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FILED
APR 06 2007

DEPARTMENT OF REAL ESTATE

By Jason Robert Dilday

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of) No. H-8191 SF
JASON ROBERT DILDAY,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On March 4, 2003, 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 May 10, 2003, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On February 22, 2006, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker 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 broker
4 license and that it would not be against the public interest to
5 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 broker license be issued to Respondent if, within nine (9)
9 months from the date of this order, Respondent shall:

10 (a) Submit a completed application and pay the
11 appropriate fee for a real estate broker license, and

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

16 This Order shall become effective immediately.

17 IT IS SO ORDERED February 26, 2007.

18 JEFF DAVI
19 Real Estate Commissioner

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21

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23 BY: John R. Liberator
24 Chief Deputy Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 25 2003

DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Application of)
JASON ROBERT DILDAY,)
Respondent.)

By Juan Duran
NO. H-8191 SF
N-20002090499

DECISION

The Proposed Decision dated February 20, 2003, 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 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 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 appended hereto.

This Decision shall become effective at 12 o'clock noon
on April 15, 2003.

IT IS SO ORDERED March 4, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

JASON ROBERT DILDAY,

Respondent.

No. H-8191 SF

OAH No. N2002090499

PROPOSED DECISION

John K. Markley, Administrative Law Judge, Office of the Administrative Hearings, State of California, heard this matter on February 5, 2003, in Oakland, California.

The Department of Real Estate ("Department") was represented by Larry A. Alamao, Assistant Chief Counsel.

Jason Robert Dilday, respondent, was present and represented himself.

Evidence was received, the hearing was closed and the matter was submitted and on February 5, 2003.

FACTUAL FINDINGS

1. Les R. Bettencourt ("complainant") made and filed this statement of issues in his official capacity of Deputy Real Estate Commissioner of the State of California.

2. On March 15, 2002, respondent made application to the Department for a real estate broker license. Respondent's application properly disclosed that respondent had previously been convicted of several violations of the law between 1989 and 1995. The Department cited three misdemeanor criminal convictions as grounds for the denial of respondent's license application.

3. June 20, 1989 conviction: On June 20, 1989, respondent pled guilty and was convicted of trespass, a misdemeanor violation of California Penal Code section 602(j), in the Municipal Court of California, County of Orange, Case No. A1042767. This crime involved shoplifting of candy products from Albertsons. Respondent was sentenced to payment of fines and was placed on probation for three years (through June 19, 1992).

This crime is substantially related to the qualifications, functions or duties of a real estate licensee in that it was an unlawful act done with the intent of conferring a financial or economic benefit upon the respondent.

4. March 2, 1990 conviction: On March 2, 1990, while on probation for the 1989 conviction, respondent pled guilty to and was convicted of petty theft, a violation of California Penal Code section 484/488, in the Municipal Court of California, County of Orange, Case No. A1042767. This crime involved shoplifting of clothing from Mervyn's. Respondent was sentenced to payment of fines, five days in jail and probation for three years (through March 1, 1993).

This crime is substantially related to the qualifications, functions or duties of a real estate licensee in that it was an unlawful act done with the intent of conferring a financial or economic benefit upon the respondent.

5. January 23, 1995 conviction: On January 23, 1995, respondent pled guilty to and was convicted of obstructing a police officer, a misdemeanor violation of California Penal Code 148a, and battery upon a peace officer, a misdemeanor violation of California Penal Code 148a, in the Municipal Court of California, County of Orange, Case No. 94M10565. This crime involved a physical altercation between respondent and two police officers. The officers had been called to remove respondent from a bar where he had been drinking and respondent resisted when directed by the officers to leave the premises. Respondent was sentenced to payment of fines, restitution for damage to police property, fifteen days in jail and three years of probation.

This crime is substantially related to the qualifications, functions or duties of a real estate license in that it involves the doing of an unlawful act with the intent or threat of doing substantial injury to the person or property of another.

6. Each of the identified criminal convictions were misdemeanor crimes involving relatively minor infractions of the law. These crimes did not involve moral turpitude as required under section 10177(b) of the Business and Professions Code.

7. Respondent's first criminal conviction was in 1989, approximately 13 years ago. Respondent's last criminal conviction was in 1995, approximately eight years ago.

8. As to respondent's rehabilitation:

(a) Respondent served the jail time, paid all fines and paid all restitution required by the sentences.

(b) More than five years ago, respondent successfully completed the three-year probation imposed by the 1995 sentence.

(c) Respondent has not engaged in other criminal acts and has not been charged with any criminal violations subsequent to his 1995 conviction.

(d) During the period of 1989 through 1995, respondent was at a low point in his life, had dropped out of college, had no meaningful relationships, was not working, had no direction and was just hanging out. After he served jail time for the 1995 conviction, respondent realized that he needed to change his life and sought the assistance and support of his parents. Through his parents, respondent got professional counseling which helped him to understand and change his inappropriate activity and to refocus his life. The counseling involved both individual counseling as well as joint counseling with his parents.

(e) Following the professional counseling, respondent resumed his college education and obtained his undergraduate degree from Long Beach State in 1997. Respondent then enrolled in and subsequently obtained his law degree from the University of Southern California in 2001.

(f) During the time respondent was pursuing his higher education, he maintained a full-time job as a waiter to support himself.

(g) After graduation from law school, respondent became an associate counsel with the law firm of O'Connor, Cohn, Dillon & Barr in San Francisco where he now practices product liability defense law.

(h) Respondent is now engaged to be married and lives with his fiancé, a surgical nurse at the University of California, San Francisco. This relationship provides a supporting and stable environment.

(i) Respondent lived with his parents while he pursued his higher education and, as a result of their support and involvement, now has a strong relationship with his parents. Respondent also has an excellent relationship with his sister and her family who live nearby in San Ramon, California.

(j) Respondent did not have, and does not now have, an alcohol or drug abuse problem.

(k) Respondent has no adjudicated debts or monetary obligations to discharge.

(l) Respondent has significantly changed his attitude from that which existed prior to the 1995 conviction. He has successfully turned his life around through the pursuit and attainment of higher education, professional employment and meaningful relationships.

9. Respondent has demonstrated sufficient personal rehabilitation under section 2911 of the Regulations of the Real Estate Commissioner that the public interest will not be threatened by issuance of a restricted real estate broker's license to respondent.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 2, 3, 4 and 5, cause for denial of respondent's broker license exists pursuant to Business and Professions Code section 480(a) in that respondent was convicted of three crimes, each of which are substantially related to the qualifications, functions or duties of a licensed real estate broker.

2. However, by reason of the matters set forth in Findings 6, 7, 8 and 9, respondent has now established his personal rehabilitation to the extent that the public interest is adequately protected by issuance to respondent of a restricted broker license.

ORDER

Respondent's application for a real estate broker license is denied; provided, however, that a restricted real estate broker 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 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 that 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 two (2) years have elapsed from the date of issuance of the restricted license to respondent.

3. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order

issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem appropriate to protect the public interest.

Such reports may include, but shall not be limited to periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

Dated: February 20, 2003



JOHN K. MARKLEY
Administrative Law Judge
Office of Administrative Hearings

FILED
NOV 26 2002

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreiss

In the Matter of the Application of

JASON ROBERT DILDAY,

} Case No. H-8191 SF

} OAH No.

Respondent

**FIRST 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

**THE OFFICE OF ADMINISTRATIVE HEARINGS
THE ELIHU HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 206
OAKLAND, CALIFORNIA 94612**

on **FEBRUARY 5, 2003**, at the hour of **1:30 PM**, 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 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 his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 26, 2002

By

Larry Alamao
LARRY M. ALAMAO, Counsel.

RE 500 (Rev. 8/97)

FILED
SEP 20 2002

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Application of

JASON ROBERT DILDAY,

Case No. H-8191 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
THE ELIHU HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 206
OAKLAND, CALIFORNIA 94612**

on **DECEMBER 12, 2002**, 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.

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DEPARTMENT OF REAL ESTATE

Dated: SEPTEMBER 20, 2002

By Larry A. Alamao
LARRY A. ALAMAO

RE 500 (Rev. 8/97)

1 LARRY A. ALAMAO, Counsel
2 State Bar No. 47379
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED
AUG 30 2002

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 JASON ROBERT DILDAY,) NO. H-8191 SF
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, LES R. BETTENCOURT, a Deputy Real
17 Estate Commissioner of the State of California, for Statement of
18 Issues against JASON ROBERT DILDAY (hereinafter "Respondent"),
19 is informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate broker
23 license on or about March 15, 2002.

24 II

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

1 III

2 On or about June 20, 1989, in the Municipal Court,
3 County of Orange, Respondent was convicted of a violation of
4 Section 602(j) of the California Penal Code (Trespass), a crime
5 involving moral turpitude which bears a substantial relationship
6 under Section 2910, Title 10, California Code of Regulations, to
7 the qualifications, functions, or duties of a real estate licensee.

8 IV

9 On or about March 2, 1990, in the Municipal Court,
10 County of Orange, Respondent was convicted of a violation of
11 Section 484-488 of the California Penal Code (Theft), a crime
12 involving moral turpitude which bears a substantial relationship
13 under Section 2910, Title 10, California Code of Regulations, to
14 the qualifications, functions, or duties of a real estate licensee.

15 V

16 On or about January 23, 1995, in the Municipal Court,
17 County of Orange, Respondent was convicted of a violation of two
18 counts of Section 148a of the California Penal Code (Obstructing
19 a Peace Officer) and two counts of Section 243(b) of the
20 California Penal Code (Battery Upon a Peace Officer), crimes
21 involving moral turpitude which bear a substantial relationship
22 under Section 2910, Title 10, California Code of Regulations, to
23 the qualifications, functions, or duties of a real estate licensee.

24 VI

25 The crimes of which Respondent was convicted, as
26 alleged in Paragraphs III, IV and V, constitute cause for denial
27 of Respondent's application for a real estate license under

1 Sections 480(a) and 10177(b) of the California Business and
2 Professions Code.

3 WHEREFORE, the Complainant prays that the above-
4 entitled matter be set for hearing and, upon proof of the charges
5 contained herein, that the Commissioner refuse to authorize the
6 issuance of, and deny the issuance of, a real estate broker
7 license to Respondent, and for such other and further relief as
8 may be proper under other provisions of law.

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12 
13 LES R. BETTENCOURT
14 Deputy Real Estate Commissioner
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16 Dated at Oakland, California,
17 this 15th day of August, 2002.
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