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FILED
JUL 25 1997
DEPARTMENT OF REAL ESTATE
By *R. K. ...*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-2282 SD
THOMAS RAYMOND BEATY,)	L-9610246
Respondent.)	

DECISION AFTER REJECTION

The matter came on for hearing before Timothy C. Stutler, Administrative Law Judge of the Office of Administrative hearings, in Los Angeles, California, on February 7, 1997.

Elliott Mac Lennan, Counsel, represented the complainant. Respondent was present represented by Jed L. Weinberg, Esq. of Kolodny & Pressman, a Professional Corporation.

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

On March 7, 1997, 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 April 16, 1997, Respondent was notified that the
4 case would be decided by me upon the record, the transcript of
5 proceedings held on February 7, 1997, and upon any written
6 argument offered by Respondent which respondent submitted on June
7 25, 1997.

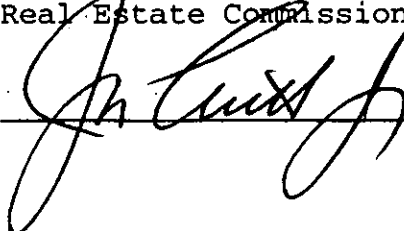
8 I have given careful consideration to the record in this
9 case, including the transcript of proceedings of February 7, 1997,
10 and determined that the original Proposed Decision should be
11 adopted as the Decision of the Real Estate Commissioner in this
12 matter.

13 ORDER

14 The original Proposed Decision dated March 7, 1997, is
15 hereby adopted as the Decision of the Real Estate Commissioner in
16 this matter. That Decision revokes respondent's real estate
17 salesperson license but provides for the issuance of a restricted
18 real estate salesperson license on stated terms and conditions
19 including a five (5) year restriction.

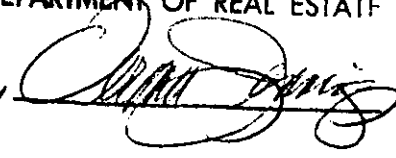
20 This Decision shall become effective at 12 o'clock noon
21 on August 14, 1997.

22
23 Dated: 7/17/97

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25 JIM ANTT, JR.
26 Real Estate Commissioner
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SACCO. Flay

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FILED
APR 16 1997
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-2282 SD
THOMAS RAYMOND BEATY,)	
)	L-9610246
)	
Respondent.)	
_____)	

NOTICE

TO: THOMAS RAYMOND BEATY, Respondent
 and
 JED L. WEINBERG, his Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated March 7, 1997, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated March 7, 1997, 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 February 7, 1997, and any written argument hereafter submitted on behalf of

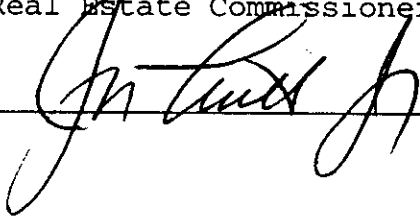
1 respondent and complainant.

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 February 7, 1997, at the Los Angeles office
5 of the Department of Real Estate unless an extension of the time
6 is 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: 4/8/97

13 JIM ANTT, JR.
14 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	Case No. H-2282 SD
THOMAS RAYMOND BEATY)	OAH No. L-9610246
Respondent.)	
_____)	

PROPOSED DECISION

On February 7, 1997, in San Diego, California, Timothy C. Stutler, Administrative Law Judge, Office of Administrative Hearings, heard this matter.

Elliot Mac Lennan, Esq., Real Estate Counsel I, represented the Complainant.

Jed L. Weinberg, Esq., of Kolodny & Pressman, A.P.C., represented the Respondent, Thomas Raymond Beaty (hereafter "Respondent")

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

FINDINGS OF FACT

I

On October 15, 1996, J. Chris Graves, in his capacity as a Deputy Real Estate Commissioner with the California Department of Real Estate (the "Department") filed Accusation Number H-2282 SD against Respondent. The Accusation was served by mail on Respondent the same day. Respondent filed a Notice of Defense on October 28, 1996.

II

Respondent is presently licensed by the Department as a real estate salesperson and was so licensed at all times relevant to the Accusation.

III

On or about April 10, 1995, in the United States District Court for the Southern District of California, in the case of United States of America v. Thomas R. Beaty, case number 95-0071-E, Respondent was convicted, on his plea of guilty, of one count of knowingly executing and attempting to execute a scheme of artifice to defraud a federally insured financial institution, and to obtain funds owned by and under the control of such institution by means of false and fraudulent pretenses, representations, and promises, in violation of Section 1344 of Title 18 of the United States Code.

IV

The circumstances surrounding Respondent's conviction are as follows:

Respondent submitted fraudulent financial statements and reports of a limited partnership to induce Home Federal Savings and Loan ("HomeFed Bank") to loan funds to the limited partnership. The statements and reports concealed obligations owed by the limited partnership, and falsely inflated the occupancy rate of a facility offered as security for the loan.

After the loan was funded, Respondent concealed from HomeFed Bank that he had misapplied a portion of the loan proceeds to pay interest and other sums owing on certain inter-company transfers of the limited partnership, which benefitted Respondent personally. Additionally, Respondent concealed the limited partnership's failure and refusal to pay real property taxes on the property that served as collateral for the loan.

Respondent later submitted to Home Fed Bank a false financial statement overstating the limited partnership's annual revenues.

V

The crime for which Respondent was convicted is a crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate salesperson.

VI

The following evidence of mitigation and rehabilitation was presented at the hearing:

In the two years preceding his conviction, Respondent cooperated fully with the Federal Bureau of Investigation and United States Attorney in their investigation.

While imprisoned at Nellis Air Force Base, Respondent completed approximately 70 hours of continuing education courses, including college level courses and real estate courses.

Respondent successfully completed the urban cadre program through Pacific Furlough and was released from the program three years early. Respondent made extraordinary progress in his rehabilitation while employed by Pacific Furlough and received high praise from representatives of that organization.

Respondent is presently enrolled in a Master's program in architecture.

Respondent has volunteered substantial time and assistance to St. Vincent De Paul, a charitable organization, assisting that group in organizing, coordinating, developing and expanding its real estate holdings.

Respondent has been employed full-time at Dyson Real Estate since September 12, 1996. He is a highly valued agent of Dyson's. That company relies heavily on his experience, opinions, and due diligence with respect to residential and commercial real estate transactions. Dyson has built a significant part of its organization around Respondent. Respondent is significantly more cautious, conservative and careful in his business and reporting practices now than before his conviction.

In September, 1995, Respondent's real estate salesperson license was renewed through September of 1999. Respondent was previously licensed as a real estate broker for approximately 14 years. No real estate license issued to Respondent has ever been revoked or suspended, or restricted, nor is there any evidence of any complaint against his real estate license.

VII

In determining whether Respondent is rehabilitated, the Department must take into account all competent evidence of rehabilitation furnished by Respondent. Cal. Bus. & Prof. Code § 482. The process first requires an inquiry into Respondent's state of mind.

Remorse and an appreciation of the gravity of Respondent's conduct are a prerequisite of rehabilitation. A witness' comportment provides strong clues as to his state of mind that may not appear in a sterile written record of proceedings. Respondent's demeanor and candid testimony show he sincerely regrets and accepts responsibility for his actions.

The evidence of Respondent's state of mind lends strong support to his claim of rehabilitation. However, the state of facts must also support the claim.

In the two years since his 1995 conviction, Respondent has undertaken definite and positive steps to rebuild his life and career. He exceeded the requirements of his probation, obtained gainful employment, and works in a position requiring great trust and responsibility. Respondent has a stable family life, supports his wife and mother-in-law, and is active in the community and charitable work.

Respondent's actions speak volumes. Respondent is well on the road to establishing himself as a responsible and trustworthy member of society. However, Respondent's achievements during the relatively short period since his convictions do not establish full rehabilitation. The conduct leading to his 1995 convictions occurred between four and ten years ago, a relatively short time considering the magnitude of his offenses. Although his hard work and good behavior since then suggest Respondent has abandoned his past conduct, only time will tell if he will consistently avoid or resist the urges, circumstances and forces that led to such conduct.

VIII

Although Respondent has not yet established full rehabilitation, he has established his fitness to perform the functions of a real estate salesperson, subject to appropriate restrictions. Respondent has not only paid the justice system's price for his transgressions, but has proven himself a trusted and valuable real estate salesperson who should be permitted to continue on his chosen career path.

DETERMINATION OF ISSUES

I

As set forth in Findings of Fact VI through VIII, the public interest would not be served by depriving Respondent of the opportunity to perform the duties of a real estate salesperson, pursuant to Sections 490 and 10177(b) of the California Business and Professions Code ("Code").

II

In light of the evidence set forth in Findings of Fact II through VIII, the public interest would be served by, and cause exists for, revoking Respondent's real estate salesperson license and allowing Respondent to obtain a restricted license as a real estate salesperson under the terms set out below.

ORDER

Adopted

In accordance with the foregoing Findings of Fact and Determination of Issues, all licenses and licensing rights of Respondent, including the real estate salesperson, license issued to Respondent 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.
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 five 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:

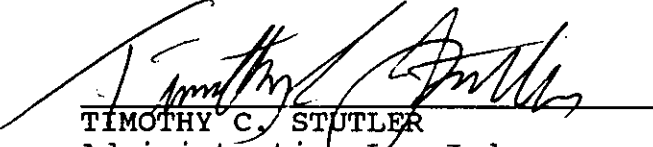
Adopted

(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: March 7, 1997


TIMOTHY C. STUTLER
Administrative Law Judge
Office of Administrative Hearings

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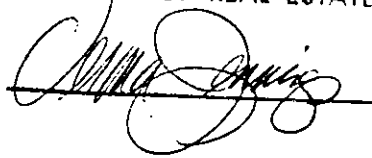
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
DEC 26 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
THOMAS RAYMOND BEATY,)
)
Respondent.)

Case No. H-2282 SD
OAH No. L-9610246



NOTICE OF CONTINUED 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 6022, San Diego, California, on February 7, 1997, at the hour of 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: December 26, 1996.

cc: Thomas Raymond Beaty
Jed L. Weinberg, Esq.
Solana Beach Capital Corp.
J. Chris Graves
Sacto.
OAH-SD/LA

DEPARTMENT OF REAL ESTATE


ELLIOTT MAC LENNAN, Counsel

Handwritten initials/signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
NOV 25 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
THOMAS RAYMOND BEATY,)
)
Respondent.)

Case No. H-2282 SD
OAH No. L-9610246

Handwritten signature

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 6022, San Diego, California, on January 10, 1997, at the hour of 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: November 25, 1996.

cc: Thomas Raymond Beaty
Jed Weinberg, Esq.
Solana Beach Capital Corp.
J. Chris Graves
Sacto.
OAH-SD/LA

DEPARTMENT OF REAL ESTATE


Handwritten signature
ELLIOTT MAC LENNAN, Counsel

FACTO
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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
OCT 15 1996
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-2282 SD
THOMAS RAYMOND BEATY,)	<u>A C C U S A T I O N</u>
))
))
Respondent.))

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against THOMAS RAYMOND BEATY is informed and alleges in his official capacity as follows:

I

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) (Code).

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II

At all times mentioned, respondent was licensed by the Department of Real Estate of the State of California as a real estate salesperson.

III

On or about April 10, 1995, in the United States District Court for the Southern District of California, case number 95-0071-01-E, respondent was convicted upon plea of guilty of violating one count of 18 USC 1344 (Scheme to Defraud Bank) a felony crime that occurred between 1987 and 1993 which by its facts and circumstances involves moral turpitude and is substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The facts as alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of respondent under the Real Estate Law.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of respondent
5 THOMAS RAYMOND BEATY under the Real Estate Law and for such
6 other and further relief as may be proper under other
7 applicable provisions of law.

8 Dated at San Diego, California
9 this 15th day of October, 1996.

11 J. CHRIS GRAVES
12 Deputy Real Estate Commissioner

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24 cc: Thomas Raymond Beaty
25 Sacto.
26 RMS
27 Solana Beach Capital Corp.