

1 KYLE T. JONES, Counsel (SBN 300751)  
2 Bureau of Real Estate  
3 P.O. BOX 137007  
4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8672  
6 (916) 263-3767 (Fax)  
7 (916) 263-7303 (Direct)

**FILED**

MAR 15 2018

BUREAU OF REAL ESTATE

By H. Diaz

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 ) NO. H-3164 FR  
13 RUSTY MICHAEL OPSZENTKOSKI, )  
14 Respondent. ) STATEMENT OF ISSUES

15 The Complainant, BRENDA SMITH, acting in her official capacity as a  
16 Supervising Special Investigator of the State of California, for this Statement of Issues against  
17 RUSTY MICHAEL OPSZENTKOSKI ("Respondent"), is informed and alleges as follows:

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19 On or about June 5, 2017, Respondent made application to the Bureau of Real  
20 Estate of the State of California for a real estate salesperson license.

21 CRIMINAL CONVICTIONS

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23 On or about October 18, 2015, in the Superior Court of the State of California,  
24 County of Fresno, Case No. M15917723, Respondent was convicted of violating Section 23152  
25 (b) (driving under the influence, blood alcohol over .08%), a misdemeanor and a crime that bears  
26 a substantial relationship to the qualifications, functions or duties of a real estate licensee  
27 pursuant to Section 2910, Title 10, of the California Code of Regulations ("Regulations").

On or about June 2, 1999, in the Superior Court of the State of California, County of Fresno, Case No. T99903167-5, Respondent was convicted of violating Sections 23152 (b) and 12500(a) (driving without a valid license) of the California Vehicle Code, misdemeanors and crimes that bear a substantial relationship to the qualifications, functions or duties of a real estate licensee pursuant to Section 2910 of the Regulations.

FAILURE TO DISCLOSE CONVICTION ON PRIOR APPLICATION

On or about March 28, 2016, Respondent made application to the Bureau for a real estate salesperson license. On February 25, 2017, Respondent withdrew his application for a license.

In response to Question 28 of said application to wit: "HAVE YOU EVER BEEN CONVICTED (SEE PARAGRAPH ABOVE) OF ANY VIOLATION OF THE LAW AT THE MISDEMEANOR OR FELONY LEVEL? IF YES, COMPLETE ITEM 34 WITH INFORMATION ON EACH CONVICTION," Respondent concealed and failed to disclose the conviction described above in Paragraph 3.

GROUND FOR DENIAL

Respondent's failure to disclose the conviction described above in Paragraph 3, constitutes cause for denial of Respondent's application for a real estate salesperson license pursuant to the provisions of Sections 480(d) (false statement of fact required to be revealed in application) and 10177(a) (attempted procurement of real estate license by fraud, misrepresentation, or deceit) of the Business and Professions Code ("Code").

Respondent's criminal convictions described above in Paragraphs 2 and 3, constitute cause for denial of Respondent's application for a real estate salesperson license pursuant to the provisions of Sections 480(a)(1) (conviction of crime) and 10177(b) (conviction of crime) of the Code.

1                    WHEREFORE, the Complainant prays that the above-entitled matter be set for  
2 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to  
3 authorize the issuance of, and deny the issuance of, a real estate salesperson/broker license to  
4 Respondent, and for such other and further relief as may be proper under applicable provisions of  
5 law.

6   
7 BRENDA SMITH  
8 Supervising Special Investigator

9 Dated at Fresno, California,  
10 this 7 day of March 2018.

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12  
13                    DISCOVERY DEMAND

14                    Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the  
15 Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the  
16 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau may result in the  
17 exclusion of witnesses and documents at the hearing or other sanctions that the Office of  
18 Administrative Hearings deems appropriate.