

FILED

AUG 23 2011

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By 

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In the Matter of the Application of

ADAM SLOAN HUNTINGTON,

Respondent.

)  
) NO. H-4150 SD  
)  
)  
) OAH NO. 2011010439  
)  
)

DECISION

The Proposed Decision dated July 22, 2011, 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 with the following correction:

On Page 1 of the Proposed Decision, Case No. should be H-4150 SD.

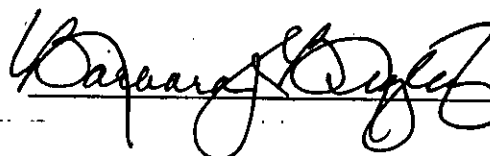
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon on SEPT. 09, 2011.

IT IS SO ORDERED 8/19/11

BARBARA J. BIGBY  
Acting Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

ADAM SLOAN HUNTINGTON,

Applicant/Respondent.

Case No. H-4150 SD

OAH No. 2011010439

**PROPOSED DECISION**

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 18, 2011, in San Diego, California.

Annette E. Ferrante, Real Estate Counsel, represented complainant, Robin Trujillo, a Deputy Real Estate Commissioner, Department of Real Estate, State of California.

Edward B. Huntington, Attorney at Law, represented applicant/respondent, Adam Sloan Huntington, who was present throughout the administrative hearing.

The matter was submitted on July 18, 2011.

**PRELIMINARY STATEMENT**

Adam Huntington was convicted of petty theft in March 1998. He has not been convicted of any crimes since then. Mr. Huntington's petty theft conviction was expunged in September 2005.

On January 11, 2010, Mr. Huntington filed an application with the Department of Real Estate for licensure as a real estate salesperson. In that application, which he signed under penalty of perjury, Mr. Huntington represented that he had not been convicted of any crime. That statement was untrue.

When his application was not issued as quickly as he had hoped, Mr. Huntington had second thoughts about the information he provided to the Department. On February 26, 2010, Mr. Huntington advised the Department of his petty theft conviction, claiming that he had simply forgotten about it. Mr. Huntington's voluntary disclosure of the fact of his conviction preceded his receipt of a letter from the Department dated May 27, 2010, that

asked Mr. Huntington to provide information related to a 1997 arrest that resulted in a theft conviction.

Mr. Huntington has been law abiding since the shoplifting incident that resulted in his 1998 petty theft conviction. Mr. Huntington established that he did not disclose the fact of his conviction to a prospective broker who completed that portion of the application related to his criminal history because he was so ashamed.

Under the circumstances, it would not be contrary to the public interest to permit Mr. Huntington to hold a restricted real estate salesperson's license.

## FACTUAL FINDINGS

### *Jurisdictional Matters*

1. On October 27, 2010, complainant, Robin Trujillo, a Deputy Real Estate Commissioner, Department of Real Estate, State of California, signed the Statement of Issues in Case No. H-4150 SD in her official capacity. The Statement of Issues and other required jurisdictional documents were served on applicant/respondent, Adam Sloan Huntington (Mr. Huntington or respondent).

Mr. Huntington timely filed a Statement of Respondent and Notice of Defense.

On July 18, 2011, the administrative record was opened; jurisdictional documents were presented; official notice was taken; sworn testimony was provided; documentary evidence was received; closing arguments were given; the record was closed; and the matter was submitted.

### *The Application for Licensure*

2. On January 5, 2010, Mr. Huntington signed an application that he later filed with the Department for the issuance of a real estate salesperson's license.

The real estate application contained, in part, the following statements and questions:

#### **PART D – BACKGROUND INFORMATION**

Carefully read and provide detailed answers to questions 1-4. You must provide a "yes" or "no" response to all questions, and also completely and accurately provide the detailed information required in item(s) 5 and 6 below. Attach additional sheets if you need more space. Each additional sheet must be signed by the applicant and employing broker. Failure to disclose pertinent information may result in denial of your license application and/or delays.

1. HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR OR FELONY?

**CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER YOU MAY OMIT TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY.**

IF YES, COMPLETE ITEM 5..... ☐ YES ☐ NO

2. ARE THERE ANY CRIMINAL CHARGES PENDING AGAINST YOU ... ☐ YES ☐ NO

#### **CONVICTION DETAILS**

"Convicted" as used in item 1 includes a verdict of guilty by judge or jury, a plea of guilty, a plea of nolo contendere (i.e., no contest") or a forfeiture of bail in the courts (including military courts) of any state, commonwealth, possession or county. All convictions must be disclosed, no matter how long ago they occurred, even if the plea or verdict was set aside, the conviction dismissed or expunged, or you have been pardoned. Convictions occurring while you were a minor (under 18 years of age) must be disclosed unless the record of the conviction has been sealed under Section 1203.45 of the California Penal code or Section 781 of the California Welfare and Institutions Code.

#### **5. DETAILED EXPLANATION OF ITEM 1 AND/OR 2.**

COMPLETE ONE LINE FOR EACH VIOLATION AND PROVIDE EXPLANATION BELOW. IF YOU ARE UNABLE TO PROVIDE THIS INFORMATION, PROVIDE ALL THE REQUESTED INFORMATION YOU CAN OBTAIN, WITH AN EXPLANATION FOR THE MISSING INFORMATION. IF THE CONVICTION STATUS HAS BEEN SUBSEQUENTLY CHANGED OR REDUCED, NOTE THAT FACT IN THE AREA PROVIDED FOR ADDITIONAL INFORMATION .....

3. Mr. Huntington testified he read the statements and questions before he provided the application form to his prospective broker, Alexander V. Vari. He claimed that he did not review the application as thoroughly as he should have. Mr. Huntington testified that his prospective broker, Alexander V. Vari, completed the responses that are set forth in Part D of the application. In that regard, Mr. Vari asked Mr. Huntington if he had ever been convicted of any crime. Mr. Huntington, who was embarrassed about the fact of his petty theft conviction and who knew that the conviction had been expunged, told Mr. Vari that he had not been convicted of any crime. Based on what he was told by Mr. Huntington, Mr. Vari checked the "No" box to question number 1.

Mr. Huntington did not complete any portion of the Question 5, which asked for detailed information concerning the crimes.

Mr. Huntington signed the next page of the application under penalty of perjury, certifying that the information contained in the application was true and correct.

### *Further Disclosures to the Department*

4. Mr. Huntington became concerned about the veracity of the information contained in his application. In February 2010, Mr. Huntington contacted the Department and determined that the Department had information concerning his 1997 petty theft arrest and that the Department had assigned his application to an investigator for review.

Mr. Huntington thereafter provided the Department with a Confidential – Interview Information Statement that disclosed the fact of his November 26, 1997, arrest in San Diego for shoplifting and the fact that he was convicted of that offense. In that statement he represented that his conviction was expunged on September 1, 1995.

In a Conviction Detail Report attached to the statement, Mr. Huntington explained the offense as follows:

At the age of 19 I found out my parents were getting divorced. I got caught shoplifting a sweater from Nordstrom. It was utterly embarrassing and very stupid. I did 80 hours of community service and paid Nordstrom \$750. I have been an upstanding citizen most of my life except for this stupid mistake that I thought was erased from my record and memory years ago. I apologize for this, but I just plain erased it from my memory. It is not something I am proud of and would prefer not [to] think about ever again as I paid my debt to Nordstrom and successfully completed my sentence.

Mr. Huntington further explained in that report:

This happened more than 13 years ago. I simply forgot about it and did not disclose it. I sincerely apologize for the oversight and I hope this will not prevent me from getting my license.

Mr. Huntington did not mention in the statement or the report he provided to the Department that his prospective broker completed the "No" response to question no. 1 or that he did not tell his prospective broker about his conviction because he was embarrassed. Nor did he mention in the statement or the report that he failed to disclose the fact of his conviction based upon conversations he once had with his father, now a retired Superior Court judge, and the attorney friend who entered Mr. Huntington's nolo contendere plea to the petty theft charges, although Mr. Huntington mentioned this in the Statement of Respondent that he filed in this case.

The inconsistent statements concerning the reason that Mr. Huntington answered "no" to question no. 1 were puzzling. Nevertheless, Mr. Huntington's statement and report to the Department in which he disclosed the fact of his petty theft conviction were provided well before the Department sent a form letter to Mr. Huntington dated May 10, 2010, which asked him about the 1997 arrest resulting in his theft conviction.

#### *Mr. Huntington's Conviction*

5. On March 17, 1998, Mr. Huntington was convicted on his plea of nolo contendere of violating Penal Code section 484/488 (petty theft), a misdemeanor, in the Superior Court of California, County of San Diego, in Case No. M748612.

The Superior Court suspended imposition of sentence and placed Mr. Huntington on 36 months informal probation. The Department of Justice abstract established that Mr. Huntington was sentenced to serve one day in custody (most likely on a "book and release" basis), and that he was ordered to pay a fine and to provide community service.

Mr. Huntington represented that his conviction was expunged on September 1, 2005. This representation is credited as being true.

#### *Circumstances of the Offense*

6. On or about November 26, 1997, Mr. Huntington entered Nordstrom and attempted to take a \$50 sweater without paying for it. Store security personnel detained him and made a citizen's arrest for theft. A criminal complaint was filed on December 5, 1997. Mr. Huntington entered his plea of nolo contendere on March 17, 1998. According to Mr. Huntington, he was required to make restitution to Nordstrom in the amount of \$750 and he was required to provide 80 hours of community service as a condition of his probation.

#### *Mr. Huntington's Testimony and Other Evidence*

7. Mr. Huntington was born on October 31, 1977. His mother and father were attorneys. He grew up in San Diego, California. After graduating from high school, he attended the University of Southern California, where he received a bachelor's degree in Urban Planning and Development in 2000.

Mr. Huntington has been a seasonal employee with the City of San Diego Lifeguard Service for 15 years. In addition to this seasonal employment, Mr. Huntington has been employed by the Gerson Institute as a resource development specialist, Roppongi Restaurant as a server, Flemings Prime Steakhouse as a server, the Sofa Company as a salesperson, and Green Up as a marketer. Mr. Huntington has, for many years, owned and operated his own business, Vgifts San Diego, an entity that provides martini parties and fund raising opportunities for charitable organizations.

8. Mr. Huntington testified that when he returned from college over the holidays in 1997, he learned that his mother and father were going to divorce. According to Mr. Huntington, this news was devastating and resulted in his attempt to take a sweater from Nordstrom the next day without paying for it. Mr. Huntington expressed sincere remorse for his wrongdoing, and the shoplifting incident was a unique and singular event in an otherwise law-abiding life.

9. Mr. Huntington explained the circumstances that resulted in his failure to disclose his petty theft conviction in his application. His testimony during this proceeding was inconsistent with the statement he provided to the Department in November 2010 and it was inconsistent with the statement that accompanied his Notice of Defense. The contradictions raised questions about Mr. Huntington's intent when he represented to the Department in his application for licensure that he had not been convicted of any crime. The inconsistencies raised some questions about Mr. Huntington's rehabilitation.

10. In 2009 Mr. Huntington became interested in the mortgage industry and he began to shadow a friend, John Parks, a licensed salesperson who worked in the mortgage loan industry. Mr. Huntington decided that he wanted to become a licensed real estate salesperson and that he wanted to assist homeowners in obtaining home loans.

11. Mr. Huntington has not been convicted of any crimes, or even arrested, since the incident in November 1997. He made restitution to Nordstrom, performed 80 hours of public service over the summer of 1998, and successfully completed probation. His conviction was expunged. There is no evidence that Mr. Huntington has a drug or alcohol problem. He has loving parents and enjoys a well established support group in San Diego. Mr. Huntington has some involvement in community programs designed to provide social benefits through Vgifts San Diego. He expressed remorse for his wrongdoing.

### *Evaluation*

12. Mr. Huntington was convicted of petty theft in March 1998. He has no other criminal convictions. Even though the petty theft conviction was quite remote and had been expunged, Mr. Huntington was obligated to disclose it in his application for licensure.

While a petty theft conviction, by itself, might raise some questions about an individual's good moral character, the passage of time, Mr. Huntington's remorse and his frank disclosure of the conviction would have put the matter to rest. But, Mr. Huntington did *not* disclose the petty theft conviction in his application, and he provided several inconsistent explanations related that omission, all which raised questions about his rehabilitation.

Mr. Huntington had the burden of establishing his fitness to hold a real estate salesperson's license. Because of his petty theft conviction, his unjustified failure to disclose that conviction, and his inconsistent explanations of that failure, Mr. Huntington did not establish sufficient rehabilitation to support his request for the issuance of an unrestricted license. However, it would not be contrary to the public interest to permit Mr. Huntington to

hold a restricted real estate salesperson's license given the remote nature of his petty theft offense, his law-abiding conduct since 1997, and the evidence he presented in rehabilitation.

## LEGAL CONCLUSIONS

### *Burden and Standard of Proof*

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that he or she is qualified to hold the license. The standard of proof is a preponderance of the evidence. See, California Administrative Hearing Practice (Cont.Ed.Bar 2d ed. 1997) The Hearing Process, §§ 7.51-7.53, pp. 365-367), and the cases cited therein.

### *Applicable Statutes*

2. Business and Professions Code section 480 provides in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime . . . .

...

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made . . .

...

(c) A board may deny a license . . . on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

3. Business and Professions Code Section 10177 provides in part:

The commissioner . . . may deny the issuance of a license to an applicant, who has done any of the following . . . :

(a) Procured, or attempted to procure, a real estate license . . . for himself . . . by making a material misstatement of fact in an application for a real estate license . . .



(b) Entered a plea of . . . nolo contendere to . . . a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information. . . .

### *Substantial Relationship*

4. A conviction alone will not support a denial of a license unless the crime substantially relates to the qualifications, functions or duties of the profession in question. (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402.) Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. Thus, if an offense reflects unfavorably on an applicant's honesty, the offense may be said to be substantially related to his qualifications. (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.) Licensing authorities do not enjoy unfettered discretion to determine on a case-by-case basis whether a given conviction is substantially related to the relevant professional qualifications. Business and Professions Code section 481 requires each licensing agency to "develop criteria to aid it . . . to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates." In response to this directive the Department of Real Estate adopted section 2910 of Title 10 of the California Code of Regulations. (*Donaldson v. Department of Real Estate* (2005) 134 Cal.App.4th 948, 955-956.)

5. California Code of Regulations, title 10, section 2910 sets forth the Department's substantial relationship criteria. Subdivision (a)(1) provides taking property belonging to another person is substantially related to the qualifications, functions or duties of a real estate licensee. Subdivision (a)(4) provides that the employment of fraud and deceit is substantially related to the qualifications, functions or duties of a real estate licensee. Subdivision (a)(8) provides that doing any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator is substantially related to the qualifications, functions or duties of a real estate licensee.

California Code of Regulations, title 10, section 2910, subdivision (c) provides that if the crime is substantially related to the qualifications, functions or duties of a licensee, the context in which the crime was committed goes only to the question of the weight to be accorded to the crime in considering the action to be taken with respect to the applicant.

6. Mr. Huntington's petty theft conviction is substantially related to the qualifications, functions and duties of a real estate salesperson.

### *False Information/Material Misstatement*

7. Business and Professions Code section 480, subdivision (c) requires a showing that the applicant *knowingly* made a false statement of fact required to be revealed in the application to constitute grounds for denial. Business and Professions Code section 10177, subdivision (a) requires a showing that the applicant made a *material* misstatement of fact in an application for a real estate license to constitute grounds for denial.

8. Where the disclosure of the information would prevent (or at least raise the possibility of preventing) the issuance of a license, the omission is material. Less than candid explanations for the omission of material information raise the inference of fraud. (*Madrid v. Department of Real Estate* (1984) 152 Cal.App.3d 454.) Admission to a professional practice has been denied where the applicant did not fully disclose his criminal history – information material to an accurate moral character assessment. Whether it is caused by intentional concealment, reckless disregard for the truth, or an unreasonable refusal to perceive the need for disclosure, such an omission is itself strong evidence that the applicant lacks the “integrity” and/or “intellectual discernment” required to participate in the profession. By the same token, no adverse effect on admission generally occurs where the applicant omits less crucial information, where the omission is the product of an innocent mistake, and where the application is otherwise complete. (*In re Gossage* (2000) 23 Cal.4th 1080, 1102.)

9. Before he signed his application for licensure, Mr. Huntington knew of the fact of his petty theft conviction, he was embarrassed about that conviction, he failed to disclose the fact of his conviction to the person who was completing Part D of the application, and he thoughtlessly signed an application that contained a false statement of fact under penalty of perjury. Mr. Huntington’s completion of the application was unreasonable and in reckless disregard of the truth. Thus, it is concluded that Mr. Huntington *knowingly* made a false statement of *material* fact that was required to be revealed in the application for licensure by failing to disclose his petty theft conviction.

### *Rehabilitation*

10. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The evidentiary significance of an applicant’s misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) Cal.3d 1061, 1070.) Courts distinguish between affirmative misstatements intended to place an applicant at an advantage and the unintentional nondisclosure of information which, under the circumstances, is not morally significant. The circumstances of record control, including whether there is the absence of any apparent motive on the part of the applicant to lie about the matter and whether the failure to include omitted information may qualify as the sort of unintentional nondisclosure of a relatively unimportant matter that does not justify exclusion from a profession. (*Lubetzky v. State Bar* (1991) 54 Cal.3d 308, 319.)

11. Applying the Department's criteria for rehabilitation, which are set forth in California Code of Regulations, title 10, section 2911: More than two years have passed since the criminal conviction; the conviction has been expunged; Mr. Huntington paid all fines and fees and made restitution before completing probation; Mr. Huntington has had no other convictions; Mr. Huntington is currently employed; Mr. Huntington demonstrated remorse; Mr. Huntington knowingly filed an application for licensure with the Department in January 2010 that contained a false statement of fact, but he almost immediately thereafter took steps to remedy this misconduct.

*Cause Exists to Deny the Application for an Unrestricted License*

12. Cause exists to deny Mr. Huntington's application for an unrestricted real estate salesperson's license under Business and Professions Code sections 480, subdivision (c), and 10177, subdivision (a). Mr. Huntington *knowingly* made a false statement of *material* fact by failing to disclose his March 1998 petty theft conviction in his application for a real estate salesperson's license.

13. Cause exists to deny Mr. Huntington's application for an unrestricted real estate salesperson's license under Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b). Mr. Huntington was convicted of petty theft in March 1998. When that conviction is considered with Mr. Huntington's initial failure to disclose that conviction in his application for licensure, Mr. Huntington did not establish sufficient rehabilitation to warrant granting him an unrestricted real estate salesperson's license.

14. Cause exists to permit Mr. Huntington to apply for a restricted real estate license based upon the time that has passed since his conviction, the unique and singular nature of the offense, his law-abiding lifestyle since then, and his reasonably prompt effort to remedy the misstatement of fact contained in his application for a real estate salesperson's license. The public will be amply protected where conditions of licensure include a two year restriction, a requirement that Mr. Huntington's employing broker exercise close supervision over Mr. Huntington's licensed activities, and a requirement that Mr. Huntington disclose to the Department any arrest within 72 hours of its occurrence.

ORDER

The application for an unrestricted real estate salesperson's license filed by Adam Sloan Huntington with the Department of Real Estate on January 11, 2010, is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent Adam Sloan Huntington under Business and Professions Code section 10156.5. The restricted salesperson's license issued to respondent shall be subject to all provisions of Business and Professions Code section 10156.7, to the limitations and conditions set forth herein, and to all restrictions imposed under authority of Business and Professions Code section 10156.6 as follows:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) Respondent's conviction (including a conviction following plea of nolo contendere) of any crime that is substantially related to the qualifications, functions, duties, or fitness of a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.

2. Respondent shall report the fact of any arrest or citation to the Real Estate Commissioner in writing within 72 hours of his being arrested or cited. The notice to the Commissioner concerning his arrest or citation shall include the date of the arrest or citation; the name and address of the arresting or citing agency; the offense for which respondent was arrested or cited; and the name and address of any court in which respondent is to appear as a result of the arrest or citation. The failure to comply with this condition shall be grounds for revocation of the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.

4. With his application for a restricted license, or with his application for transfer of that license to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) that has been approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

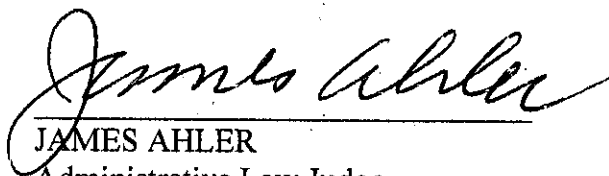
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

5. In the event respondent has not completed all of required coursework, respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of Real Estate evidence that he has successfully completed, at an accredited institution, a course in real estate practices and one of the courses listed in Business and Professions Code section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to timely present to the Department satisfactory evidence of his successful completion of the two required courses, the restricted license issued to respondent

shall be automatically suspended effective eighteen (18) months after the date of its issuance. The suspension issued under this condition shall not be vacated unless, before the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner of Real Estate provides respondent with written notice that the suspension has been lifted.

6. Under Business and Professions Code section 10154, if respondent has not satisfied the requirements for an unqualified license under Business and Professions Code section 10153.4, respondent shall not be entitled to renew the restricted license and he shall not be entitled to the issuance of another license which is subject to Business and Professions Code section 10153.4 until four years after the date of the issuance of the restricted license.

DATED: July 22, 2011

A handwritten signature in cursive script, reading "James Ahler", written over a horizontal line.

JAMES AHLER  
Administrative Law Judge  
Office of Administrative Hearings

1 ANNETTE E. FERRANTE, Counsel (SBN 258842)

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FILED

OCT 28 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Application of )  
13 ADAM SLOAN HUNTINGTON, )  
14 Respondent. )

No. H- 4150 SD

STATEMENT OF ISSUES

15  
16 The Complainant, ROBIN TRUJILLO, in her official capacity as a Deputy Real  
17 Estate Commissioner of the State of California (hereinafter "Complainant"), for Statement of  
18 Issues against ADAM SLOAN HUNTINGTON (hereinafter "Respondent"), alleges as follows:

19 1

20 On or about January 11, 2010, Respondent made application to the State of  
21 California Department of Real Estate for a real estate salesperson license.

22 2

23 In response to Question 1 of Part D of said application, to wit: "Have you ever  
24 been convicted of a misdemeanor or felony? Convictions expunged under Penal Code Section  
25 1203.4 must be disclosed. However, you may omit traffic citations which do not constitute a  
26 misdemeanor or felony," Respondent concealed and failed to disclose the conviction described in  
27 Paragraph 3, below.

On or about March 17, 1998, in the Superior Court of the State of California, County of San Diego, in Case No. M748612, Respondent was convicted of violating Section 484(a)-488 of the California Penal Code (Petty Theft), a misdemeanor, and a crime which bears a substantial relationship under Section 2910, Title 10, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

## 4

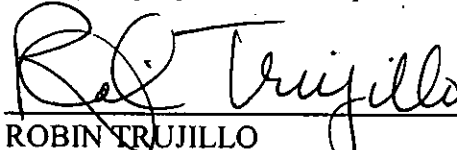
Respondent's failure to reveal in his application for a real estate salesperson license the conviction set forth in Paragraph 3, above, constitutes the procurement of or attempt to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate salesperson license pursuant to the provisions of Sections 480(c) (Denial of License by Board - False Statement of Fact on Application) and 10177(a) (Further Grounds for Disciplinary Action - Attempted Procurement of License by Fraud/Misrepresentation/Deceit/Material Misstatement) of the Business and Professions Code (hereinafter "the Code").

## 5

The facts alleged in Paragraph 3, above, constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) (Denial of License by Board - Conviction of Crime) and 10177(b) (Conviction of Crime Substantially Related to Qualifications, Functions or Duties of Real Estate Licensee) of the Code.

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

Dated at Los Angeles, California,  
this 27 day of October, 2010.

  
ROBIN TRUJILLO  
Deputy Real Estate Commissioner