

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Accusation of)
ECKHARD SCHMITZ,)
Respondent.)

FILED
AUG 19 1985
By Nice Alexander
NO. H-1971 SAC
N-22250

DECISION

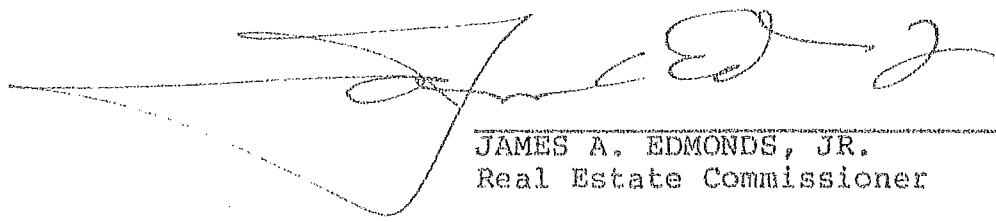
The Proposed Decision dated JULY 23, 1985
of the Administrative Law Judge of the Office of Administrative
Hearings is hereby adopted as the Decision of the Real Estate
Commissioner in the above-entitled matter.

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 SEPTEMBER 9, 19 85.

IT IS SO ORDERED 8-14, 19 85.


JAMES A. EDMONDS, JR.
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
ECKHARD SCHMITZ)
Respondent)
_____)

No. H- 1971 SAC
OAH NO. N-22250

PROPOSED DECISION

This matter came on for hearing before Leonard L. Scott, Administrative Law Judge of the Office of Administrative Hearings, on July 1, 1985 in Sacramento, California.

Roland Adickes, Legal Counsel, represented the complainant.

There was no appearance by or on behalf of respondent, Eckhard Schmitz.

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

The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

Duane A. Aasland, Deputy Real Estate Commissioner of the State of California, filed the Accusation. Aasland acted in his official capacity.

II

Respondent was licensed as a real estate broker in the State of California until his license expired on June 24, 1983.

III

On or about November 16, 1982, in the Municipal Court, Stockton Judicial District, County of San Joaquin, State of California, Respondent was convicted on his plea of nolo contendere of charges of violation of Sections 286(b)(2) and 288a(b)(2) of the Penal Code of the State of California (sodomy, a felony, and oral copulation, a felony), both being crimes substantially related to the qualifications, functions or duties of the real estate profession and crimes involving moral turpitude. The crimes involved sexual activity by respondent with male minors.

DETERMINATION OF ISSUES

Clear and convincing evidence to a reasonable certainty established that respondent subjected his license to discipline pursuant to Sections 490 and 10177(b) of the Business and Professions Code.

ORDER

License number 654592 issued to respondent Eckhard Schmitz is
revoked pursuant to the Determination of Issues.

DATED: July 23, 1985


Leonard L. Scott
Administrative Law Judge
Office of Administrative Hearings

07-23-85
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FILED
FEB 20 1985

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

In the Matter of the Accusation of

ECKHARD SCHMITZ,

Case No. H-1971 SAC

N-22250

Respondent(s)

FIRST AMENDED
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 Department of Real Estate, 1719 24th Street,
Room 608, Sacramento, CA 95816

on the 1st day of July, 1985, at the hour of 1:30 p.m.,
or as soon thereafter as the matter can be heard, upon the charges made in the
Accusation 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 to be represented by
counsel. If you are not present in person, nor represented by counsel at the hearing,
the Department may take disciplinary action against you upon any express admissions,
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.

DATED: February 20, 1985

DEPARTMENT OF REAL ESTATE

By Robin T. Wilson

ROBIN T. WILSON for
ROLAND ADICKES

Counsel

FILED
JAN 30 1984

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laura A. Beck

In the Matter of the Accusation of

ECKHARD SCHMITZ,

Case No. H-1971 SAC

N 22250

Respondent(s)

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 560 J Street, Room 397, Sacramento

on the 30th day of March, 1984, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the charges made in the
Accusation 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 to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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.

DATED: January 30, 1983

DEPARTMENT OF REAL ESTATE

By

ROLAND ADICKES

Counsel

1 ROLAND ADICKES, Counsel
2 Department of Real Estate
3 1719 - 24th Street
4 P.O. Box 160009
5 Sacramento, CA 95816
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7
8 (916) 445-6112
9

FILED
AUG 19 1983
DEPARTMENT OF REAL ESTATE
Louisa d. Beck

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ECKHARD SCHMITZ)
Respondent.)

NO. H- 1971 SAC
ACCUSATION

The Complainant, Duane A. Aasland, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against ECKHARD SCHMITZ (hereinafter referred to as Respondent) is informed and alleges as follows:

I

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

II

The Complainant, Duane A. Aasland, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as such and not otherwise, makes this Accusation against Respondent.

1 III

2 On or about November 16, 1982, in the Municipal Court,
3 Stockton Judicial District, County of San Joaquin, State of
4 California, Respondent pleaded nolo contendere to a charge of
5 violation of Sections 286(b)(2) and 288a(b)(2) of the Penal Code
6 of the State of California (sodomy, a felony, and oral copulation,
7 a felony), both being crimes substantially related to the
8 qualifications, functions or duties of the real estate profession
9 within the meaning of Section 490 of the Business and Professions
10 Code of the State of California and of Section 2910, Title 10,
11 California Administrative Code, felonies and crimes involving
12 moral turpitude.

13 IV

14 The facts alleged above are grounds for the suspension
15 or revocation of Respondent's license under Section 490 and under
16 Section 10177(b) of the Business and Professions Code of the
17 State of California.

18 WHEREFORE, Complainant prays that a hearing be conducted
19 on the allegations of this Accusation and that upon proof thereof,
20 a decision be rendered imposing disciplinary action against all
21 licenses and license rights of Respondent, under the Real Estate
22 Law (Part 1 of Division 4 of the Business and Professions Code)
23 and for such other and further relief as may be proper under the
24 provisions of the Real Estate Law and Sections 11500 through 11528
25 of the Government Code.

26 Duane A. Aasland
27 Duane A. Aasland
Deputy Real Estate Commissioner

A/pb Dated at Sacramento, California

this 11th day of August 1983.