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FILED
JUN 03 1999

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
BRIAN DOUGLAS McCRAY,)	No. H-2189 SD
Respondent.)	

ORDER GRANTING UNRESTRICTED LICENSE

On September 27, 1995, an Order was rendered herein denying the Respondent's application for real estate license, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on November 2, 1995, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent.

On May 26, 1998, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license.

I have considered the petition of Respondent and the evidence and arguments in support thereof. Respondent has

1 demonstrated to my satisfaction that Respondent meets the
2 requirements of law for the issuance to Respondent of an
3 unrestricted real estate broker license and that it would not be
4 against the public interest to issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
6 for removal of restrictions is granted and that a real estate
7 broker license be issued to Respondent if Respondent satisfies the
8 following conditions within nine months from the date of this
9 Order:

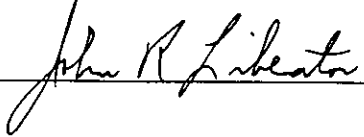
10 1. Submittal of a completed application and payment of
11 the fee for a real estate broker license.

12 2. Submittal of evidence of having, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license.

17 This Order shall be effective immediately.

18 DATED: May 24, 1999.

19
20 JOHN R. LIBERATOR
Acting Real Estate Commissioner

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Facto
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FILED
JUN - 4 1997
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE By *Emily Jakedo*

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) No. H-2189 SD
BRIAN DOUGLAS MCCRAY)
Respondent.)

ORDER DENYING RECONSIDERATION

On April 7, 1997, an Order Denying Unrestricted License was signed in the above entitled matter to become effective June 4, 1997.

On or about April 17, 1997, Respondent petitioned for reconsideration of the Order dated April 7, 1997.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Order of April 7, 1997, and reconsideration is hereby denied.

IT IS SO ORDERED 6/3 1997.

JIM ANTT, JR.
Real Estate Commissioner
Jim Antt, Jr.

SACTO

FILED
MAY 0 7 1997
DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) No. H-2189 SD
BRIAN DOUGLAS MCCRAY,)
Respondent.)

ORDER STAYING EFFECTIVE DATE

On April 7, 1997, a Decision was rendered in the above-entitled matter to become effective May 5, 1997.

On April 17, 1997, respondent BRIAN DOUGLAS MCCRAY requested a stay of the above Decision of April 7, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of April 7, 1997 is stayed for a period of 30 days as to respondent BRIAN DOUGLAS MCCRAY.

The Decision of April 7, 1997 shall become effective at 12 o'clock noon on June 4, 1997.

DATED 17 April 97

[Signature]
Randolph Brendia
Regional Manager

SACTD

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FILED
APR 15 1997

DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-2189 SD
))
))
BRIAN DOUGLAS MCCRAY))
))
Respondent.))
_____))

ORDER DENYING UNRESTRICTED LICENSE

On September 27, 1995, an Order was rendered herein, effective November 2, 1995, denying the Respondent's application for a real estate broker license, but granting Respondent the right to the issuance of a restricted real estate broker license which was issued to Respondent on November 2, 1995. As part of this same Order, pursuant to Accusation H-2128 SD, Respondent's license as a real estate salesperson was revoked.

On November 8, 1996, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that he has undergone sufficient

1 rehabilitation to warrant the removal of restrictions to his
2 real estate broker license at this time. This determination has
3 been made in light of Respondent's history of acts and conduct
4 which are substantially related to the qualifications, functions
5 and duties of a real estate licensee. That history includes:

6
7 1.

8 The Accusation filed by the Department of Real Estate
9 in H-2128 SD charged Respondent with a failure to reveal on his
10 real estate salesperson application his October, 1992 conviction
11 of violating Section 11350 of the California Health and Safety
12 Code (possession of a controlled substance). On his petition for
13 removal of restrictions Respondent was asked if he had ever been
14 a defendant in any civil court litigation, including small
15 claims court. He answered "No". Whereas, in truth and in fact,
16 Respondent was a defendant in Superior Court Case 684890 filed
17 January 24, 1995, for Breach of Contract and a defendant in
18 Small Claims Court Action 621049 filed July 15, 1994.

19 2.

20 Respondent's failure to reveal his past conviction in
21 the Accusation described in Paragraph 1 was cause to discipline
22 his license pursuant to Section 10177(a) of the California
23 Business and Professions Code (Code). Respondent's failure to
24 reveal the civil suits described in Paragraph 1 is cause to deny
25 his present petition pursuant to Section 10177(a) of the Code.
26 Further, this failure to change his conduct over the period of
27 time from when he first applied for a real estate license to the
present time demonstrates a lack of rehabilitation and is



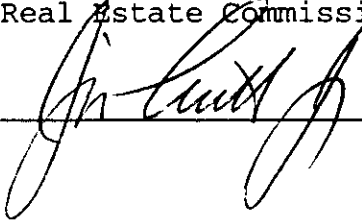
1 additional cause to deny his petition pursuant to Section
2 2911(m) of Chapter 6, Title 10, California Code of Regulations.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's
4 petition for removal of restrictions is denied.

5 This Order shall become effective at 12 o'clock
6 noon on May 5, 1997.

7
8 DATED: 4/7/97

9
10 JIM ANTT JR.
11 Real Estate Commissioner

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20 BRIAN DOUGLAS MCCRAY
21 7354 Celata Lane
22 San Diego, California 92129
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1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012

4 (213) 897-3937

FILED
OCT 13 1995
DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-2128 SD
12 BRIAN DOUGLAS MC CRAY,) L-9502036
13 Respondent.)
14 _____)

15 In the Matter of the Application of) No. H-2189 SD
16 BRIAN DOUGLAS MC CRAY,)
17 Respondent.)
18 _____)

19 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

20 It is hereby stipulated by and between BRIAN DOUGLAS
21 MC CRAY (hereinafter "Respondent"), representing himself, and
22 the complainant, acting by and through Elliott Mac Lennan,
23 Counsel for the Department of Real Estate, as follows for the
24 purpose of settling and disposing of the Accusation filed on
25 November 29, 1994, and the Statement of Issues filed on
26 August 9, 1995, in this matter:
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1. All issues which were to be contested and all evidence which were to be presented by Complainant and Respondent at a formal hearing on the Accusation and Statement of Issues, which hearing was to be held in accordance with the provisions of the Administrative Procedures Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation.

2. Respondent has received, reviewed and understands the Accusation and Statement of Issues, the Statement to Respondent, and the Discovery Provisions of the APA filed by the Department of Real Estate in the above-captioned proceedings.

3. Respondent has filed Notices of Defense, pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation and Statement of Issues. Respondent hereby freely and voluntarily withdraws both said Notices of Defense. Respondent acknowledges that he understands that by withdrawing said Notices of Defense he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation and Statement of Issues at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and Statement of Issues and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, hereby admits that the factual allegations in Paragraphs I through VI of the Accusation and Paragraphs I and II of the

1 Statement of Issues filed in this proceeding are true and correct
2 and the Real Estate Commissioner shall not be required to provide
3 further evidence of such allegations. In addition, Respondent
4 agrees and stipulates that his conduct is cause for discipline
5 and/or denial pursuant to Sections 480, 490 and 10177(b) of the
6 Business and Professions Code.

7 5. It is understood by the parties that the Real
8 Estate Commissioner may adopt the Stipulation and Agreement as his
9 decision in this matter thereby imposing the penalty and sanctions
10 on Respondent's real estate license and license rights as set
11 forth in the below "Order". In the event that the Commissioner in
12 his discretion does not adopt the Stipulation and Agreement, it
13 shall be void and of no effect, and Respondent shall retain the
14 right to a hearing and proceeding on the Accusation and the
15 Statement of Issues under all the provisions of the APA, and shall
16 not be bound by any admission or waiver made herein.

17 6. The Order or any subsequent Order of the Real
18 Estate Commissioner made pursuant to this Stipulation shall not
19 constitute an estoppel, merger or bar to any further disciplinary
20 or civil proceedings by the Department of Real Estate with respect
21 to any matters which are not specifically alleged to be causes for
22 accusation in this proceeding.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions and
25 waivers and solely for the purpose of settlement of the pending
26 Accusation and Statement of Issues without a hearing, it is
27 /



1 stipulated and agreed that the following determination of issues
2 shall be made:

3 I

4 Respondent's conduct, as set forth in Paragraph 4, is
5 cause under Sections 490 and 10177(b) of the Business and
6 Professions Code for suspension or revocation of all licenses and
7 license rights of Respondent including Respondent's real estate
8 salesperson license under the Real Estate Law.

9 II

10 Respondent's conduct, as set forth in Paragraph 4, is
11 cause under Sections 480 and 10177(b) of the Business and
12 Professions Code for denial of his application for a real estate
13 broker license.

14 ORDER

15 I

16 A. Respondent BRIAN DOUGLAS MC CRAY's real estate
17 salesperson license is hereby revoked.

18 B. Respondent BRIAN DOUGLAS MC CRAY's application for
19 a real estate broker license is hereby denied.

20 C. However, a restricted real estate broker license
21 shall be issued to Respondent pursuant to Section 10156.5 of the
22 Business and Professions Code if Respondent makes application
23 therefor, and pays to the Department of Real Estate the
24 appropriate fee for said license within 120 days from the
25 effective date of the Order herein.

26 (1) The restricted license may be suspended prior
27 to hearing by Order of the Real Estate Commissioner in the event

1 of Respondent's conviction or plea of nolo contendere to a crime
2 which bears a significant relationship to Respondent's fitness or
3 capacity as a real estate licensee.

4 (2) The restricted license may be suspended, prior
5 to and pending final determination after formal hearing by Order
6 of the Real Estate Commissioner based upon evidence satisfactory
7 to the Commissioner that Respondent has violated provisions of the
8 California Real Estate Law, the Subdivided Lands Law, Regulations
9 of the Real Estate Commissioner or conditions attaching to this
10 restricted license.

11 (3) Respondent shall not be eligible to apply for
12 the issuance of an unrestricted real estate license nor the
13 removal of any of the conditions, limitations or restrictions of
14 the restricted license until at least one year has elapsed from
15 the date of this Order.

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I have read the Stipulation and Agreement in Settlement
and Order, and its terms are understood by me and are agreeable
and acceptable to me. I understand that I am waiving rights given
to me by the California Administrative Procedure Act (including
but not limited to Sections 11506, 11508, 11509 and 11513 of the
Government Code), and I willingly, intelligently and voluntarily
waive those rights, including the right of requiring the
Commissioner to prove the allegations in the Accusation and
Statement of Issues at hearings at which I would have the right to
cross-examine witnesses against me and to present evidence in
defense and mitigation of the charges.

DATED: 8-9-95 em 74
ELLIOTT MAC LENNAN
Counsel for Complainant

DATED: 8/14/95
Brian Douglas McCray
BRIAN DOUGLAS MCCRAY
Respondent

* * * * *

The foregoing Stipulation and Agreement in Settlement
and Order is hereby adopted by the Real Estate Commissioner as his
Decision and Order and shall become effective at 12 o'clock noon
on November 2, 1995.

IT IS SO ORDERED 9-27, 1995.

JIM ANTT, JR.
Real Estate Commissioner

J. Antt Jr.

SACD.
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ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
AUG - 9 1995
DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)	No. H-2189 SD
BRIAN DOUGLAS MC CRAY,)	<u>STATEMENT OF ISSUES</u>
Respondent.)	

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against BRIAN DOUGLAS MC CRAY ("respondent") is informed and alleges in his official capacity as follows:

I

On June 5, 1995, respondent made application to the Department of Real Estate of the State of California for a real estate broker license during the time that his real estate salesperson license, issued on January 5, 1994, was the subject of an Accusation filed on November 29, 1994, in H-2128 SD.

II

On or about October 22, 1992, in the Superior Court of San Diego, respondent was convicted by a plea of guilty to two



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counts of a violation of California Health & Safety Code Section 11350 (Possession of Controlled Substances - Marijuana and Cocaine), felony crimes involving moral turpitude by their facts and circumstances and substantially related under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

III

The crimes of which Respondent was convicted, as described in Paragraph II above, constitute cause for denial of his application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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 9th day of August, 1995.

J. CHRIS GRAVES

Deputy Real Estate Commissioner

cc: Brian Douglas McCray
Sacto.
BJK