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**FILED**

JUL 21 2016

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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10 In the Matter of the Application of )  
11 MARCUS DOYLE SCHAIBLE, )  
12 Respondent. )

No. H-11989 SF

STATEMENT OF ISSUES

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14 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the  
15 State of California, for Statement of Issues against MARCUS DOYLE SCHAIBLE  
16 ("Respondent"), is informed and alleges as follows:

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18 Complainant, ROBIN S. TANNER, a Supervising Special Investigator  
19 of the State of California, makes this Statement of Issues in her official capacity.

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21 Respondent made application to the Bureau of Real Estate (Bureau) of the State  
22 of California for a real estate salesperson license on or about January 21, 2015 (2015  
23 application).

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Previously, Respondent made application to the Bureau for a real estate salesperson license on or about December 28, 2012 (2012 application). On or about April 14, 2014, the Bureau filed a Statement of Issues seeking to deny Respondent's salesperson license application for violation of Sections 480(c), 480(a), 10177(a), and 10177(b). Respondent withdrew his application and on or about June 10, 2014, the Statement of Issues was dismissed.

In response to Question 34 of the 2015 application, to wit: "HAVE YOU EVER HAD A DENIED, SUSPENDED, RESTRICTED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE.", Respondent answered "No." Respondent concealed and failed to disclose the license discipline described in Paragraph 13.

In response to Part D, Question 3 of the 2012 application, to wit: "HAVE YOU EVER HAD A DENIED, SUSPENDED, RESTRICTED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE.", Respondent answered "No." Respondent concealed and failed to disclose the license discipline described in Paragraph 13.

In response to Part D, Question 1 of the 2012 application, to wit: "HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR OR FELONY? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY", Respondent answered "Yes" and disclosed the convictions described in Paragraphs 7, 9, and 10. Respondent concealed and failed to disclose the convictions described in Paragraphs 8, 11, and 12.

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On or about January 12, 2009, in the Superior Court of the State of California, County of Humboldt, Case Number CR084123, Respondent was convicted of violating section 242 of the Penal Code (battery), a misdemeanor which bears a substantial relationship under section 2910, title 10, California Code of Regulations (Regulations) to the qualifications, functions or duties of a real estate licensee.

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On or about January 12, 2009, in the Superior Court of the State of California, County of Humboldt, Case Number CR085293S, Respondent was convicted of violating section 14601.5(a) of the Vehicle Code (driving with a suspended or revoked license), a misdemeanor which bears a substantial relationship under section 2910, title 10 of the Regulations to the qualifications, functions or duties of a real estate licensee.

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On or about June 19, 2007, in the Superior Court of the State of California, County of Humboldt, Case Number CR072839S, Respondent was convicted of violating section 23152(a) of the Vehicle Code (driving under the influence of alcohol or drugs), a misdemeanor which bears a substantial relationship under section 2910, title 10 of the Regulations to the qualifications, functions or duties of a real estate licensee.

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On or about July 31, 2000, in the Superior Court of the State of California, County of Humboldt, Case Number CR003201S, Respondent was convicted of violating section 23152(b) of the Vehicle Code (driving with a blood alcohol level at or above .08%), a misdemeanor which bears a substantial relationship under section 2910, title 10 of the Regulations to the qualifications, functions or duties of a real estate licensee.

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On or about May 22, 2000, in the Superior Court of the State of California, County of Alameda, Case Number 336906, Respondent was convicted of violating Penal Code sections 242 (battery) and 415 (disturbing the peace), misdemeanors which bear a substantial relationship under section 2910, title 10, of the Regulations to the qualifications, functions or duties of a real estate licensee.

On or about April 24, 1991, in the Superior Court of the State of California, County of Alameda, Case Number 262542, Respondent was convicted of violating section 12500(a) of the Vehicle Code (driving without a license), a misdemeanor which bears a substantial relationship under section 2910, title 10, of the Regulations to the qualifications, functions or duties of a real estate licensee.

On or about November 1, 2007, after proceedings comparable to the Administrative Procedure Act in which Respondent was given fair notice of the charges, an opportunity for a hearing, and other due process protections, the Department of Alcoholic Beverage Control ordered that Respondent's On-Sale General Public Premises license be revoked for acts which, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license pursuant to the provisions of Sections 10177(d) and 10177(g) of the Business and Professions Code(Code)..

GROUND FOR DENIAL

Respondent's failure to reveal in the 2012 and 2015 applications the license discipline set forth in Paragraph 13, and in the 2012 application the convictions set forth in Paragraphs 8, 11, and 12 constitutes the procurement of or attempt to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's 2015 application for a real estate

1 salesperson license pursuant to the provisions of Sections 480(d) (false statement), 10177(a)  
2 (attempt to procure license through fraud, etc.), and/or 10177(j) (fraud or dishonest dealing) of  
3 the Code.

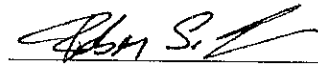
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5 The crimes of which Respondent was convicted, as alleged in Paragraphs 7  
6 through 12, constitute cause for denial of Respondent's 2015 application for a real estate  
7 salesperson license under Sections 480(a)(1) and 10177(b) (conviction of a substantially related  
8 crime) of the Code.

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10 The discipline of Respondent's license, as described in Paragraph 13, constitutes  
11 cause for denial of Respondent's 2015 application for a real estate license under Sections 480(a),  
12 10177(f) (discipline of a license), and/or 10177(g) of the Code.

13 WHEREFORE, the Complainant prays that the above-entitled matter be set for  
14 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to  
15 authorize the issuance of, and deny the issuance of, a real estate salesperson license to  
16 Respondent, and for such other and further relief as may be proper under other provisions of law.

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19 ROBIN S. TANNER  
Supervising Special Investigator

20 Dated at Oakland, California,

21 this 18<sup>th</sup> day of July, 2016.

22 DISCOVERY DEMAND

23 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau of Real  
24 Estate hereby makes demand for discovery pursuant to the guidelines set forth in the  
25 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau of Real Estate may  
26 result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
27 Office of Administrative Hearings deems appropriate.