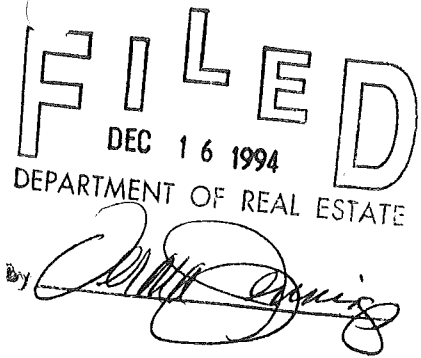




DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-2094 SD
MANLEY BLAND,)
Respondent.)

DECISION AFTER REJECTION

The matter came on for hearing before Alan S. Meth, Administrative Law Judge of the Office of Administrative hearings, in Los Angeles, California, on June 10, 1994.

Elliott Mac Lennan, Counsel, represented the complainant. Respondent was present represented by Albert W. Arena.

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

On June 14, 1994, the Administrative Law Judge submitted a Proposed Decision which 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

1 determination not to adopt the Proposed Decision of the
2 Administrative Law Judge along with a copy of said Proposed
3 Decision. On July 19, 1994, Respondent was notified that the case
4 would be decided by me upon the record, the transcript of
5 proceedings held on June 10, 1994, and upon any written argument
6 offered by Respondent which was submitted on October 16, 1994.

7 I have given careful consideration to the record in this
8 case, including the transcript of proceedings of June 10, 1994.

9 However, after further consideration of the matter, the
10 following shall constitute the Decision of the Real Estate
11 Commissioner in the above-entitled matter:

12 FINDINGS OF FACT

13 The Findings Of Fact set forth in the Proposed Decision
14 dated June 14, 1994 of the Administrative Law Judge are hereby
15 adopted as the Findings of Fact of the Real Estate Commissioner.

16 DETERMINATION OF ISSUES

17 On September 8, 1993, respondent was convicted by his
18 plea of guilty to the charge of violating Financial Code Section
19 5308 (False Statements or Reports to Obtain a Loan). This
20 conviction took place in the Municipal Court of San Diego, San
21 Diego Judicial District, County of San Diego, State of California,
22 in case no. F157860 entitled People v. Manley Bland. Cause exists
23 under the provisions of Business and Professions Code Sections 490
24 and 10177(b), to revoke the license and license rights of
25 respondent.

26 Contrary to the Determination of the Administrative Law
27 Judge, I do not feel there are adequate or sufficient mitigating

1 circumstances to establish that the public would be adequately
2 protected if respondent were allowed to keep his present
3 unrestricted license.

4 ORDER

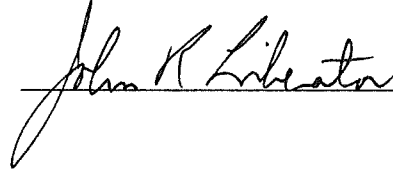
5 The real estate broker license of respondent MANLEY
6 BLAND is hereby revoked.

7 This Decision shall become effective at 12 o'clock noon
8 on January 5, 1995.

9
10 Dated: November 29, 1994.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

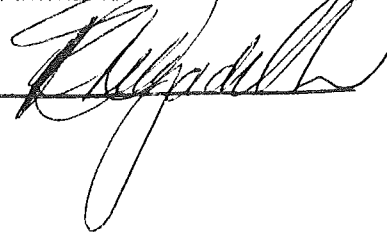
JOHN R. LIBERATOR
Interim Commissioner



SAC TO
FILED

FILED
JUL 19 1994

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MANLEY BLAND,)
Respondent.)

NO. H-2094 SD

L-63566

NOTICE

TO: MANLEY BLAND, Respondent
and
ALBERT W. ARENA, his Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 14, 1994, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 14, 1994, 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 June 10, 1994, and any written argument hereafter submitted on behalf of

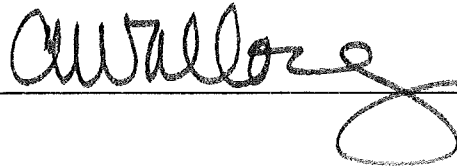
1 respondent and complainant.

2 Written argument of respondent to be considered by me
3 must be submitted within 15 days after receipt of the transcript
4 of the proceedings of June 10, 1994, at the Los Angeles office of
5 the Department of Real Estate unless an extension of the time is
6 granted for good cause shown.

7 Written argument of complainant to be considered by me
8 must be submitted within 15 days after receipt of the argument of
9 respondent at the Los Angeles office of the Department of Real
10 Estate unless an extension of the time is granted for good cause
11 shown.

12 DATED: 7/11/94

13 CLARK WALLACE
14 Real Estate Commissioner

15 
16
17
18
19
20
21
22
23
24
25
26
27

CRITERIA OF REHABILITATION (Revocation)

RE 574 (Rev. 7/87)

Your real estate license has been revoked or suspended by the Real Estate Commissioner based wholly or in part upon a criminal conviction or upon the ground that you knowingly made a false statement of fact in applying for a real estate license. The criteria set forth in Regulation 2912 have been developed by the Department of Real Estate as guidelines to assist persons, who have had their real estate licenses revoked or suspended because of criminal convictions, in a rehabilitation program and in the presentation of the case for reinstatement of the license or reduction of the suspension imposed.

Not all of the factors listed below will be applicable in the case of every revoked or suspended licensee nor will each applicable factor necessarily be given equal weight in evaluating the rehabilitation of an individual. The individual must decide which of these factors are applicable to his or her case and should then take appropriate steps toward rehabilitation to the end of satisfying the Real Estate Commissioner that it would not be against the public interest to grant reinstatement of the license or a reduction of the suspension.

2912. Criteria of Rehabilitation (Revocation or Suspension). The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

- (a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.)
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
- (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- (d) Successful completion or early discharge from probation or parole.
- (e) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- (f) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- (g) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (h) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- (i) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.
- (j) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (k) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (l) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:
 - (1) Testimony of applicant.
 - (2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.
 - (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
 - (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. H-2094 SD
	)	
MANLEY BLAND	)	OAH No. L-63566
	)	
	)	
Respondent.	)	

PROPOSED DECISION

On June 10, 1994, in San Diego, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Elliott Mac Lennan, Real Estate Counsel, represented the complainant.

Albert W. Arena, Attorney At Law, represented respondent.

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

FINDINGS OF FACT

I

J. Chris Graves, Deputy Real Estate Commissioner of the State of California (hereafter, "Department"), filed Accusation No. H-2094 SD on April 22, 1994, in his official capacity. Respondent filed a Notice of Defense on May 20, 1994.

II

At all relevant times, respondent was licensed as a real estate broker holding license number 00553776 issued by the Department.

III

On September 8, 1993, in the Municipal Court of California, County of San Diego, San Diego Judicial District, in the case of People v. Manley Bland, Case No. F157860, respondent entered a plea of guilty to two counts of violating

Financial Code section 5308, (false statements or reports to obtain loans), crimes involving moral turpitude and having a substantial relationship to the qualifications, functions or duties of a real estate licensee. On October 6, 1993, in the superior court, imposition of sentence was suspended and respondent was placed on probation for a period of three years on terms and conditions, including serving one year in the county jail, paying a fine of \$5000.00 which was stayed pending further order, paying restitution in the amount of \$2638.94, paying a restitution fine of \$5,000.00, which was stayed, staying current on all loan payments, and not practicing real estate until a decision is reached by the Department.

On March 30, 1994, respondent was released from a work furlough program after serving about five months.

The circumstances of the offense are as follows: In 1991 and 1992, respondent was an officer of SeaBreeze Realty, Inc., a company which was engaged in listing residential properties for sale. Geraldine Smith listed a property with SeaBreeze. When she was unable to sell the property, respondent bought it from her. Smith had been ill and needed money to pay for retirement care. World Savings and Loan financed the transaction in the amount of \$91,000.00, and Smith agreed to hold a second trust deed on the property in the amount of \$64,000.00 which was for the amount of the down payment. Respondent did not put up any money to purchase the property. One of the documents respondent signed in connection with obtaining the loan from World Savings was an agreement not to encumber the property for six months after execution of the original note. However, respondent executed the second trust deed on the same day he received the financing from World Savings. Within six months, respondent was unable to make payments on the second trust deed, and informed Smith's representatives he was planning to file for bankruptcy. Respondent did file for bankruptcy, but continued, and still continues, to make payments to Smith.

With regard to the second offense, respondent entered into a similar transaction involving property owned by Sharon Crosby. Crosby held notes executed by respondent totalling \$100,000.00. When respondent was unable to make loan payments, he transferred the property back to Crosby by quitclaim deed.

IV

Respondent expressed remorse for his actions, but blames a downturn in the real estate market for the failure of the transactions to succeed. He is no longer in the field of real estate directly but works for a firm which produces computer software for realtors. Respondent is married and has three children. He began as a salesperson in 1977, and became a broker in 1978. He started SeaBreeze in 1989 or 1990 and at one time

had 48 agents working for him. SeaBreeze was engaged in property management and re-sales of existing single family residences. In support of his testimony of rehabilitation, respondent submitted a Sentencing Memorandum submitted by his attorney in his criminal case, which included a number of letters of support.

One of the most critical factors establishing rehabilitation considered in arriving at the discipline in this matter is respondent's decision to continue paying Smith despite having entered into bankruptcy and before ordered to do so by the court. This demonstrates a willingness to accept responsibility for his actions and a desire to prevent those with whom he deals from suffering financial harm.

DETERMINATION OF ISSUES

Cause for discipline of respondent's license was established for violation of Business and Professions Code sections 490 and 10177(b), by reason of Finding III.

ORDER

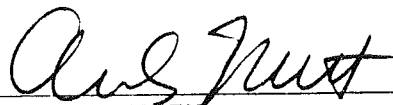
All licenses and licensing rights of respondent Manley Bland under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and 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.

Not
adopted

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: June 14, 1994


ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

STATE OF CALIFORNIA

★ ★ ★ ★ ★

In the Matter of the Accusation of) No. H- 2094 SD
)
)
 MANLEY BLAND,) L- 63566
)
)
)
 Respondent.)

The Proposed Decision dated June 14, 1994
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 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.

IT IS SO ORDERED _____

CLARK WALLACE
Real Estate Commissioner

393-0923-002✓
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of

MANELEY BLAND,

Respondent(s).

Case No. 2094 SD

OAH No. L-63566

FILED
JUN 2 1994
DEPARTMENT OF REAL ESTATE

By

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 Office of Administrative Hearings, 1350 Front Street, Room 6018 San Diego California, on June 10, 1994, at 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: June 2, 1994

DEPARTMENT OF REAL ESTATE

By:

ELLIOTT MAC LENNAN, Counsel

RE 501 (Mac 8/92EM:rd)

SAC

DARLENE AVERETTA, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
April 22, 1994
DEPARTMENT OF REAL ESTATE

By C. Berg

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-2094 SD
MANLEY BLAND,)	A C C U S A T I O N
Respondent.)	

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against MANLEY BLAND (hereinafter "Respondent"), 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 California Business and Professions Code (hereinafter the "Code") as a real estate broker.

III

At all times material herein, Respondent was licensed by the Department of Real Estate of the State of California.

IV

On or about September 8, 1993, in the Municipal Court of California, County of San Diego, San Diego Judicial District, Respondent, MANLEY BLAND, aka Manley Bland, Jr., was convicted on his plea of guilty of two counts of violating Section 5308 of the Financial Code (False Statements or Reports to Obtain Loan), felonies or crimes involving moral turpitude 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.

V

The crimes of which Respondent was convicted, as described in Paragraph IV, above, constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

///

///

///

///

///

///

///

///

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of Respondent, MANLEY
5 BLAND, under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.
8 Dated at San Diego, California
9 this 22nd day of April, 1994.

10
11 J. CHRIS GRAVES
12 Deputy Real Estate Commissioner
13
14
15
16
17
18
19
20
21
22
23
24

25 cc: Manley Bland
26 Sacto.
27 LM