

FILED
OCT 11 2006

DEPARTMENT OF REAL ESTATE

By Anne Shawver

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-9426 SF
)	
CLIFFORD LINDSAY MAAS,)	
)	
Respondent.)	

ORDER DENYING RECONSIDERATION

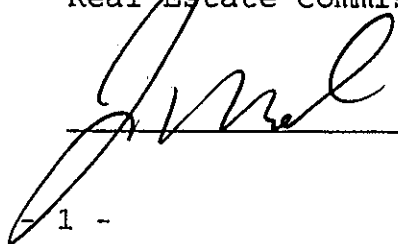
On August 23, 2006, a Decision was rendered in the above-entitled matter to become effective September 12, 2005.

On September 8, 2006, Respondent petitioned for reconsideration of the Decision of August 23, 2006.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of January 9, 2006 and reconsideration is hereby denied.

IT IS HEREBY ORDERED 10.11, 2006.

JEFF DAVI
Real Estate Commissioner



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FILED
AUG 23 2006

DEPARTMENT OF REAL ESTATE

By *Quinn Shaver*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
CLIFFORD LINDSAY MAAS,)
Respondent.)
DRE No. H-9426 SF
OAH No. N-2005120278

DECISION AFTER REJECTION

On February 15, 2006, in Oakland, California, Nancy L. Rasmussen, Administrative Law Judge, Office of Administrative Hearings, State of California (hereafter OAH), heard this matter.

On March 8, 2006, the Administrative Law Judge (hereafter ALJ) submitted a Proposed Decision recommending the revocation of Respondent's real estate broker license, granting the right to a restricted real estate broker license. I declined to adopt the Proposed Decision as my Decision. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with notice of my determination not to adopt the Proposed Decision of the Administrative Law Judge along with a copy of said Proposed Decision. Respondent was notified that the case would be decided by me upon the record, the transcript of proceedings held on February

1 15, 2006, and upon any written argument offered by Respondent and
2 Complainant.

3 Both Complainant and Respondent have submitted written
4 argument.

5 I have given careful consideration to the record in this case
6 including the transcript of proceedings held on February 15, 2006,
7 and the written arguments from both Respondent and Complainant.

8 The following shall constitute the Decision of the Real Estate
9 Commissioner in this proceeding:

10 FACTUAL FINDINGS

11 1. Respondent Clifford Lindsay Maas is presently licensed and/or
12 has license rights under the Real Estate Law (Part 1 of Division 4 of
13 the Business and Professions Code) as a real estate broker.

14 2. On May 14, 2004, respondent was convicted on his plea of no
15 contendere of violating Penal Code section 288, subdivision (a) (lewd
16 act on a child under age 14), a felony. On August 24, 2004,
17 imposition of sentence was suspended and respondent was placed on
18 formal probation for three years. He was required to serve nine
19 months in county jail and to register as a sex offender pursuant to
20 Penal Code section 290. Conditions of probation include psychological
21 counseling.

22 3. The facts and circumstances of the conviction are that
23 respondent molested his stepdaughter on a number of occasions during
24 about a three-year period. In June 2001, when the girl was 10 years
25 old, respondent married her mother. Respondent and his wife
26 separated in March 2004 when respondent's wife learned of the
27 molestation and reported the matter to police. According to

1 respondent, he touched his stepdaughter's vagina once when she was
2 nine or 10 years old and once when she was about 13 years old. When
3 she was about age 13, he gave her a series of massages in which he
4 touched her breasts.

5 4. Shortly after he was arrested, respondent began psychological
6 counseling with Alan D. Garton, Ph.D., and Sandra Scales, Ph.D. He
7 saw Dr. Garton for two-hour sessions twice a week up until early
8 2006, when the frequency of their sessions was reduced to once a
9 week. Respondent has been seeing Dr. Scales once a week for two to
10 three hours since April 2004. Respondent also attended 54 sessions of
11 Sex and Love Addicts Anonymous. A condition of probation is to
12 attend psychological counseling. However the court was not specific
13 as to the program or amount of counseling.

14 5. As a part of sentencing, respondent underwent a psychological
15 evaluation by clinical psychologist Shelley Coate, Psy.D. As part of
16 her assessment of respondent's potential for committing further
17 sexual offenses, Dr. Coate administered the Minnesota Sexual Offender
18 Screening Tool - Revised (MnSOST-R) and the Static-99. The results of
19 these tests indicated a low probability that respondent would commit
20 another sexual offense. In her August 15, 2004 report to the court,
21 Dr. Coate concluded:

22 The defendant, Mr. Clifford Maas clearly lacks any history
23 of sexually violent or aggressive behavior and has not
24 been involved with the courts prior to this incident. He
25 has been a supportive and loving step-father to the
26 victim, and a well-respected citizen to the community. Mr.
27 Maas has expressed extreme remorse and guilt over his
behavior, and has made notable progress to ameliorate the
hurt he has caused the people who mean the most to him. He
has already been involved in numerous hours of individual
and group psychotherapy to better understand his behavior.
This is an individual who is quite amenable to treatment
and appears to be at low risk for reoffending. With all

1 that being said, Mr. Maas is an individual who has a
2 distorted sense of love and affection, and has
3 demonstrated a dependence on others to validate his own
4 worth. This is not to minimize the severity of the charges
5 against Mr. Maas, but rather to help the court understand
6 what could drive someone to commit this type of crime on a
7 young child. He has an exaggerated sense of entitlement,
8 one that has served him well in his career path, however,
9 he clearly went far beyond his authority within the
10 family.

11 In summary, a consideration in making a determination of
12 the defendant's risk for future acting out behavior
13 typically is made based on his past activities. Without
14 minimizing the severity of his actions, there does not
15 seem to be substantiating evidence to predict that he
16 would be of any potential threat to the victim or any
17 child.

18 6. Respondent completed his jail sentence by serving six months in
19 the Mountain View work furlough program. He has registered as a sex
20 offender, which is a lifetime requirement. Respondent will be on
21 probation until August 2007, and he meets with his probation officer
22 once a month.

23 7. Respondent asserts that he was "not thinking or feeling" at the
24 time he molested his stepdaughter, and he was in denial about the
25 harm he was doing to the girl. Respondent, while he accepted
26 responsibility, had difficulty in his testimony providing any real
27 insight into his behavior. In therapy, respondent explored his
family dynamics when he was growing up, and how he came to have
inappropriate boundaries within the family. One factor was that
respondent had been sexually molested at age 11 by his older brother.
(Respondent had repressed the memory of this incident.) Respondent
explains that he was not in touch with his feelings at the time he
molested his stepdaughter, but therapy has enabled him to acknowledge
that he has feelings and to get in touch with them. He testified he
believes that he understands himself much better than he did before

starting therapy, however respondent provided no further details.

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2 8. Besides participating in therapy, respondent's efforts to
3 rehabilitate himself include practicing yoga and meditation every day
4 and attending weekly church services and a weekly spiritual workshop
5 at his church.

6 9. Dr. Garton came to the hearing and testified on respondent's
7 behalf. He explained that respondent has been motivated and
8 cooperative with psychological treatment. Dr. Garton believes that
9 the factors that contributed to respondent's misconduct with his
10 stepdaughter include 1) respondent's personality and a sense of
11 arrogance, 2) respondent's fascination with a girl going through
12 puberty and a curiosity about what her body looked like, and 3)
13 family dynamics and a lack of boundaries. In the course of therapy,
14 respondent has worked to understand these factors and make changes
15 that would prevent further transgressions. Dr. Garton also
16 administered the MnSOST-R and the Static-99 tests to respondent.
17 Based on those tests and his extensive therapy with respondent, Dr.
18 Garton is of the opinion that respondent presents no risk of
19 reoffending and no risk to the public as a real estate broker.

20 10. Respondent submitted a letter from Dr. Scales dated February 10,
21 2006. In her letter, Dr. Scales stated that, "due to Mr. Maas's
22 genuine remorse and understanding concerning these events I am
23 confident that he is not a threat to any person he comes in contact
24 with."

25 11. Respondent is 54 years old, and he has been a real estate broker
26 since 1977. Self-employed in Los Gatos, respondent is primarily
27 involved in commercial real estate transactions. Sometime in the

1 early to mid-1990's, respondent started taking classes at the
2 Institute of Transpersonal Psychology in Palo Alto. In 2003, he
3 earned a Ph.D. in transpersonal psychology.

4 12. In addition to an adult son from his first marriage, respondent
5 has a son from his current marriage who will be four years old on
6 March 14, 2006. Separated since March 2004, respondent and his wife
7 are in the process of getting divorced. Respondent spends six hours
8 per week with his son. He has no contact with his stepdaughter.

9 Respondent pays \$10,000 per month in child support. He has paid this
10 amount since April 2004, and he also pays for his stepdaughter's
11 tuition at a private school. (Respondent has agreed to pay for her
12 education through college and graduate school.)

13 13. Robert Frager, Ph.D., who founded the Institute of Transpersonal
14 Psychology in 1975, was a witness at the hearing. Dr. Frager has
15 never treated Respondent in a professional capacity. He has known
16 respondent for about 15 years, first as a student of Aikido, which
17 Dr. Frager teaches, and then as a student at the Institute. Dr.
18 Frager was on respondent's dissertation committee, and he feels he
19 knows him well. After he was arrested, respondent told Dr. Frager
20 what had happened and he expressed feelings of remorse. Dr. Frager
21 thinks respondent's misconduct was partly a result of a kind of
22 narcissism or arrogance he developed because of his highly successful
23 and lucrative career in real estate. In the last two years, though,
24 respondent has matured and grown in his understanding of himself, and
25 he is no longer arrogant or narcissistic. Dr. Frager believes
26 respondent is honest, generous and good-hearted. He does not see him
27 as a threat to the public.

1 14. Longtime real estate colleagues of respondent, Dennis Byron and
2 John Leyvas, testified at the hearing. They have socialized with
3 respondent and done business with him, and they describe him as
4 honest and hardworking. After his arrest, respondent told Byron and
5 Leyvas about his misconduct with his stepdaughter. With each of them,
6 respondent was very remorseful and emotional. Both Byron and Leyvas
7 are impressed with respondent's efforts to rehabilitate himself. They
8 share the opinion that respondent presents no risk to the public as a
9 real estate broker.

10 15. The testimony of respondent's character witnesses is echoed by
11 two other real estate colleagues and by respondent's sister, his
12 accountant, and his dissertation advisor, all of whom wrote letters
13 on respondent's behalf.

14 LEGAL CONCLUSIONS

15 1. Business and Professions Code section 490 authorizes the
16 suspension or revocation of an occupational or professional license
17 if the licensee has been convicted of a crime that is substantially
18 related to the qualifications, functions or duties of the licensed
19 occupation or profession. Business and Professions Code section
20 10177, subdivision (b), which is specific to real estate licenses,
21 authorizes the suspension or revocation of a license if the licensee
22 has been convicted of a felony or a crime involving moral turpitude.

23 California Code of Regulations, title 10, section 2910, sets
24 forth the criteria for determining whether a crime is substantially
25 related to the qualifications, functions or duties of a real estate
26 licensee. Under that section, a crime is deemed to be substantially
27 related if it involves "[s]exually related conduct affecting a person

1 who is an observer or non-consenting participant in the conduct or
2 convictions which require registration pursuant to the provisions of
3 Section 290 of the Penal Code" (subd. (a)(5) or "[d]oing of any
4 unlawful act... with the intent or threat of doing substantial injury
5 to the person. . . of another" (subd. (a)(8)).

6 2. A violation of Penal Code section 288, subdivision (a) (lewd act
7 on a child under age 14), is a felony and a crime involving moral
8 turpitude. The offense is substantially related to the
9 qualifications, functions or duties of a real estate licensee under
10 California Code of Regulations, title 10, section 2910, subdivisions
11 (a)(5) and (a)(8).¹ Respondent's conviction therefore constitutes
12 cause to suspend or revoke his real estate license under Business and
13 Professions Code section 490 and section 10177, subdivision (b).

14 3. Respondent's conviction is a serious matter. While Respondent
15 has made some positive changes, he has failed to establish his
16 rehabilitation at this time. Section 2912 of the Commissioner's
17 Regulations sets forth the criteria of rehabilitation.

18 At the time of hearing not quite two years had elapsed since the
19 conviction. In comparison, Respondent's molestation of his
20 stepdaughter lasted approximately three years. Respondent will be on
21 supervised probation until August 2007. Respondent's therapists and
22 the psychologist who evaluated him before sentencing agree that he
23 poses no risk to the public. However, at this point there has been no
24 time off probation to judge Respondent's behavior. Respondent
25 presently has a strong incentive not to reoffend. As a real estate

26
27 ¹ Although there is no evidence that respondent intended harm to his stepdaughter, the threat of harm to the child is inherent in a violation of Penal Code section 288. (*Allstate Insurance Company v. Kim W.; Allstate Insurance Company v. Leroy H. Korte* (1984) 160 Cal.App.3d 326, 332-333.)

1 broker, respondent is able to work without supervision. Due to
2 Respondent still being on probation, he is not eligible to petition
3 for expungement. Respondent is required to register as a sex
4 offender. Respondent provided no evidence to show new social
5 relationships, on-going education or vocation training since the
6 conviction, and community involvement. While Respondent is providing
7 for his family, at this time he is going through a divorce and
8 presented little to no evidence his family life is stable. Most of
9 his immediate family live in Hawaii and are not close to give
10 support. Respondent acknowledges the wrongfulness of his behavior,
11 but did not take any action to change his behavior or seek help
12 during the three years he molested his stepdaughter. A truer
13 indication of acceptance of wrongdoing is a sustained conduct over
14 time.

15 It would be contrary to the public interest to allow respondent
16 to keep his real estate broker's license at this time.

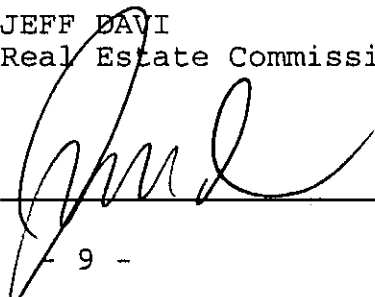
17 ORDER

18 Respondent CLIFFORD LINDSAY MAAS real estate broker license is
19 revoked.

20 This Decision shall become effective at 12 o'clock noon on
21 SEP 12 2006.

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23 IT IS SO ORDERED 8-20, 2006.

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25 JEFF DAVI
26 Real Estate Commissioner
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FILED
APR 10 2006

DEPARTMENT OF REAL ESTATE

By Anne Shaver

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
CLIFFORD LINDSAY MAAS,)	No. H-9426 SF
)	
)	N-2005120278
Respondent.)	
)	

NOTICE

TO: CLIFFORD LINDSAY MAAS, Respondent, and THOMAS C. LASKEN, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated March 8, 2006, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated March 8, 2006, 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 February 15,

///

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

CLIFFORD LINDSAY MAAS,

Respondent.

No. H-9426 SF

OAH No. N2005120278

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on February 15, 2006, in Oakland, California.

Department of Real Estate Counsel Truly Sughrue represented complainant E.J. Haberer II, Deputy Real Estate Commissioner, State of California.

Thomas C. Lasken, Attorney at Law, represented respondent Clifford Lindsay Maas, who was present.

The matter was submitted on February 15, 2006.

FACTUAL FINDINGS

1. Respondent Clifford Lindsay Maas is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate broker.

2. On May 14, 2004, respondent was convicted on his plea of nolo contendere of violating Penal Code section 288, subdivision (a) (lewd act on a child under age 14), a felony. On August 24, 2004, imposition of sentence was suspended and respondent was placed on formal probation for three years. He was required to serve nine months in county jail and to register as a sex offender pursuant to Penal Code section 290. Conditions of probation include psychological counseling.

3. The facts and circumstances of the conviction are that respondent molested his stepdaughter on a number of occasions during about a three-year period. In June 2001, when the girl was 10 years old, respondent married her mother. Respondent and his wife separated in March 2004 when respondent's wife learned of the molestation and reported the matter to police. According to respondent, he touched his stepdaughter's vagina once when she was

nine or 10 years old and once when she was about 13 years old. When she was about age 13, he gave her a series of massages in which he touched her breasts.

4. Respondent has never denied his misconduct. Shortly after he was arrested, respondent began psychological counseling with Alan D. Garton, Ph.D., and Sandra Scales, Ph.D. He saw Dr. Garton for two-hour sessions twice a week up until early 2006, when the frequency of their sessions was reduced to once a week. Respondent has been seeing Dr. Scales once a week for two to three hours since April 2004. Respondent also attended 54 sessions of Sex and Love Addicts Anonymous.

5. Before he was sentenced on his conviction, respondent underwent a psychological evaluation by clinical psychologist Shelley Coate, Psy.D. As part of her assessment of respondent's potential for committing further sexual offenses, Dr. Coate administered the Minnesota Sexual Offender Screening Tool – Revised (MnSOST-R) and the Static-99. The results of these tests indicated a low probability that respondent would commit another sexual offense. In her August 15, 2004 report to the court, Dr. Coate concluded:

The defendant, Mr. Clifford Maas clearly lacks any history of sexually violent or aggressive behavior and has not been involved with the courts prior to this incident. He has been a supportive and loving step-father to the victim, and a well-respected citizen to the community. Mr. Maas has expressed extreme remorse and guilt over his behavior, and has made notable progress to ameliorate the hurt he has caused the people who mean the most to him. He has already been involved in numerous hours of individual and group psychotherapy to better understand his behavior. This is an individual who is quite amenable to treatment and appears to be at low risk for reoffending. With all that being said, Mr. Maas is an individual who has a distorted sense of love and affection, and has demonstrated a dependence on others to validate his own worth. This is not to minimize the severity of the charges against Mr. Maas, but rather to help the court understand what could drive someone to commit this type of crime on a young child. He has an exaggerated sense of entitlement, one that has served him well in his career path, however, he clearly went far beyond his authority within the family.

In summary, a consideration in making a determination of the defendant's risk for future acting out behavior typically is made based on his past activities. Without minimizing the severity of his actions, there does not seem to be substantiating evidence to predict that he would be of any potential threat to the victim or any child.

6. Respondent completed his jail sentence by serving six months in the Mountain View work furlough program. He has registered as a sex offender, and he meets with his probation officer once a month. Respondent will be on probation until August 2007.

7. Respondent is very remorseful for his offense and the pain he caused by his misconduct. He asserts that he was "not thinking or feeling" at the time he molested his stepdaughter, and he was in denial about the harm he was doing to the girl. In therapy, respondent explored his family dynamics when he was growing up and how he came to have inappropriate boundaries within the family. One factor was that respondent had been sexually molested at age 11 by his older brother. (Respondent had repressed the memory of this incident.) Respondent explains that he was not in touch with his feelings at the time he molested his stepdaughter, but therapy has enabled him to acknowledge that he has feelings and to get in touch with them. He believes that he understands himself much better than he did before starting therapy.

8. Besides participating in therapy, respondent's efforts to rehabilitate himself include practicing yoga and meditation every day and attending weekly church services and a weekly spiritual workshop at his church.

9. Dr. Garton came to the hearing and testified on respondent's behalf. He explained that respondent has been motivated and cooperative with psychological treatment. Dr. Garton believes that the factors that contributed to respondent's misconduct with his stepdaughter include 1) respondent's personality and a sense of arrogance, 2) respondent's fascination with a girl going through puberty and a curiosity about what her body looked like, and 3) family dynamics and a lack of boundaries. In the course of therapy, respondent has worked to understand these factors and make changes that would prevent further transgressions. Dr. Garton also administered the MnSOST-R and the Static-99 tests to respondent. Based on those tests and his extensive therapy with respondent, Dr. Garton is of the opinion that respondent presents no risk of reoffending and no risk to the public as a real estate broker.

10. Respondent submitted a letter from Dr. Scales dated February 10, 2006. In her letter, Dr. Scales stated that, "due to Mr. Maas's genuine remorse and understanding concerning these events I am confident that he is not a threat to any person he comes in contact with."

11. Respondent is 54 years old, and he has been a real estate broker since 1977. Self-employed in Los Gatos, respondent is primarily involved in commercial real estate transactions. Sometime in the early to mid-1990's, respondent started taking classes at the Institute of Transpersonal Psychology in Palo Alto. In 2003, he earned a Ph.D. in transpersonal psychology.

12. In addition to an adult son from his first marriage, respondent has a son from his current marriage who will be four years old on March 14, 2006. Separated since March

2004, respondent and his wife are in the process of getting divorced. Respondent spends six hours per week with his son. He has no contact with his stepdaughter. When his wife sought child support after their separation, respondent volunteered to pay her \$10,000 per month. He has paid this amount since April 2004, and he also pays \$36,000 a year for his stepdaughter's tuition at a private school. (Respondent has agreed to pay for her education through college and graduate school.)

13. Robert Frager, Ph.D., who founded the Institute of Transpersonal Psychology in 1975, was a witness at the hearing. He has known respondent for about 15 years, first as a student of Aikido, which Dr. Frager teaches, and then as a student at the Institute. Dr. Frager was on respondent's dissertation committee, and he feels he knows him well. After he was arrested, respondent told Dr. Frager what had happened and he expressed feelings of remorse. Dr. Frager thinks respondent's misconduct was partly a result of a kind of narcissism or arrogance he developed because of his highly successful and lucrative career in real estate. In the last two years, though, respondent has matured and grown in his understanding of himself, and he is no longer arrogant or narcissistic. Dr. Frager believes respondent is honest, generous and good-hearted. He does not see him as a threat to the public.

14. Longtime real estate colleagues of respondent, Dennis Byron and John Leyvas, testified at the hearing. They have socialized with respondent and done business with him, and they describe him as honest and hardworking. After his arrest, respondent told Byron and Leyvas about his misconduct with his stepdaughter. With each of them, respondent was very remorseful and emotional. Both Byron and Leyvas are impressed with respondent's efforts to rehabilitate himself. They share the opinion that respondent presents no risk to the public as a real estate broker.

15. The testimony of respondent's character witnesses is echoed by two other real estate colleagues and by respondent's sister, his accountant and his dissertation advisor, all of whom wrote letters on respondent's behalf.

LEGAL CONCLUSIONS

1. Business and Professions Code section 490 authorizes the suspension or revocation of an occupational or professional license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed occupation or profession. Business and Professions Code section 10177, subdivision (b), which is specific to real estate licenses, authorizes the suspension or revocation of a license if the licensee has been convicted of a felony or a crime involving moral turpitude.

California Code of Regulations, title 10, section 2910, sets forth the criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. Under that section, a crime is deemed to be substantially related if it involves "[s]exually related conduct affecting a person who is an observer or non-consenting

participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code" (subd. (a)(5) or "[d]oing of any unlawful act . . . with the intent or threat of doing substantial injury to the person . . . of another" (subd. (a)(8)).

2. A violation of Penal Code section 288, subdivision (a) (lewd act on a child under age 14), is a felony and a crime involving moral turpitude. The offense is substantially related to the qualifications, functions or duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivisions (a)(5) and (a)(8).¹ Respondent's conviction therefore constitutes cause to suspend or revoke his real estate license under Business and Professions Code section 490 and section 10177, subdivision (b).

3. While respondent's conviction is a serious matter, there is no evidence that he is a pedophile or a sexual predator. Respondent has acknowledged his wrongdoing and engaged in extensive psychological counseling to address the issues related to his misconduct. He is remorseful for his offense, and he is making amends to his family by providing generous financial support. Although not quite two years have elapsed since the conviction and respondent will be on probation until August 2007, he has made a strong showing of rehabilitation. Further, respondent's therapists and the psychologist who evaluated him before sentencing agree that he poses no risk to the public as a real estate broker. It would not be contrary to the public interest to allow respondent to keep his real estate license on a restricted basis.

ORDER

Not adopted

All licenses and licensing rights of respondent Clifford Lindsay Maas under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if he makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this decision. 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction, including by a plea of nolo contendere, of a crime which is substantially related to the qualifications, functions or duties of a real estate licensee.

¹ Although there is no evidence that respondent intended to harm his stepdaughter, the threat of harm to the child victim is inherent in a violation of Penal Code section 288. (*Allstate Insurance Company v. Kim W.*; *Allstate Insurance Company v. Leroy H. Korte* (1984) 160 Cal.App.3d 326, 332-333.)

not adopted

2. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this decision.
4. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until he presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: March 8, 2006

Nancy L. Rasmussen

NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

FILED
OCT 21 2005

DEPARTMENT OF REAL ESTATE

By Jean Arment

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 CLIFFORD LINDSAY MAAS,) No. H- 9426 SF
13 Respondent.) ACCUSATION

14
15 The Complainant, E. J. HABERER II, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against CLIFFORD LINDSAY MAAS (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, E. J. HABERER II, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law (Part 1 of Division 4 of the
26 Business and Professions Code) (Code) as a real estate broker.

III

1 On or about August 24, 2004, in the Superior Court,
2 County of Santa Clara, Respondent was convicted of a violation of
3 Section 288(a) of the California Penal Code (Lewd Act on a
4 Child), a crime involving moral turpitude which bears a
5 substantial relationship under Section 2910, Title 10, California
6 Code of Regulations, to the qualifications, functions, or duties
7 of a real estate licensee.
8

IV

9 The facts alleged above constitute cause under Sections
10 490 and 10177(b) of the Code for suspension or revocation of all
11 licenses and license rights of Respondent under the Real Estate
12 Law.
13

14 WHEREFORE, Complainant prays that a hearing be
15 conducted on the allegations of this Accusation and that upon
16 proof thereof, a decision be rendered imposing disciplinary
17 action against all licenses and license rights of Respondent
18 under the Real Estate Law (Part 1 of Division 4 of the Business
19 and Professions Code), and for such other and further relief as
20 may be proper under the provisions of law.

21 
22 _____
E. J. HABERER II
Deputy Real Estate Commissioner

23 Dated at Oakland, California,
24 this 29th day of September, 2005 ²⁰⁰⁴
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26
27