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FILED

FEB 13 1987

DEPARTMENT OF REAL ESTATE
BY *Laura B. Orma*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Application of)	NO. H-824 SD
)	
RANDY WILLIAM ENGEL,)	
)	
)	
)	
)	
)	
Respondent.)	

ORDER GRANTING UNRESTRICTED LICENSE

On June 9, 1978, a Decision was rendered herein denying the respondent's application for a real estate salesperson license, but granting respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to respondent on July 5, 1978, and respondent has held said license without cause for disciplinary action against respondent since that time.

On June 12, 1986, respondent petitioned for the removal of restrictions attaching to respondent's real estate salesperson license.

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

8 NOW, THEREFORE, IT IS ORDERED that respondent's petition
9 for removal of restrictions is granted and that a real estate
10 salesperson license be issued to respondent after respondent
11 satisfies the following conditions within one (1) year from the
12 date of this Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence satisfactory to the Real
16 Estate Commissioner that respondent has taken and successfully
17 completed the continuing education requirements of Article 2.5 of
18 Chapter 3 of the Real Estate Law for renewal of a real estate
19 license within the four-year period immediately preceding the date
20 on which the evidence of completion is submitted to the
21 Department.

22 This Order shall become effective immediately.

23 DATED: February 2, 1987.

24 JAMES A. EDMONDS, JR.
Real Estate Commissioner

25 By: _____

26 JOHN R. LIBERATOR
Chief Deputy Commissioner

27 cc: Randy William Engel
136 N. Stephanie Lane
El Cajon, CA 92021

lbo

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JUN 12 1978

DEPARTMENT OF REAL ESTATE
BY E. H. Fox

In the Matter of the Application of)

RANDY WILLIAM ENGEL,

Respondent.

No. H-824 SD

L-16655

DECISION

The Proposed Decision dated May 30, 1978
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 application for a real estate salesperson
license is denied, but the right to a restricted real estate
salesperson license is granted to respondent.
There is no statutory restriction on when a new application may
be made for an unrestricted license. Petition for the removal
of restrictions from a restricted license is controlled by
Section 11522 of the Government Code. A copy of Section 11522
is attached hereto for the information of respondent.

If and when application is made for a real estate
salesperson license through a new application or
through a petition for removal of restrictions, all competent
evidence of rehabilitation presented by the respondent will
be considered by the Real Estate Commissioner. A copy of the
Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock
noon on July 3, 1978.

IT IS SO ORDERED

6/9/78

David H. Fox

DAVID H. FOX
Real Estate Commissioner,

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application)
of)
RANDY WILLIAM ENGEL,) No. H-824 SD
Respondent.) L-16655

PROPOSED DECISION

This matter came on regularly for hearing before Jerome Schwimmer, Administrative Law Judge of the Office of Administrative Hearings, on May 15, 1978, at San Diego, California. Complainant was represented by Marjorie P. Mersel, Counsel. Respondent was represented by Kendall M. Squires, Attorney at Law. Oral and documentary evidence was introduced and the matter was submitted for decision. It is now found as follows:

I

On or about December 20, 1977, respondent Randy William Engel filed his application for a real estate salesperson license.

II

On January 21, 1976, in the Justice Court of Lake Valley Judicial District, County of El Dorado, California, respondent entered a guilty plea to and was convicted of the crime of petty theft in violation of Penal Code section 484a. The said crime of petty theft involves moral turpitude and bears a substantial relationship to the qualifications, functions and duties of a real estate salesperson.

III

In his application to the Department of Real Estate for a real estate salesperson license, respondent answered "yes" to question 7a of said application, thereby admitting that he had been convicted of a violation of law other than a non-moving type of traffic violation. In explaining his said answer to question 7a, respondent set forth details concerning a guilty plea to a marijuana misdemeanor charge in June 1972, but respondent did not disclose, nor make any reference to, the aforesaid conviction of petty theft in 1976.

IV

The circumstances surrounding respondent's arrest and conviction for petty theft in 1976, as aforesaid, are as follows: While shopping with his brother at a ski shop at Lake Tahoe, and without prior plan, respondent stole a pair of gloves costing approximately \$12 from the store. After spending a night in jail, respondent was taken to an office in the building, where, in what appeared to be informal proceedings, respondent admitted his guilt, paid a \$65 fine and was advised by the judge that he could send in a form after completing a six month probationary period and his record would be cleared. Respondent was thereupon released. No formal courtroom appearance was involved, and it appears from the court record in evidence that, in connection with his appearance before the Justice of the Peace in the said matter, that respondent waived his right to a hearing before a judge admitted to practice law in California. On October 12, 1976, the said guilty plea of respondent was ordered set aside and the complaint dismissed pursuant to the provisions of section 1203.4 of the Penal Code.

V

It is found, under all of the circumstances, that respondent did erroneously believe that he was not required to disclose in his application the aforesaid conviction of petty theft, and that his failure to disclose the same does not involve an intent to fraudulently procure a real estate salesperson license, although, it is found true that respondent did make a material misstatement of fact in his said application for a real estate license.

VI

Respondent is 25 years of age and has very recently been married. He appears to have had a satisfactory work record, having held positions of some responsibility and without any known trouble. Based upon all of the evidence, including his demeanor at the hearing, it appears unlikely that respondent would repeat larcenous conduct in the future.

* * * * *

The following determination of issues is made pursuant to the foregoing findings of fact:

I

Respondent's application for a real estate salesperson license is subject to denial pursuant to the provisions of sections 480, 10177(a), 10177(b) and 10177(f) of the Business and Professions Code.

II

It would not be contrary to the public interest to permit a restricted real estate salesperson license to be issued to respondent subject to the conditions hereinafter imposed.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of respondent Randy William Engel for the issuance to him of an unrestricted real estate salesperson license is hereby denied; provided, however, that a restricted real estate salesperson license shall be issued to respondent as hereinafter provided;

1. 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 to the Department of Real Estate the appropriate fee for said license within one year from the effective date of the decision herein.

2. 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 said Code:

a. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions, limitations or restrictions of a restricted license, until three (3) years have elapsed from the date of issuance of the restricted license to respondent.

b. Respondent shall submit with his application for license under an employing broker - or his application for transfer to a new employing broker - a statement signed by the prospective employing broker which shall certify:

(1) That he has read the decision of the Commissioner which granted the right to a restricted license; and

(2) That he will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

c. Any 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, including a conviction following a plea of nolo contendere, of a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.

d. Respondent shall comply with all laws to which he is subject, including all provisions of the California Real Estate Law, the Subdivided Lands Law and all regulations of the Real Estate Commissioner.

e. Said restricted license may be suspended or revoked for a violation by respondent of any of the conditions attaching to this restricted license.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter and recommend its adoption as the decision of the Real Estate Commissioner.

DATED: MAY 30 1978



JEROME SCHWIMMER,
Administrative Law Judge
Office of Administrative Hearings

JS:jm

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

MAY-1 1978

DEPARTMENT OF REAL ESTATE

BY *Sybil Williams*

In the Matter of the Application of)
)
RANDY WILLIAM ENGEL,)
 Respondent)

No. H-824 SD
L-16655

NOTICE OF HEARING ON APPLICATION

(Pursuant to Section 11509 of the Government Code)

TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at 1350 Front Street, Room B-107, San Diego, CA 92103 on the 15th day of May, 1978, at the hour of 3:00 p.m., or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing, nor are you required to be represented by counsel. However, if you are not present at the hearing in person, nor represented at the hearing by counsel, the agency may take disciplinary action against you upon any express admissions, or upon other evidence, and in the event that no notice of defense has been filed by you, upon affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the agency action sought and if you are not present nor represented at the hearing, the agency 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.

Dated: May 1, 1978

cc: Randy William Engel
Rose, Jennings & Squires,
attorneys
SGS Real Estate Co., Inc.
Carlson, Sacto
OAH

DAVID H. FOX
REAL ESTATE COMMISSIONER

BY

Marjorie P. Merrif
Attorney

FILED

APR 12 1978

DEPARTMENT OF REAL ESTATE
BY *Sybil Williams*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) No. H-824 SD
RANDY WILLIAM ENGEL,)
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

To: RANDY WILLIAM ENGEL, Respondent
1501 Alpine Terrace Drive
Alpine, California 92001

On December 20, 1977, the above-named respondent filed with the Department of Real Estate of the State of California (hereinafter referred to as Department) an application for a real estate salesperson license. In response to a question in said application, to wit: "Have you ever been convicted of any violation of law other than a non-moving type of traffic violation?", respondent answered "Yes. In June, 1972 the police found 1/2 ounce of marijuana in my car. I pleaded guilty to a charge of a misdemeanor." No other violations were listed.

On January 11, 1978, Department issued a real estate

1 salesperson license to respondent in reliance upon the aforesaid
2 answer of respondent.

3 On March 28, 1978, in Case No. H-824 SD, a Statement
4 of Issues signed by a Deputy Real Estate Commissioner of the
5 State of California was filed charging respondent with having
6 procured a real estate license by fraud, misrepresentation
7 or deceit and with knowingly having made false statement of
8 fact required to be revealed in the application for such
9 license.

10 NOW, THEREFORE, IT IS ORDERED under authority of
11 Section 10177.1 of the Business and Professions Code of the
12 State of California that the real estate salesperson license
13 heretofore issued to respondent and the exercise of any
14 privileges thereunder are hereby suspended pending final
15 determination made after a hearing on the aforesaid Statement
16 of Issues, a copy of which is attached hereto.

17 IT IS FURTHER ORDERED that all license certificates
18 and identification cards issued by Department which are in the
19 possession of respondent be immediately surrendered by personal
20 delivery or by mailing in the enclosed self-addressed envelope
21 to: Department of Real Estate, 107 South Broadway, Room 8107,
22 Los Angeles, California 90012.

23 This Order shall be effective immediately.

24 DATED: 4/10/78

25
26 
27 DAVID H. FOX
Real Estate Commissioner

FILED

MAR 28 1978

DEPARTMENT OF REAL ESTATE
BY R. W. Sederholt

MARJORIE P. MERSEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 620-4790

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of
RANDY WILLIAM ENGEL,
Respondent.

No. H-824 SD

STATEMENT OF ISSUES

The Real Estate Commissioner, in conformity with Section 10152, Division 4, Business and Professions Code of the State of California, requires further proof of the honesty and truthfulness of RANDY WILLIAM ENGEL in connection with his application for a real estate salesperson license filed on December 20, 1977, and in relation thereto will consider the following:

I

On or about January 21, 1976, in the Justice Court, Lake Valley Judicial District, County of El Dorado, State of California, respondent entered a guilty plea to and was convicted of the crime of violating Penal Code Section 484a (Petty Theft), a crime involving moral turpitude.

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II

Respondent, in answering Question 7a of the Real Estate Application: "Have you ever been convicted of any violation of law other than a non-moving traffic violation?", wrote "Yes. In June, 1972 the police found 1/2 ounce of marijuana in my car. I pleaded guilty to a charge of a misdemeanor." No other violations were listed.

III

Respondent's failure to reveal his conviction, as alleged in Paragraphs I and II, constitutes an attempt by him to procure a license by fraud or by making a material misstatement of fact in an application for a real estate license under Sections 480(c), 10177(a) and 10177(f) of the Business and Professions Code of the State of California.

IV

Respondent's criminal record as alleged above is grounds for denying his application for a real estate license under Sections 480, 10177(b) and 10177(f) of the Business and Professions Code of the State of California.

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These proceedings are brought under the provisions of
Section 10100, Division 4 of the Business and Professions Code
of the State of California and Sections 11500 through 11528 of
the Government Code.
Dated at San Diego, California
this 28th day of March, 1978.


Deputy Real Estate Commissioner

cc: Randy William Engel
SGS Real Estate Co., Inc.
Sacto.
OAH
JCG
JCK