended to protect the public, not punish the licensee. *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763.

Business and Professions Code section 10050 states, in pertinent part: "It shall be the principal responsibility of the commission to enforce all laws of this part . . . in a manner which achieves the maximum protection of the purchasers of real property and those persons dealing with real estate licensees."

Given the evidence regarding Respondent's conviction (Findings 3, 4 and 5), despite his evidence of rehabilitation, the Department has serious concern about whether Respondent should be allowed to maintain his real estate broker's license. In his capacity as a broker, he has a fiduciary relationship with his clients and may conduct business without supervision. He has suffered a serious felony conviction that, by its terms, involved acts of dishonesty and deceit; the conviction occurred less than 18 months ago.

Respondent provided significant evidence of rehabilitation. It has been more than four years since he engaged in the conduct that resulted in his conviction. The Court terminated probation early, and he is no longer on criminal probation. Respondent has changed his attitude, business associates and business practices. It appears that this misconduct was an aberration and not likely to occur again.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code sections 490 and 10177(b), cause exists to discipline Respondent's license and license rights in that he has been convicted of a

felony, a crime that involves moral turpitude and bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, by reason of Findings 3, 4, 5 and 6.

2. The facts (Findings 3, 4, 5, 6, 7, 8 and 9), the violations (Legal Conclusion 1), and the Department's criteria for rehabilitation (Cal. Code Regs., tit. 10, § 2912) have been considered. Insufficient time has passed to establish that Respondent has been sufficiently rehabilitated such that it would be in the public interest to allow him to practice as a real estate broker with an unrestricted license.

ORDER

All licenses and licensing rights of Respondent Michael Arthur Trap under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent Michael Arthur Trap pursuant to Business and Professions Code section 10156.5 if he makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent Michael Arthur Trap shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to limitations, conditions and restrictions imposed under authority of Business and Professions Code section 10156.6.

NOT ADOPTED

1. The restricted license issued to Respondent Michael Arthur Trap may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of his conviction or plea of nolo contendere to a crime which is substantially related to his fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent Michael Arthur Trap may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Real Estate Commissioner that Respondent Michael Arthur Trap 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 Michael Arthur Trap shall not be eligible to apply for the issuance of an unrestricted real estate license or the removal of any of the conditions, limitations or restrictions until two years have elapsed from the effective date of this Decision.

4. Within nine months from the effective date of this Decision, Respondent Michael Arthur Trap shall present evidence satisfactory to the Real Estate Commissioner that, since the most recent issuance of an original or renewal real estate license, he has 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 he fails to satisfy this condition, the Real

NOT ADOPTED

Estate Commissioner may order the suspension of his restricted license until he presents such evidence. The Real Estate Commissioner shall afford Respondent Michael Arthur Trap the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: August 24, 2005

Vallera J. Johnson

VALLERA J. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

DEIDRE L. JOHNSON, Counsel
SBN 66322
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

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FILED
JAN 27 2005
DEPARTMENT OF REAL ESTATE
By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MICHAEL ARTHUR TRAP, Respondent.	NO. H-3136 SD ACCUSATION

The Complainant, J. CHRIS GRAVES, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MICHAEL ARTHUR TRAP (hereinafter "Respondent"), is informed and alleges as follows:

I

The Complainant, J. CHRIS GRAVES, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

Respondent is presently licensed and/or has license rights under the Real Estate Law, (Part 1 of Division 4 of the Business and Professions Code) (Code) as a real estate broker.

III

On or about April 9, 2004, in the United States District Court, Southern District of California, Respondent was convicted of a violation of Title 18 United States Code Section 1623 (False Declaration Before Grand Jury or Court, a felony, a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and/or 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.

J. Chris Graves

J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 24th day of November, 2004.