

FILED
JAN 16 1999

DEPARTMENT OF REAL ESTATE

By Laurie A. Zia

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
PHILLIP JOHN ULLIO,)
Respondent.)

No. H-7121 SF

ORDER DENYING UNRESTRICTED LICENSE

On September 19, 1994, an Order was rendered herein denying the Respondent's application for real estate license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on October 4, 1994, and Respondent has operated as a restricted licensee until October 3, 1998.

On August 10, 1998, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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1 I have considered Respondent's petition and the evidence
2 and arguments in support thereof.

3 Respondent has failed to demonstrate to my satisfaction
4 that Respondent has undergone sufficient rehabilitation to warrant
5 the removal of restrictions on Respondent's real estate
6 salesperson license in that Respondent, in an interview with a
7 representative of the Department of Real Estate, made untrue
8 statements concerning a disciplinary complaint involving
9 Respondent. Respondent represented that the complaint came from a
10 buyer who believed that she did not receive funds for repairs
11 quickly enough and that the complaint had been dismissed.

12 In Findings of Fact, Decision and Discipline dated March
13 13, 1997, the San Jose Board of Realtors in Disciplinary Complaint
14 PS#23-96 found that "Ullio failed to sign and date the TDS-14 and
15 explain the document to his client and failed to produce a
16 contingency release from the final walk-through listing items from
17 previous addenda which had not been completed which was not in
18 keeping with the standard of care expected according to Article 11
19 of the Code of Ethics". Respondent was ordered to attend an
20 ethics seminar within 90 days of the Decision.

21 Respondent's concealment of facts and lack of candor,
22 demonstrates that Respondent has not changed his attitude from
23 that which existed at the time the disciplinary action was taken
24 in this matter. I am not satisfied that Respondent has
25 demonstrated sufficient rehabilitation to warrant the removal of
26 restrictions on Respondent's real estate salesperson license.

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1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
2 for removal of restrictions on his real estate salesperson license
3 is denied.

4 This Order shall be effective at 12 o'clock noon on
5 February 8, 1999.

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7 DATED: January 13, 1999.

8 JOHN R. LIBERATOR
9 Acting Real Estate Commissioner

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FILED
SEP 23 1994

DEPARTMENT OF REAL ESTATE

By Lynda Montiel
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Application of

PHILLIP JOHN ULLIO,

Respondent.

No. H- 7121 SF

STIPULATION AND WAIVER

I, PHILLIP JOHN ULLIO, respondent herein, do hereby affirm that I have applied to the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefor.

I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on August 29, 1994, in connection with my application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the issuance
2 to me of an unrestricted real estate salesperson license.

3 I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and
4 request that the Real Estate Commissioner in his discretion issue a restricted real estate salesperson license to
5 me under the authority of Section 10156.5 of the Business and Professions Code. I understand that any such
6 restricted license will be issued subject to and be limited by Section 10153.4 of the Business and Professions
7 Code.

8 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing and the
9 opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an unrestricted
10 real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate Commissioner.
11 However, I am not waiving my right to a hearing and to further proceedings to obtain a restricted or unrestricted
12 license if this Stipulation and Waiver is not accepted by the Commissioner.

13 I further understand that the following conditions, limitations and restrictions will attach to a restricted
14 license issued by the Department of Real Estate pursuant hereto:

- 15 1. The license shall not confer any property right in the privileges to be exercised including the right
16 of renewal, and the Real Estate Commissioner may by appropriate order suspend the right to
17 exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real Estate
21 Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions
22 attaching to this restricted license.
- 23 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor
24 the removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until one year has elapsed from the date of issuance of the restricted license to respondent.
- 26 3. With the application for license, or with the application for transfer to a new employing broker,
27 respondent shall submit a statement signed by the prospective employing broker on a form

1 approved by the Department of Real Estate wherein the employing broker shall certify as follows:

2 a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted
3 license; and

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

- 7 4. Respondent shall, within eighteen (18) months of the date of issuance of the restricted license under
8 the provisions of Section 10153.4 of the Business and Professions Code, submit evidence
9 satisfactory to the Commissioner of successful completion at an accredited institution of two of the
10 courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real
11 estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to present
12 satisfactory evidence of successful completion of said courses, the restricted license shall be
13 automatically suspended effective eighteen (18) months after the date of issuance of the restricted
14 license. Said suspension shall not be lifted until respondent has submitted the required evidence
15 of course completion and the Commissioner has given written notice to the respondent of lifting
16 of the suspension.

17 DATED this 31ST day of August, 1984.

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19 Respondent
20 PHILLIP JOHN ULLIO
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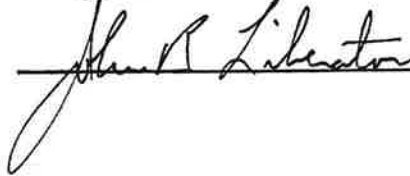
1 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by
2 respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and
3 truthfulness of respondent need not be called and that it will not be inimical to the public interest to issue a
4 restricted real estate salesperson license to respondent.

5 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
6 respondent PHILLIP JOHN ULLIO if respondent has otherwise fulfilled
7 all of the statutory requirements for licensure. The restricted license shall be limited, conditioned and
8 restricted as specified in the foregoing Stipulation and Waiver.

9 This Order is effective immediately.

10 DATED this 19th day of September, 19 94.

11 JOHN R. LIBERATOR
12 Interim Real Estate Commissioner

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FILED
AUG 29 1994

DEPARTMENT OF REAL ESTATE

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4 San Francisco, CA 94107-1770
5 Telephone: (415) 904-5917

By Lynda Montiel
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Application of)
12)
13 PHILLIP JOHN ULLIO,)
14)
15 Respondent.)

No. H-7121 SF

STATEMENT OF ISSUES

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Statement of Issues against PHILLIP JOHN ULLIO (hereafter
19 Respondent), alleges as follows:

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21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about December 28, 1993, with the knowledge and
24 understanding that any license issued as a result of said
25 application would be subject to the conditions of Section 10153.4
26 of the Business and Professions Code.

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II

Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about July 29, 1987, in the Nassau County Court of the State of New York, Respondent was convicted of violation under the New York Penal Law of BURGLARY IN THE SECOND DEGREE, (140.25 PL, a felony), and two counts of CRIMINAL POSSESSION OF STOLEN PROPERTY (165.50 PL, misdemeanors), crimes involving moral turpitude, and crimes which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The crimes of which Respondent was convicted, as alleged in Paragraph III above, constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

WHEREFORE, the 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,

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1 and deny the issuance of, a real estate salesperson license to
2 Respondent, and for such other and further relief as may be proper
3 in the premises.

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5 
6 LES R. BETTENCOURT
Deputy Real Estate Commissioner

7 Dated at San Francisco, California
8 this 18th day of August, 1994.
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