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MAR 30 1989

DEPARTMENT OF REAL ESTATE

By Lynda Montiel  
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of ) H-5713 SF  
DANIEL HUTTON MORGAN, )  
Respondent. )

ORDER GRANTING UNRESTRICTED LICENSE

On September 25, 1986, a Decision was rendered herein denying respondent's application for a real estate broker 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 October 31, 1986.

On November 7, 1988, respondent petitioned for the removal of restrictions attaching to his real estate broker license.

I have considered the petition of respondent and the evidence submitted in support thereof including his record as a restricted licensee. Respondent has demonstrated to my satisfaction that he meets the requirements of law for the

1 issuance to him of an unrestricted real estate broker license and  
2 that it would not be against the public interest to issue said  
3 license to him.

4 NOW, THEREFORE, IT IS ORDERED that respondent's  
5 petition for removal of restrictions is granted and that a real  
6 estate broker license be issued to him if he satisfies the  
7 following conditions within six (6) months from the date of this  
8 order:

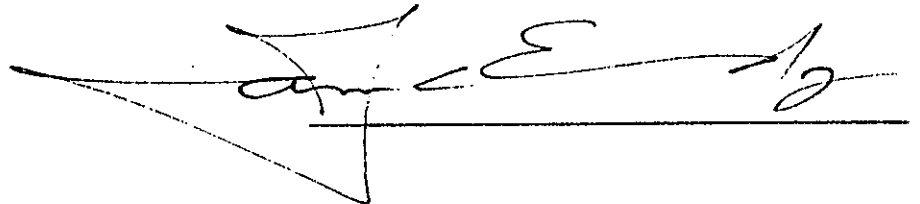
9 1. Submittal of a completed application and payment  
10 of the fee for a real estate broker license.

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

16 This Order shall be effective immediately.

17 DATED: 3-15, 1989.

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19 JAMES A. EDMONDS, JR.  
20 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

By C. Westbrook  
C. Westbrook

In the Matter of the Application of )  
DANIEL H. MORGAN, )  
Respondent. )

No. H-5713 SF  
N 27381

DECISION

The Proposed Decision dated September 10, 1986, 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 exception:

Condition 2. D. of the Order of the Proposed Decision is not adopted and shall not be part of the Decision.

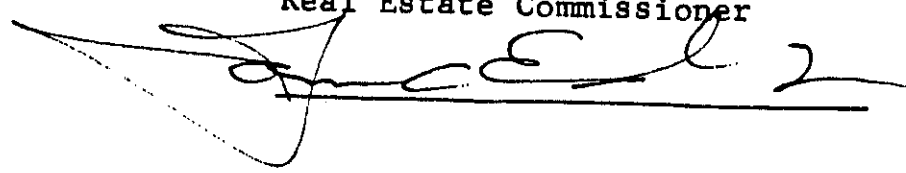
The application for a real estate broker license is denied, but the right to a restricted real estate broker license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted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

If and when application is made for a real estate broker 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 attached hereto.

This Decision shall become effective at 12 o'clock noon on October 20, 1986.

IT IS SO ORDERED 9-25, 1986.

JAMES A. EDMONDS, JR.  
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

|                                        |                 |
|----------------------------------------|-----------------|
| In the Matter of the Application of: ) |                 |
| DANIEL H. MORGAN,                      | ) NO. H-5713 SF |
| Respondent.                            | ) N 27381       |
|                                        | )               |
|                                        | )               |
|                                        | )               |

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PROPOSED DECISION

This matter was heard before Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California on September 4, 1986 at San Francisco, California.

Complainant was represented by Vera Winter Lee, Staff Counsel.

The respondent was present and represented by Charles Stuhr, Attorney at Law, 5012 Mission Street, San Francisco, California 94112.

FINDINGS OF FACT

I

The Department of Real Estate of the State of California (Department) requires further proof of the honesty, truthfulness and qualifications of Daniel H. Morgan (respondent) in connection with his application for a real estate broker license filed March 28, 1986.

II

The statement of issues was made by James W. Hardy in his official capacity as Deputy Real Estate Commissioner of the State of California.

III

On September 5, 1984, in the United States District Court for the Northern District of West Virginia, respondent entered a plea of Guilty to and was convicted of a violation of

sections 371, 1952(a)(3), 1 and 2 of Title 18 of the United States Code (Racketeering), felonies, crimes involving moral turpitude which are substantially related to the qualifications, functions and duties of a real estate licensee.

#### IV

The imposition of respondent's sentence was suspended and he was placed on three years probation on the condition that he pay a fine of \$10,000, pay delinquent taxes and do 20 hours of community service per week. Respondent has met all the terms and conditions of probation to date. He has paid \$8,000.00 toward his back taxes and done 20 hours of community service per week.

#### V

Respondent sold approximately \$20,000.00 worth of cocaine over a period from 1981 to 1983.

#### VI

Rehabilitation has been demonstrated by the respondent in the following ways:

A. More than 4 years has passed since the offense occurred and more than two years has passed since the conviction. Respondent has never been involved in criminal activities before or after this matter.

B. Restitution has been made in part to the Internal Revenue Service. An additional amount is still owing.

C. Respondent does not use drugs or alcohol.

D. Respondent still owes the fine, however this is in compliance with the terms and conditions of probation which specifically state that the fine need not be paid until just before the termination of probation.

E. Respondent's family life is extremely stable. He has the support of his parents, his wife and his in-laws even though they are aware of his conviction.

F. Respondent has completed a business administration degree from the University of Virginia, and continued his education taking extensive courses in appraisal and other real estate related classes. Respondent is presently enrolled in Golden Gate University for a Master's degree in real estate finance.

G. Respondent has an excellent credit rating and has taken his monetary obligations seriously.

H. Respondent is significantly and conscientiously involved in church activities.

I. Respondent has made new and different social and business relationships from those which existed at the time of the conviction. Respondent was in school when he engaged in the activities that led to the conviction. He had changed his relationships well before the conviction.

J. Respondent has exhibited a change in attitude from that which existed at the time of the conviction. This was made clear by the testimony of respondent's father, mother and wife, who all agree that respondent has turned over a new leaf. Respondent's probation officer and his clergy also testified to respondent's positive social adjustments.

K. Respondent's employer testified to his potential as an appraiser and to respondent's honesty and integrity.

#### DETERMINATION OF ISSUES

##### I

Cause for denial exists under sections 480(a)(1) and 10177(b) of the Business and Professions Code.\*

##### II

Respondent established that there is very little likelihood that the respondent will ever again engage in illegal activities and that the issuance of a restricted license would not be contrary to the public interest at this time. The evidence established that respondent is sufficiently rehabilitated to warrant issuance of a restricted license.

#### ORDER

1. The application of Daniel H. Morgan for issuance of a real estate broker license is denied.

2. A restricted real estate broker license shall be issued to respondent under section 10156.5 if respondent makes application therefor and pays to the Department the appropriate fee for said license within 90 days from the effective date of this decision.

A. Said restricted license may be suspended  
prior to hearing by Order of the  
Commissioner in the event of respondent's

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\*All statutory references are to said Code unless otherwise noted.

conviction or plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.

B. Said restricted license may be suspended prior to hearing by Order of the 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 Commissioner or conditions attaching to this restricted license.

C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions of a restricted license until two (2) years have elapsed from the date of issuance of the restricted license to respondent.

*not adopted* { D. Respondent shall submit with his application for license or his application for transfer to new employment, a statement signed by the prospective employer which shall certify:

That he has read the Decision of the Commissioner which granted the right to a restricted license.

E. Respondent shall meet all his obligations under his criminal probation including, but not limited to payment of his delinquent taxes and payment of his fine within the time limits set by the court.

DATED: September 10, 1986

*Ruth S. Astle*

RUTH S. ASTLE  
Administrative Law Judge

RSA:lhj

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By C. Westbrook  
G. Westbrook

In the Matter of the Application of  
DANIEL HUTTON MORGAN,

Case No. H-5713 SF

DAH No. N 27381

Respondent

NOTICE OF HEARING ON APPLICATION

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, State Building, Rm 2248  
455 Golden Gate Avenue, San Francisco, CA

on the 4th day of September, 19 86, at the hour of 9:00 a.m. (1/2 day hearing)  
or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.

DATED: August 4, 1986

DEPARTMENT OF REAL ESTATE

By Vera Winter Lee

VERA WINTER LEE, Counsel

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DEPARTMENT OF REAL ESTATE

By C. Westbrook  
C. Westbrook

VERA WINTER LEE, Counsel  
DEPARTMENT OF REAL ESTATE  
185 Berry Street, Room 5816  
San Francisco, CA 94107-1770

(415) 557-3220

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of )  
DANIEL HUTTON MORGAN, )  
Respondent. )

No. H-5713 SF

STATEMENT OF ISSUES

I

The Real Estate Commissioner of the State of California, in conformity with Section 10152 of the Business and Professions Code of the State of California (Code) requires proof of the honesty, truthfulness and qualifications of DANIEL HUTTON MORGAN (respondent) in connection with his application for a real estate broker license filed on or about March 28, 1986, and pursuant thereto has instituted these proceedings for the purpose of inquiring into respondent's qualifications for this license.

II

JAMES W. HARDY, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as such and not otherwise, makes this Statement of Issues against respondent.

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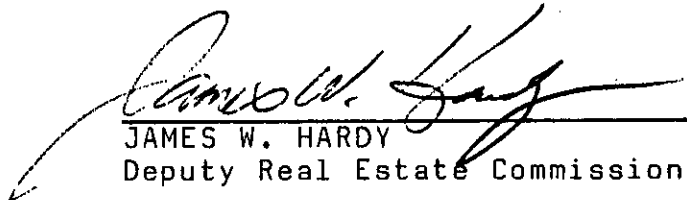
III

In acting upon the application of respondent the Commissioner shall consider but shall not be limited to the following facts:

On or about September 5, 1984, in the United States District Court for the Northern District of West Virginia, respondent entered a plea of guilty to and was convicted of a violation of Sections 371, 1952(a)(3), 1 and 2 of Title 18 of the United States Code (RACKETEERING), felonies.

IV

The facts as alleged above pertain to a conviction of respondent for crimes that involve moral turpitude and are substantially related to the qualifications, functions, and duties of a real estate licensee and under the provisions of Sections 480(a)(1) and 10177(b) of the Code, constitute grounds for the denial of respondent's application for a real estate broker license.

  
JAMES W. HARDY  
Deputy Real Estate Commissioner

Dated at San Francisco, California  
this 8th day of July, 1986.