

FILED

FEB 18 2006

DEPARTMENT OF REAL ESTATE

By Juan Hunt

BEFORE THE DEPARTMENT OF REAL ESTATE
OF THE STATE OF CALIFORNIA

* * *

In the Matter of the Application of) No. H-7800 SF
RICHARD GARY HAMILTON,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On July 18, 2000, a Decision was rendered herein denying the Respondent's application for real estate salesperson 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 August 1, 2000, and Respondent has operated as a restricted licensee since that time.

On August 24, 2004, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to
2 my satisfaction that Respondent meets the requirements of law for
3 the issuance to Respondent of an unrestricted real estate
4 salesperson license and that it would not be against the public
5 interest to issue said license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for removal of restrictions is granted and that a real
8 estate salesperson license be issued to Respondent subject to the
9 following conditions:

10 1. Within nine (9) months from the date of this order
11 respondent shall:

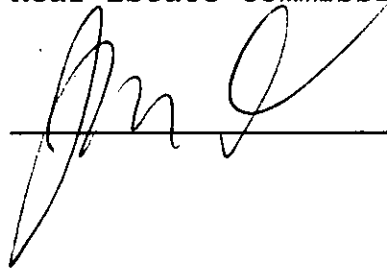
12 (a) Submit a completed application and pay the
13 appropriate fee for a real estate salesperson license, and

14 (b) Submit evidence of having taken and successfully
15 completed the continuing education requirements of Article 2.5 of
16 Chapter 3 of the Real Estate Law for renewal of a real estate
17 license.

18 This Order shall become effective immediately.

19 DATED: 1-19, 2006.

20 JEFF DAVI
21 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED

JUL 20 2000

DEPARTMENT OF REAL ESTATE

Laurie G. Zain

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
RICHARD GARY HAMILTON,)
Respondent.)

No. H-7800 SF
STIPULATION AND WAIVER

It is hereby stipulated by Respondent RICHARD GARY HAMILTON (hereinafter "Respondent") as follows:

1. Respondent affirms that Respondent has applied to the Department of Real Estate for a real estate salesperson license, and that to the best of Respondent's knowledge Respondent has satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefor.

2. Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on MARCH 2, 2000 in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate

DRE No. H-7800 SF

RICHARD GARY HAMILTON

1 Commissioner may hold a hearing on this Statement of Issues for
2 the purpose of requiring further proof of Respondent's honesty and
3 truthfulness and to prove other allegations therein, or that the
4 Real Estate Commissioner may in her discretion waive the hearing
5 and grant Respondent a restricted real estate salesperson license
6 based upon this Stipulation and Waiver. Respondent also
7 understands that by filing the Statement of Issues in this matter
8 the Real Estate Commissioner is shifting the burden to Respondent
9 to make a satisfactory showing that Respondent meets all the
10 requirements for issuance of a real estate salesperson license.
11 Respondent further understands that by entering into this
12 Stipulation and Waiver Respondent is stipulating that the Real
13 Estate Commissioner has found that Respondent has failed to make
14 such a showing, thereby justifying the denial of the issuance to
15 Respondent of an unrestricted real estate salesperson license.

16 3. Respondent hereby admits that the allegation of the
17 Statement of Issues filed against Respondent are true and correct.

18 4. Respondent requests that the Real Estate
19 Commissioner in her discretion issue a restricted real estate
20 salesperson license to Respondent under the authority of Section
21 10156.5 of the Business and Professions Code.

22 5. Respondent is aware that by signing this
23 Stipulation and Waiver, Respondent is waiving Respondent's right
24 to a hearing and the opportunity to present evidence at the
25 hearing to establish Respondent's rehabilitation in order to
26 obtain an unrestricted real estate salesperson license if this
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1 Stipulation and Waiver is accepted by the Real Estate
2 Commissioner. However, Respondent is not waiving Respondent's
3 right to a hearing and to further proceedings to obtain a
4 restricted or unrestricted license if this Stipulation and Waiver
5 is not accepted by the Real Estate Commissioner.

6 6. Respondent further understands that the following
7 conditions, limitations and restrictions will attach to a
8 restricted license issued by the Department of Real Estate
9 pursuant hereto:

10 (a) The license shall not confer any property right in
11 the privileges to be exercised including the right of
12 renewal, and the Real Estate Commissioner may by
13 appropriate order suspend the right to exercise any
14 privileges granted under this restricted license in the
15 event of:

16 (i) The conviction of Respondent (including a plea
17 of nolo contendere) to a crime which bears a
18 substantial relationship to Respondent's fitness or
19 capacity as a real estate licensee; or

20 (ii) The receipt of evidence that Respondent has
21 violated provisions of the California Real Estate
22 Law, the Subdivided Lands Law, Regulations of the
23 Real Estate Commissioner or conditions attaching to
24 this restricted license.

25 (b) Respondent shall not be eligible to apply for the
26 issuance of an unrestricted real estate license nor the
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1 removal of any of the conditions, limitations or
2 restrictions attaching to the restricted license until
3 two (2) years has elapsed from the date of issuance of
4 the restricted license to Respondent.

5 (c) With the application for license, or with the
6 application for transfer to a new employing broker,
7 Respondent shall submit a statement signed by the
8 prospective employing broker on a form approved by the
9 Department of Real Estate wherein the employing broker
10 shall certify as follows:

11 (i) That broker has read the Statement of Issues
12 which is the basis for the issuance of the
13 restricted license; and

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

19 (d) Any restricted license issued pursuant hereto shall
20 be restricted to employment by Cooper-Challen Realty
21 Company. Respondent shall not be licensed under or
22 employed as a real estate salesperson by any broker
23 other than Cooper-Challen Realty Company.

24 7/11/00
25 DATED

26 Richard Gary Hamilton
27 RICHARD GARY HAMILTON
Respondent

* * *

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

8 Therefore, IT IS HEREBY ORDERED that a restricted real
9 estate salesperson license be issued to Respondent RICHARD GARY
10 HAMILTON if Respondent has otherwise fulfilled all of the
11 statutory requirements for licensure. The restricted license
12 shall be limited, conditioned and restricted as specified in the
13 foregoing Stipulation and Waiver.

14 This Decision shall become effective at 12 o'clock noon
15 on July 18, 2000.

16 IT IS SO ORDERED July 18, 2000.

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18 PAULA REDDISH ZINNEMANN
19 Real Estate Commissioner

20 *Paula Reddish Zinnemann*
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FILED
MAY 18 2000

DEPARTMENT OF REAL ESTATE

Quirrell J. Gair

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of	)	No. H-7800 SF
RICHARD GARY HAMILTON,	)	N-2000030310
Respondent.	)	

NOTICE

TO: Respondent RICHARD GARY HAMILTON, and MICHAEL REEDY, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated May 2, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated May 2, 2000, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on April 17,

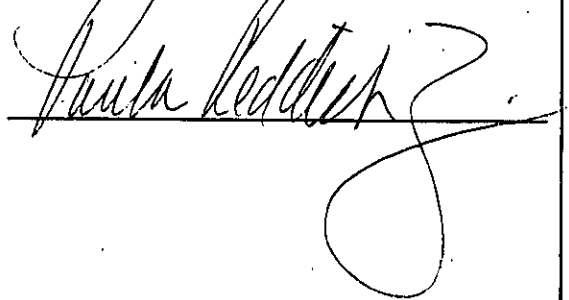
1 2000, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of April 17, 2000, at the Sacramento office of
6 the Department of Real Estate unless an extension of the time is
7 granted for good cause shown.

8 Written argument of Complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 Respondent at the Sacramento office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: May 14, 2000

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15 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

RICHARD GARY HAMILTON,

Respondent.

Case No. H-7800 SF

OAH No. N2000030310

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California on April 17, 2000.

Complainant Les R. Bettencourt, Deputy Real Estate Commissioner, was represented by James L. Beaver, Counsel, Department of Real Estate.

Respondent Richard Gary Hamilton was present and was represented by Michael Reedy, Attorney at Law, 160 West Santa Clara Street, Suite 1000, Tenth Floor, San Jose, California 95113.

The matter was submitted on April 17, 2000.

FACTUAL FINDINGS

1. On October 27, 1999, Richard Gary Hamilton (respondent) filed with the Department of Real Estate (Department) his application for a real estate salesperson license.
2. Respondent is 44 years old. In 1974, when he was 18 years old, a friend of his was killed in an airplane crash during a trip respondent had helped arrange. This event was "very traumatic" for him and he fell into a depression. A physician friend of his mother suggested he take medication for the depression. As a result, in 1974 or 1975 respondent began taking both lithium and Asendin. Although he never received any psychotherapy, and he claims his blood levels were never checked, respondent continued to take both medications for more than 20 years. Then, in late 1995, after a number of people had suggested that he did not seem like a candidate for these "extreme" drugs, respondent simply stopped taking the medication. He did so without consulting a physician and without any supervision.
3. While taking the medication, respondent seems to have functioned normally. In early 1975 he had received a real estate salesperson license and from then until 1984 he worked for his family's real estate brokerage, Cooper-Challen Realty. From 1984 to 1989, respondent worked as a teamster for a coffee company. During this time, he let his real es-

tate license lapse. In 1989, respondent took a job as an account representative for Commonwealth Land Title Company. He continued in that job for around five years, until at or about the time he decided to stop taking lithium and Asendin. It was when he stopped taking the drugs that respondent's life went into a downward spiral. Although he felt "very energetic" once free of the drugs, he also found he could not control himself well. He began making a lot of decisions that were "not the right ones." He lost his job, his home and his girlfriend. And for a period, respondent engaged in some rather irrational, and ultimately criminal, behavior: On February 8, 1996, his 40th birthday, respondent was arrested in Watsonville and was charged with violations of Penal Code sections 484(a) (petty theft) and 537(a)(1) (defrauding an innkeeper). Two days later, on February 10, 1996, respondent was arrested in San Jose and was charged with violations of Vehicle Code sections 10851(a) (unlawfully driving or taking a vehicle) and 23100(a) (throwing substance on vehicles) and Penal Code sections 594(b)(4) (vandalism) and 242/243(a) (battery). Six months later, on August 30, 1996, respondent was arrested in San Jose for an incident that had occurred on August 27, 1996. Respondent was charged with another violation of Vehicle Code section 10851(a) and a violation of Penal Code section 459/460(b) (second degree burglary).

4. In relation to the February 10, 1996 incident, on March 15, 1996, in the Municipal Court of California, Santa Clara County Judicial District, respondent was convicted, upon his plea of nolo contendere, of misdemeanor violations of Vehicle Code section 10851(a) (unlawfully driving or taking a vehicle) and Penal Code section 594(b)(4) (vandalism).¹

In his direct testimony, respondent described the circumstances of these crimes in rather benign terms. He said he took a van belonging to a friend (the keys had been left in the ignition) and drove it a few blocks, parking the van in a public park. He then gathered some lemons and asked people if they wanted to buy them. Respondent "tossed" a lemon at someone in a car. He maintains he did not throw the lemon hard or with the intent to hurt anyone.

However, on cross-examination, respondent's actions were revealed in somewhat darker tones. Respondent admitted that he parked the van only when his friend, who had chased him in another vehicle, "forcibly" stopped him. He also admitted that the van's window was broken (the source of the vandalism charge), although he could not recall the exact circumstances. Respondent believes the window broke when he opened the van door.

5. Upon conviction, respondent was placed on three years' probation on conditions that included that he serve 32 days in jail, pay restitution, "continue with medical care" and "maintain psychiatric care and continue with medication." Respondent served his jail

¹ Although respondent was also convicted, on his plea of nolo contendere, of the other two crimes with which he had been charged—Vehicle Code section 23100(a) (throwing substance on vehicles) and Penal Code section 242/243(a) (battery)—complainant has not alleged that those two crimes constitute cause to deny respondent's application.

time and paid restitution. He testified that he resumed his medication "for a very short period," 30 or 60 days, but stopped taking it again because he felt it was not working.

6. In relation to the February 8, 1996 incident, on May 31, 1996, in the Municipal Court of California, County of Santa Cruz, Santa Cruz Judicial District, respondent was convicted, on his plea of nolo contendere, of a misdemeanor violation of Penal Code section 537(a)(1) (defrauding an innkeeper). The petty theft charge was dismissed.

As respondent describes this incident, he had been homeless for two or three months and was staying in a hotel behind a Golden West restaurant. His aunt, who lived nearby, was taking care of him. On his birthday, he went to the restaurant, thinking his aunt was going to join him. He ordered his meal and waited for his aunt. When she did not arrive, he was embarrassed because he had no money to pay the bill. He left the restaurant and took a cab to his aunt's house, thinking she would give him money to pay the restaurant bill. When he got there, his uncle would not let him in. Respondent took the cab back to his hotel, where he found the police waiting for him.

7. Upon conviction, respondent was granted a one year conditional sentence on conditions that included that he serve four days in jail (with credit for four days already served) and that he provide proof to the court by July 30, 1996 of restitution of \$16.70 to the restaurant and \$38 to the cab company. Although respondent asserts he paid restitution, he did not provide proof to the court. As a result, a bench warrant for violation of the conditional sentence was issued on August 15, 1996. The warrant remained outstanding until late November 1999, when it was recalled after respondent appeared at the clerk's office and an arraignment for violation of conditional sentence was set. At the arraignment hearing on December 14, 1999, the court found no violation of conditional sentence, reinstated the conditional sentence under the same terms and then terminated it effective that day. Respondent testified that he paid restitution to the restaurant and cab company a second time. Although the record is unclear, it is assumed respondent made restitution at the time of the arraignment hearing.

8. In relation to the August 27, 1996 incident, on March 13, 1997, in the Superior Court of California, County of Santa Clara, respondent was convicted, upon his plea of nolo contendere, of a felony violation of Vehicle Code section 10851(a) (unlawfully taking or driving a vehicle). The second degree burglary charge was dismissed.

As was the case with the February 10, 1996 incident, in his direct testimony respondent described the circumstances of this crime in rather benign terms. Respondent testified that his grandfather owned a ranch adjacent to Grant Ranch, a Santa Clara County park. He testified he went to the park to lock the gate to his grandfather's adjoining ranch because he knew "a felon" was in the area poaching deer. Respondent was very familiar with the county park and most of the rangers who worked there because he had worked there as a volunteer. He testified he took the keys to a county truck from the ranger station and drove up to the gate to lock it. He testified that before taking the truck he left a note saying that he was using the truck because of an emergency. After he locked the gate, he drove the

truck to a restaurant, where he left it parked with the keys in it. He also testified that he called in over the radio "to let them know" he had the truck. Respondent could not recall if he also left a note in the truck, but the police report indicates that, "A note of thanks was left by the suspect Richard Hamilton." Respondent asserted that in taking the truck "there was no personal gain intended there at all."

On cross-examination, respondent's actions were once again revealed in darker tones. Respondent admitted that he had gone to the ranger station at midnight, when no one was present. He crawled into the ranger station through an open window and took a mobile radio and the keys to the truck. The note he left, written on a county memo form, read: "Chevy Blazer to be used by M.E.R.R.G. We have a project tonight. Emergency do not, do not alert anyone until you are contacted. Thank you." It was signed with the initials "S-G." He denies that the note was intended to mislead the rangers. Respondent admitted that he told the arresting officer that he had taken the truck to try to create incriminating evidence against his brother.

9. Upon conviction, the court ordered that respondent be evaluated by a number of mental health professionals. As set forth in the probation report presented to the court, Stephen A. Diamond, Ph.D. concluded that respondent "suffers from a very serious psychotic/mood disorder, most likely Bi-polar disorder or manic depressive illness." He believed that unless respondent resumed taking lithium his prognosis could be poor, but with the drug and psychotherapy, "the prognosis for a constructive, productive life is fair to good." Robert C. Burr, M.D., expressed a similar view: "It appears that this man has Bi-polar Affective disorder, and that after he stopped using lithium he deteriorated badly." He also believed respondent would benefit from taking medication. David M. Echeandia, Ph.D. stated that in his opinion, respondent had "a serious mental disorder and should be directed to participate in an intensive, structured program of psychiatric treatment, preferably in a residential facility." He did not, however, recommend resumption of medication. The court also received a report from Lynne Woodward, L.C.S.W., who had begun weekly therapy sessions with respondent on March 18, 1997.

Respondent was sentenced on May 27, 1997. He was placed on three years' probation on conditions that included that he serve 344 days in jail, "complete counseling as directed" and "follow directions of professional care workers—take medication as prescribed."

10. Respondent continued weekly one-hour therapy sessions with Woodward, both while he was incarcerated and after his release, from March 18, 1997 until January 1999. Respondent kept every appointment on time, even when he had to ride his bicycle to therapy sessions, and he took responsibility for what he had done. Woodward knew that respondent had been taking lithium and Asendin before his criminal problems began but did not believe it would benefit him to resume the medication. She based this opinion upon the circumstances under which the drugs had initially been prescribed to respondent as well as the behavior he exhibited while under her care. Woodward felt that respondent made "ex-

cellent progress" in therapy. She released him from treatment in January 1999, believing that respondent had "put everything into perspective" and had no further need for therapy.

11. In early 1999, respondent filed a motion to have his felony conviction reduced to a misdemeanor and to have his probation terminated early. Among the documents submitted in support of the motion was a declaration by Woodward. She reported that respondent "does not want to take medication again. I support his decision in this regard. [Respondent] now is functioning well in all aspects of his life and has no need for medication to deal with his problems." She also concluded that respondent "is not likely to re-offend." Also presented in support of the motion was a declaration and report by Alan D. Garton, Ph.D. Dr. Garton had evaluated respondent in November 1998. Dr. Garton's psychological testing revealed "insufficient evidence of depression or bipolar characteristics," although he found respondent was "vulnerable to depressive experiences." Dr. Garton found respondent had no diagnosable mental disorder and concluded he did not appear to represent a danger to the community.

On April 1, 1999, respondent's motion was granted. His felony conviction was reduced to a misdemeanor and his probation was terminated more than a year early. The court also granted expungement pursuant to Penal Code section 1203.4.

12. Except as to the vandalism conviction set forth in Finding 4, each of the crimes of which respondent was convicted is substantially related to the qualifications, functions and duties of a real estate licensee pursuant to title 10, California Code of Regulations section 2910. In addition, since the essential elements of each of those substantially-related crimes involved the taking of money or property, each is found to be a crime involving moral turpitude.

13. Respondent was released from jail in May 1997. He has remained consistently employed since that time. His jobs have included a year as a sales counselor for 24 Hour Fitness and six months doing general office work at First Capital Mortgage Company. Since May 1999 he has been employed as a limousine driver.

14. Respondent would now like to get back into real estate, the field he feels he knows best. He points out that he successfully worked as a real estate salesperson for nine years, in the title industry for five and at a mortgage company for six months. He has, therefore, seen the real estate industry from various aspects and believes he can benefit his customers and serve the community well if allowed to hold a license.

15. Respondent's father, Gerald Hamilton, is broker at the family-owned firm, Cooper-Challen Realty. Between 1975 and 1984, respondent worked for him in the business. During that time respondent was involved in "significant negotiations" of commercial properties and proved to be a very capable salesperson. During 1996, when respondent engaged in a variety of criminal behaviors, respondent's father observed him to be "belligerent" and "out of control." Since his release from jail in 1997, however, respondent has had a "dramatic" change of demeanor, attitude and personality. His father believes that since the time

of his incarceration respondent has been extremely remorseful and humiliated by his experience. Respondent's father is willing to hire and supervise respondent at Cooper-Challen Realty.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480(a) and 10177(b) in that, as set forth in Findings 4, 6, 8 and 12, he has been convicted of crimes involving moral turpitude (and in one case a felony) and that are substantially related to the qualifications, functions and duties of a real estate licensee.

2. It is found that respondent has demonstrated sufficient evidence of rehabilitation that it would not be against the public interest to grant him a restricted real estate salesperson license subject to appropriate terms and conditions. In making this determination, it is noted that all of respondent's criminal behavior occurred within a very short period—just over six months—and followed closely upon his abrupt cessation of psychotropic medication he had been taking for 20 years. Those six months represented an anomalous period in respondent's life. At all other times he has been a responsible and law-abiding citizen. The criteria of rehabilitation set forth in title 10, California Code of Regulations 2911 have also been considered. It is noted that it has been more than two years since respondent's most recent conviction and more than two-and-a-half years since his most recent criminal behavior; that respondent has made restitution to those who suffered monetary losses as a result of his actions; that his felony conviction has been expunged; that he successfully completed and was discharged early from probation; and, most importantly, that he has evidenced a change in attitude from that which existed at the time of his criminal conduct.

Also considered in making this determination is the fact that respondent has not resumed taking lithium and Asendin. This does not, however, reflect negatively upon him. While it is true that some mental health professionals recommended at the time of his probation assessment that he resume taking the drugs, others did not agree. It is significant that the court did not require respondent to resume taking medication but ordered only that he "follow directions of professional care workers [and] take medication as prescribed." Respondent did follow the directions of his treating care worker, Woodworth, who did not see the need for him to take medication. None was prescribed.

Respondent's less than candid testimony concerning his actions on February 10 and August 27, 1996 do reflect negatively upon his credibility. But when balanced against the other evidence of rehabilitation, respondent's lack of candor should not be seen as a bar to his obtaining a real estate license.

Finally, it is noted that respondent already has a good deal of experience in real estate and that he will be working for his father. These are both factors that will serve to ensure that the public interest is protected upon respondent's licensure.

ORDER

The application of respondent Richard Gary Hamilton for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to 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:

- not adopted*
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 two (2) years have 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 RE 552 (Rev. 4/88) 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: May 2, 2000

Michael C. Cohn
MICHAEL C. COHN

Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 13 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

RICHARD GARY HAMILTON,

Case No. H-7800 SF

OAH No.

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 the

Office of Administrative Hearings, 1515 Clay Street, Suite 206,

Oakland, CA 94612

on Monday, April 17, 2000, at the hour of 9:00 AM, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay for his or her costs. The interpreter must be certified in accordance with Sections 11433.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: March 13, 2000

JAMES L. BEAVER

Counsel

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)
7

FILED
MAR - 2 2000

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 RICHARD GARY HAMILTON,)
13 Respondent.)

No. H-7800 SF

STATEMENT OF ISSUES

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against RICHARD GARY HAMILTON (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 October 27, 1999.

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.

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III

On or about March 15, 1996, in the Municipal Court of the Santa Clara County Judicial District, State of California, Respondent was convicted of UNLAWFULLY DRIVING OR TAKING A VEHICLE in violation of Vehicle Code Section 10851(a), and VANDALISM - LESS THAN \$400, in violation of Penal Code Section 594(b)(4), each a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Chapter 6, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

On or about May 31, 1996, in the Superior and Municipal Court of the State of California, County of Santa Cruz, Respondent was convicted of DEFRAUDING AN INNKEEPER in violation of Penal Code Section 537(a)(1), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

V

On or about May 27, 1997, in the Superior Court of the State of California, County of Santa Clara, Respondent was convicted of UNLAWFULLY DRIVING OR TAKING A VEHICLE in violation of Vehicle Code Section 10851(a), a felony and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

VI

The crimes of which Respondent was convicted, as described in Paragraphs III through V, above, each constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) 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 in the premises.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 29th day of February, 2000.