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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA
DEPARTMENT OF REAL ESTATE

* * *

By Victoria Dillon
Victoria Dillon

No. H-7103 SF

In the Matter of the Application of)
FELIX FOREST STUCKEY,)
Respondent.)

OAH N 9408061

DECISION

The Proposed Decision dated July 20, 1995, 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.

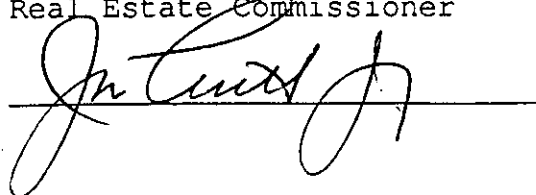
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may again be made for an unrestricted license. Petition for removal of restrictions from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

This Decision shall become effective at 12 o'clock noon
on August 29, 19 95.

IT IS SO ORDERED 8/7, 19 95.

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement)
of Issues Against:) No. H-7103 SF
FELIX FOREST STUCKEY,) OAH No. N 9408061
Respondent.)

PROPOSED DECISION

On June 19, 1995, in San Francisco, California, Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Susan M. Rossi, Staff Counsel, represented the complainant.

Felix F. Stuckey, Sr., Attorney at Law, 1901 Harrison Street, Suite 901, Oakland, California 94612 represented respondent.

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

FINDINGS OF FACT

I

Les R. Bettencourt made the statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

II

Felix Forest Stuckey (respondent) made application to the Department of Real Estate (DRE) for a real estate salesperson license on March 8, 1994.

III

On January 11, 1988, in the Superior Court of California, Alameda County, Respondent was convicted of a

violation of section 243.4 of the Penal Code (sexual battery), a felony and a crime which is substantially related to the duties, qualifications and functions of a real estate licensee.

IV

Respondent had just turned 18 years old when this incident occurred. He is now 26 years old, married and has three children. Respondent has a stable family life.

V

Respondent is presently employed as a sales representative for a company that supplies wireless communication devices to large firms. He has been very successful in his employment.

VI

Respondent is currently enrolled at Cal State Hayward. He is a graduating senior and expects to graduate in March of 1986. He has a 2.87 grade point average with a major in finance and real estate.

VII

Respondent met all the terms and conditions of his criminal probation including full restitution to the victim. He obtained counseling and was randomly tested for drugs and alcohol at least every three months. Respondent has not had any problems with the criminal justice system since this matter occurred.

VIII

Respondent is active in his community. He is involved with a youth art program and in his church. Respondent has been a productive member of society for many years now. It would not be against the public interest to issue a restricted license at this time.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Finding III, cause for denial exists pursuant to sections 480(a) and 10177(b) of the Business and Professions Code.

II

The matters in mitigation, extenuation and rehabilitation set forth in Findings IV through VIII have been considered in making the following order.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156 of the Business and Professions Code. The restricted license issued to the 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 said Code:

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. The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as 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 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 one year has elapsed from the date of issuance of the restricted license to respondent.
3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form 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.

DATED: July 20, 1995

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE 1995
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of
FELIX FOREST STUCKEY,

}

By Victoria Dillon

Case No. H-7103 SF Victoria Dillon
OAH No. N 9408061

Respondent

CONTINUED

FIRST AMENDED 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 _____
State Building, Building Manager's Office, Room 1155,
455 Golden Gate Avenue, San Francisco, CA 94102

on Monday, June 19, 1995, (2 hrs. hearing), 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: April 11, 1995

DEPARTMENT OF REAL ESTATE

By Susan M. Rossi
SUSAN M. ROSSI, Counsel

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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE**

In the Matter of the Application of
FELIX FOREST STUCKEY,

By *Victoria Dillon*
Victoria Dillon

Case No. H-7103 SF

OAH No. N 9408061

Respondent

CONTINUED
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

455 Golden Gate Ave., Room 2248, San Francisco, CA 94102

on Monday, June 19, 1995, (2 hrs. hearing), at the hour of 9:00 a.m.,
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. 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.

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.

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.

DEPARTMENT OF REAL ESTATE

Dated: December 8, 1994

By *John Van Driel*
JOHN VAN DRIEL, Counsel

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE

AUG 29 1994

In the Matter of the Application of
FELIX FOREST STUCKEY,

}

By *Victoria Dillon*
Victoria Dillon

Case No. H-7103 SF
OAH No. N 9408061

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

455 Golden Gate Ave., Room 2248, San Francisco, CA 94102

on Monday, October 24, 1994, (2 hrs. hearing), at the hour of 10:30 a.m.
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. 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.

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.

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.

DEPARTMENT OF REAL ESTATE

Dated: August 29, 1994

By *John Van Driel*
JOHN VAN DRIEL, Counsel

nd

1 JOHN VAN DRIEL, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
San Francisco, CA 94107-1770

4 Telephone: (415) 904-5917

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DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*
Victoria Dillon

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) No. H-7103 SF
12 FELIX FOREST STUCKEY,) STATEMENT OF ISSUES
13 Respondent.)
14 _____)

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against FELIX FOREST STUCKEY (hereinafter Respondent)
18 alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about March 8, 1994.

23 II

24 Complainant, LES R. BETTENCOURT, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity and not otherwise.

27 ///

III

1
2 On or about January 11, 1988, in the Superior Court of
3 California, Alameda County, Respondent was convicted of a
4 violation of Section 243.4 of the California Penal Code (sexual
5 battery), a felony and a crime which bears a substantial
6 relationship under Section 2910(a)(5), Title 10, California Code
7 of Regulations, to the qualifications, functions or duties of a
8 real estate licensee.

IV

9
10 The crime of which Respondent was convicted, as alleged
11 above, constitutes cause for denial of Respondent's application
12 for a real estate license under Sections 480(a) and/or 10177(b) of
13 the Code.

14 WHEREFORE, the Complainant prays that the above-entitled
15 matter be set for hearing and, upon proof of the charges contained
16 herein, that the Commissioner refuse to authorize the issuance of,
17 and deny the issuance of, a real estate salesperson license to
18 Respondent, and for such other and further relief as may be proper
19 in the premises.

20 Les R. Bettencourt
LES R. BETTENCOURT
21 Deputy Real Estate Commissioner

22 Dated at San Francisco, California,
23 this 8th day of July, 1994.