

FILED

FEB 03 2005

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *[Signature]*

\* \* \*

In the Matter of the Accusation of	)	
	)	NO. H-1696 FRESNO
THOMAS CHARLES MEES,	)	
	)	OAH NO. N-2004070626
Respondent.	)	
_____	)	

DECISION

The Proposed Decision dated January 5, 2005, 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 February 24, 2005.

IT IS SO ORDERED

2-2-05

JEFF DAVI  
Real Estate Commissioner

*[Signature]*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

THOMAS CHARLES MEES

Respondent.

Case No. H- 1696 FRESNO

OAH No. N2004070626

**PROPOSED DECISION**

On December 6, 2004, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David B. Seals, Counsel, represented complainant.

J. Anne Rawlins, Attorney at Law, represented respondent Thomas Charles Mees.

Evidence was received, the record was closed and the matter was submitted.

**FACTUAL FINDINGS**

1. John W. Sweeney (Sweeney), Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Accusation against respondent. Sweeney acted in his official capacity.

2. Respondent is licensed as a real estate salesperson in the State of California with license number 00959579. It will expire on February 23, 2007, unless renewed.

3. On or about July 2, 2001, in the Superior Court, County of San Luis Obispo, State of California, in the matter entitled People v. Johnny Laurence Bonds, case number CRTR03-108552, respondent was convicted of violations of Vehicle Code sections: 23152, subdivision (a), (driving under the influence with four priors), a felony; 23152, subdivision (b), (driving with 0.08 percent or higher blood alcohol with priors), a felony; and 14601.2 (driving when privilege suspended for prior DUI conviction), a misdemeanor. Respondent's crimes are substantially related to the qualifications, functions and duties of the licensed activity pursuant to the criteria enumerated in the California Code of Regulations, title 10, section 2910. Imposition of sentence was suspended and respondent was placed on probation for three years, ordered to serve 180 days in jail, and ordered to pay various fines and fees.

He has successfully completed probation, the felonies have been reduced to misdemeanors and all of the crimes have been expunged.

4. Respondent has been licensed as a real estate salesperson since 1987, without any prior license discipline. He has bachelors and masters degrees in business. Although he is divorced, he has a good relationship with his ex-wife. His four grown children are all college graduates. One of his daughters works with him in real estate. After his release from jail, he rode a bicycle to sell real estate. He has completed the courses required to take the real estate brokers examination and the required continuing education courses.

Respondent said his turning point came just before he entered jail when he realized what he had lost. While in jail, he read a lot, especially about religion and Alcoholics Anonymous. He has re-found his religion. After serving his time in jail, he was sent to drug court and was subject to random drug tests and warrantless searches. He had a perfect record at drug court and gave a speech at graduation. He still occasionally visits drug court.

Respondent successfully completed the California Department of Motor Vehicles one and a half year Second Chance program. Although originally he was not to be able to drive until July of 2005, he is able to legally drive with a breathalyzer. He has been active in Alcoholics Anonymous (AA) for over three years, attends three meetings a week and works the AA hot line three to four times a month. He has a letter from the AA volunteer coordinator attesting to his work as a volunteer for the last three years. He has two sponsors in AA. He has a support system to help him deal with the stresses and elations that caused him to drink in the past. He has been sober for over three years.

He was previously convicted of DUI in 1984, 1997, 1998 and 2000. In 2000, he was also convicted of driving on a suspended license.

5. Gary Toll, a licensed real estate broker, has known respondent for almost 20 years and was respondent's employing broker from about 1991 until he sold his real estate business about three months ago. He said that respondent is a good, thorough, honest real estate agent who does very good work representing a client. He said that respondent did not ever allow alcohol to affect the high quality of his work.

6. Donald Klinkhammer (Klinkhammer), a retired lawyer, is respondent's uncle by marriage. He has been married for 46 years and active in AA for over 31 years, 9 months. He corresponded with respondent while respondent was in jail. When respondent was released from jail, Klinkhammer became his sponsor in AA. They discussed their experiences and problems from using alcohol. The essence of AA is one alcoholic talking to another. He said that respondent has worked hard and progressed using the teachings of AA to deal each day with his alcoholism and has done very well.

7. Respondent has hearsay letters of reference from his drug court counselor, from the Superior Court Judge in charge of the drug court, from the alumni president of drug court, from his new broker at Century 21 San Luis Properties, from co-workers, from long time friends, from one of his daughters and from his ex-wife.

8. Respondent presented much evidence of his efforts to rehabilitate himself since the convictions in 2001 and of the success of those efforts.

### LEGAL CONCLUSIONS

1. Respondent's crime is substantially related to the licensed activity pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(10), conduct demonstrating a repeated and willful disregard of law.

2. However, respondent provided significant evidence of her/his rehabilitation pursuant to Title 10, California Code of Regulations, section 2912, subdivisions: (a) the passage of at least two years since the criminal conviction; (c) expungement pursuant to Penal Code section 1203.4; (e) successful completion of probation; (f) abstinence from the use of alcohol for over three and a half years; (g) payment of fines and penalties; (k) completion of educational courses for economic self-improvement; (l) significant and conscientious involvement in community programs designed to provide social benefits and ameliorate social problems; and (n) change of attitude since the convictions, as found in findings 4 through 7.

3. Cause for discipline of respondent's real estate salesperson's license was established for violation of Business and Professions Code section 490, as found in Finding 3.

## ORDER

All Real Estate licenses and licensing rights of respondent Thomas Charles Mees, including Real Estate Salesperson's License Number 00959579, are revoked pursuant to Legal Conclusion number 3. Provided, however, a restricted real estate salesperson 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 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 nolo contendere to a crime which 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 which 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: February 5, 2005

Leonard L. Scott  
LEONARD L. SCOTT  
Administrative Law Judge  
Office of Administrative Hearings

FILED  
OCT 15 2004

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

*In the Matter of the Accusation of*

THOMAS CHARLES MEES,

}  
}

Case No. H-1696 FR

OAH No. N-2004070626

*Respondent*

**FIRST CONTINUED  
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

**THE OFFICE OF ADMINISTRATIVE HEARINGS**

**560 J STREET, SUITES 340/360**

**SACRAMENTO, CALIFORNIA 95814**

on **DECEMBER 6, 2004**, at the hour of **9:00 AM**, or as soon thereafter as the matter can be heard, upon the Accusation 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.

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: October 14, 2004

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel

FILED  
AUG 16 2004

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

DEPARTMENT OF REAL ESTATE

By *Katherine Contreras*

*In the Matter of the Accusation of*

THOMAS CHARLES MEES,

} Case No. H-1696 FR

} OAH No. N-2004070626

\_\_\_\_\_  
*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

**THE OFFICE OF ADMINISTRATIVE HEARINGS**

**560 J STREET, SUITES 340/360**

**SACRAMENTO, CALIFORNIA 95814**

on **OCTOBER 26, 2004**, at the hour of **1:30 PM**, or as soon thereafter as the matter can be heard, upon the Accusation 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.

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:* AUGUST 13, 2004

By

*Deidre L. Johnson*  
DEIDRE L. JOHNSON, Counsel

RE 501 (Rev. 8/97)



FILED

JUN 22 2004

DEPARTMENT OF REAL ESTATE

*Laurie A. Ginn*

1 DEIDRE L. JOHNSON, Counsel  
SBN 66322  
2 Department of Real Estate  
P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

5  
6  
7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11  
12 In the Matter of the Accusation of )  
13 THOMAS CHARLES MEES, ) NO. H-1696 FRESNO  
14 Respondent. ) ACCUSATION  
15 )

16 The Complainant, JOHN SWEENEY, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against THOMAS CHARLES MEES, is informed and alleges as follows:

19 I

20 THOMAS CHARLES MEES (hereafter Respondent) is presently  
21 licensed and/or has license rights under the Real Estate Law,  
22 Part 1 of Division 4 of the California Business and Professions  
23 Code (hereafter the Code) as a real estate salesperson.

24 II

25 The Complainant, JOHN SWEENEY, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Accusation  
27 against Respondent in his official capacity and not otherwise.

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

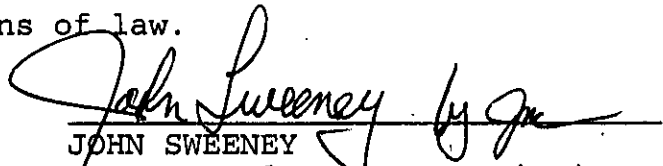
III

On or about July 2, 2001, in the Superior Court of California, County of San Luis Obispo, Respondent was convicted of violation of California Vehicle Code Section 23152(a) (DRIVING UNDER THE INFLUENCE WITH FOUR PRIORS) and Section 23152(b) (DRIVING WITH 0.08% OR HIGHER BLOOD ALCOHOL WITH PRIORS), felonies, and Section 14601.2 (DRIVING WHEN PRIVILEGE SUSPENDED FOR PRIOR DUI CONVICTION), a misdemeanor, which are crimes involving moral turpitude, and/or crimes which are substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged in Paragraph III above constitute cause under Sections 490 and/or 10177(b) of the Code for the suspension or revocation of all license(s) 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 license(s) 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.

  
JOHN SWEENEY  
Deputy Real Estate Commissioner

Dated at Fresno, California,  
this 18<sup>th</sup> day of June, 2004.