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FILED

FEB 17 1999

DEPARTMENT OF REAL ESTATE

By Jean Aunola

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-7207 SF
JEFFREY ALLEN WEDDERBURN,)	
)	
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On September 27, 1995, a Decision was rendered herein revoking the real estate salesperson license of Respondent.

On September 11, 1998, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate salesperson license, in that, Respondent was convicted on December 20, 1991 of a violation of Section

1 476(a) of the California Penal Code. In addition, Respondent
2 failed to disclose the conviction in an application for a real
3 estate salesperson license filed in March 1993. Further,
4 Respondent has no experience acting in a fiduciary capacity since
5 the effective date of the Decision in this matter. Consequently,
6 Respondent is not able to present any evidence of correction of
7 practices which led to the disciplinary action in this matter.
8 In view of the history of acts and conduct set forth above, a
9 longer period of time is necessary to establish that Respondent is
10 sufficiently rehabilitated to receive an unrestricted license. I
11 am satisfied, however, that it will not be against the public
12 interest to issue a restricted real estate salesperson license to
13 Respondent.

14 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
15 for reinstatement of his real estate salesperson license is
16 denied.

17 A restricted real estate salesperson license shall be
18 issued to Respondent pursuant to Section 10156.5 of the Business
19 and Professions Code, if Respondent satisfies the following
20 conditions within nine (9) months from the date of this Order:

21 1. Submittal of a completed application and payment of
22 the fee for a real estate salesperson license.

23 2. Submittal of evidence of having, since the most
24 recent issuance of an original or renewal real estate license,
25 taken and successfully completed the continuing education
26 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
27 for renewal of a real estate license.

1 The restricted license issued to Respondent shall be
2 subject to all of the provisions of Section 10156.7 of the
3 Business and Professions Code and to the following limitations,
4 conditions and restrictions imposed under authority of Section
5 10156.6 of that Code.

6 A. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner in the event of Respondent's conviction or plea of
9 nolo contendere to a crime which is substantially related to
10 Respondent's fitness or capacity as a real estate licensee.

11 B. The restricted license issued to Respondent may be
12 suspended prior to hearing by Order of the Real Estate
13 Commissioner on evidence satisfactory to the Commissioner that
14 Respondent has violated provisions of the California Real Estate
15 Law, the Subdivided Lands Law, Regulations of the Real Estate
16 Commissioner or conditions attaching to the restricted license.

17 C. Respondent shall submit with any application for
18 license under an employing broker, or any application for transfer
19 to a new employing broker, a statement signed by the prospective
20 employing broker on a form approved by the Department of Real
21 Estate which shall certify:

- 22 (1) That the employing broker has read the Decision of
23 the Commissioner which granted the right to a
24 restricted license; and
- 25 (2) That the employing broker will exercise close
26 supervision over the performance by the restricted
27 licensee relating to activities for which a real

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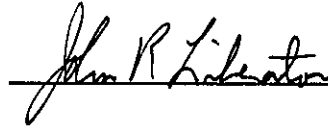
estate license is required.

D. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor the removal of
any of the limitations, conditions or restrictions of a restricted
license until one (1) year has elapsed from the date of the
issuance of the restricted license to respondent.

This Order shall become effective at 12 o'clock
noon on March 9, 1999.

DATED: February 11, 1999.

John R. Liberator
Acting Real Estate Commissioner



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FILED
NOV 21 1995
DEPARTMENT OF REAL ESTATE

By *Emily Ikeda*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JEFFREY ALLEN WEDDERBURN,)	No. H-7207 SF
Respondent.)	OAH No. N 9502185

ORDER DENYING RECONSIDERATION

On September 27, 1995, a Decision was rendered in the above-entitled matter. The Decision is to become effective on November 22, 1995.

On October 19, 1995, Respondent petitioned for reconsideration of the Decision of September 27, 1995.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of September 27, 1995, and reconsideration is hereby denied.

IT IS SO ORDERED 11-20, 1995.

JIM ANTT, JR.
Real Estate Commissioner

J. Antt Jr.

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OCT 23 1995

DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*
Victoria Dillon

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-7207 SF
)	
JEFFREY ALLEN WEDDERBURN,)	OAH No. N 9502185
)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On September 27, 1995, a Decision was rendered in the above-entitled matter to become effective October 24, 1995.

IT IS HEREBY ORDERED that the effective date of the Decision of September 27, 1995, is stayed for a period of Twenty-Nine (29) days.

The Decision of September 27, 1995, shall become effective at 12 o'clock noon on November 22, 1995.

DATED: October 23, 1995

JIM ANTT, JR.
Real Estate Commissioner

Joseph J. Mankewich
By: JOSEPH J. MANKEWICH
Deputy Real Estate Commissioner

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FILED
SEP 29 1995
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zinn

* * *

In the Matter of the Accusation of)
JEFFREY ALLEN WEDDERBURN,)
Respondent.)

No. H-7207 SF
OAH N 9502185

DECISION

The Proposed Decision dated August 29, 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime and knowingly making a false statement of fact required to be revealed in an application for license.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on October 24, 1995.

IT IS SO ORDERED

9/27, 1995.

JIM ANTT, JR.
Real Estate Commissioner

Jr Antt Jr

section 476a(a)(NSF check), referred to in court records as 476A(A), a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee. Imposition of sentence was suspended and he was placed on probation for one year on various terms and conditions, including a fine and an order to "do DA bad check class within 180 days." Respondent produced evidence at the administrative hearing that he had completed a District Attorney Bad Check Restitution Program. He did not pay the fine until October 25, 1994, after his probation had been revoked and a warrant issued for the nonpayment.

V

According to respondent, the facts and circumstances resulting in his conviction were that he issued five checks totalling about \$1,000.00 without sufficient funds in his account to cover them. While testifying at the administrative hearing, he did not forthrightly take responsibility for issuing the bad checks. After giving explanations in which he mentioned that the company he worked for (as an insurance salesperson) went out of business and that his secretary maintained his check register, he finally offered the explanation that he neglected to tell his secretary about some ATM withdrawals he had made.

VI

Respondent likewise gave varying explanations for his failure to disclose the conviction in his response to question number 25 on his application. One of the explanations he gave was that he thought he had been convicted of an infraction, not a misdemeanor. However, question number 25 does not exempt infractions. Another of his explanations was that he thought what had happened in the San Luis Obispo County Municipal Court on December 20, 1991 was "irrelevant." Still another was, "I did it out of complete ignorance."

VII

Respondent was not a credible witness. His explanations for failing to disclose his conviction were implausible and are rejected.

VIII

Respondent offered evidence of rehabilitation. However, the check he sent to the Department of Real Estate in connection with the aforesaid application was dishonored by his bank, indicating that he is not rehabilitated to the extent necessary to assure that his continued licensure would not be against the public interest.

DETERMINATION OF ISSUES

I

The facts set forth in Findings II, III, IV, VI and VII establish that respondent procured his real estate license by fraud, deceit and knowingly misrepresenting or omitting a material fact in his application; wherefore, cause exists under Sections 498 and 10177(a) of the Business and Professions Code to suspend or revoke his license.


II

Giving due consideration to all credible evidence of mitigation and rehabilitation, the following order is determined to be appropriate.

ORDER

Respondent's license and license rights are revoked.

DATED: AUG. 29, 1995



JERRY MITCHELL
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of
JEFFREY ALLEN WEDDERBURN,

}

By Victoria Dillon

Case No. H-7207 SF Victoria Dillon

OAH No. N 9502185

Respondent

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 _____
OFFICE OF ADMINISTRATIVE HEARINGS, World Saving Tower
1970 Broadway, Second Floor, Oakland, CA 94612

on Friday, August 25, 1995, (2 hrs. hearing), at the hour of 1:30 p.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

MAR 14 1995

In the Matter of the Accusation of
JEFFREY ALLEN WEDDERBURN,

}

By Victoria Dillon

Case No. H-7207 SF

OAH No. N 9502185

Respondent

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 _____

OFFICE OF ADMINISTRATIVE HEARINGS

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on Friday, August 25, 1995 (2 hrs. hearing), at the hour of 1:30 p.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.

DEPARTMENT OF REAL ESTATE

Dated: March 14, 1995

By Susan M. Rossi
SUSAN M. ROSSI, Counsel

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

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JAN 30 1995

DEPARTMENT OF REAL ESTATE

5 Telephone: (415) 904-5917

By *Victoria Dillon*
Victoria Dillon

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H- 7207SF
)	
12	JEFFREY ALLEN WEDDERBURN,)	<u>ACCUSATION</u>
)	
13	Respondent.)	
)	

14

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against JEFFREY ALLEN WEDDERBURN (hereinafter
18 Respondent) is informed and alleges as follows:

19

I

20 At all times herein mentioned, Respondent is presently
21 licensed and/or has license rights as a real estate salesperson
22 subject to Section 10153.4 of the California Business and
23 Professions Code (Code).

24

II

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

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III

Respondent was issued a real estate salesperson license on or about April 2, 1993, following Respondent's application therefor filed on or about March 15, 1993.

IV

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered No.

V

On or about December 20, 1991, in the Municipal Court, State of California, San Luis Obispo County, Respondent was convicted of a violation of Section 476A(A) of the California Penal Code (NSF check), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

VI


The facts alleged above constitute cause under Sections 498 and 10177(a) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

WHEREFORE, the Complainant prays that a hearing be conducted on the allegations of the Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and

///

1 Professions Code) and for such other and further relief as may be
2 proper under other applicable provisions of law.

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LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 23rd day of January, 1995.