

DEPARTMENT OF REAL ESTATE

FEB 19 1992

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
BY Laura B. Chow

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In the Matter of the Application of )	No. H- 24771 LA
)	
)	
JOHN JEROME VILLAESCUSA,	L- 54916
)	
)	
)	
Respondent.	

DECISION

The Proposed Decision dated December 20, 1991 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 salesperson license is denied, but the right to a restricted real estate salesperson 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 of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence or rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on March 10, 1992.

IT IS SO ORDERED February 7, 1992.

CLARK WALLACE  
Real Estate Commissioner

By: John R. Liberator  
JOHN R. LIBERATOR  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application )	
of: )	
JOHN JEROME VILLAESCUSA, )	No. H-24771 LA
Respondent. )	OAH: L-54916
_____ )	

PROPOSED DECISION

This matter came on regularly for hearing before Humberto Flores, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on November 22, 1991. Complainant was represented by Eliot Mac Lennan, Staff Counsel. Respondent appeared personally and represented himself.

Oral and documentary evidence was received and the matter submitted. The Administrative Law Judge finds the following facts:

I

Stephen J. Ellis made the Statement of Issues in his official capacity as Deputy Real Estate Commissioner of the State of California.

II

Respondent, pursuant to the provisions of section 10153.3 of the Business and Professions Code, filed an application with the Department of Real Estate for the issuance of a real estate salesperson license on October 1, 1990, with the knowledge and understanding that any license issued as a result of said application would be subject to the provisions Business and Professions Code section 10153.4.

III

On June 25, 1987, in the United States District Court, Central District, (Case No. 87-00399) respondent pleaded guilty to a charge of violating Title 21 United States Code sections 841(a)(1) and 846 (Conspiracy to possess and distribute cocaine), a crime involving moral turpitude and substantially related to the functions, duties and qualifications of a departmental licensee.

On September 9, 1987, respondent was sentenced to federal prison for three years.

Respondent was paroled on June 9, 1989. As part of the conditions of parole, respondent was required to undergo random drug testing. Respondent successfully completed all of the conditions of his parole.

#### IV

The facts and circumstances of the offense were that respondent took part in a transaction to sell cocaine to an agent from the Drug Enforcement Administration. Federal agents were able to arrest respondent with the help of an informant.

Respondent established some mitigation in that he admitted his guilt at an early stage of the proceedings and cooperated with law enforcement officials.

#### V

On February 24, 1984, in the Superior Court of California, County of Los Angeles, (Case No. A456391) respondent pleaded guilty to a charge of violating Penal Code section 211 (robbery), a crime involving moral turpitude and substantially related to the duties, functions and qualifications of a departmental licensee.

Proceedings were suspended and respondent placed on formal probation for five years on the condition that he perform 500 hours of community service. Respondent was also ordered to pay \$500.00 to the State Indemnity Fund.

On January 26, 1988, respondent's probation was revoked as a result of his federal drug conviction set forth in finding III. Respondent was sentenced to three years in prison which was served concurrently with his federal prison sentence.

#### VI

Respondent is remorseful for his crimes and has taken full responsibility for his misconduct. Respondent's last criminal conviction occurred over four years ago. Since his release from prison respondent has worked at a hardware store and has been promoted to a supervisory position.

Respondent has two children and is a devoted father. He purchased a house last year and is planning to marry his fiancée in the near future. Respondent has matured tremendously over the last four years which is reflected by his stable family and business life.

VII

Respondent is now determined to improve his professional life by starting a career as a real estate salesperson. Further, respondent has been offered employment at Century 21, located in Norwalk, California, on the condition that he obtain a real estate salesperson's license. The broker/manager of the firm has indicated that he would provide direct and close supervision over respondent during respondent's employment.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause exists to deny respondent's application for a real estate salesperson's license under the provisions of Business and Professions Code sections 480 and 10177(b) for the conviction set forth in finding III.

II

Cause exists to deny respondent's application for a real estate salesperson's license under the provisions of Business and Professions Code sections 480 and 10177(b) for the conviction set forth in finding V.

III

Respondent established rehabilitation to the extent that it would not be contrary to the public interest to grant respondent a restricted license.

\* \* \* \* \*

WHEREFORE THE FOLLOWING ORDER is hereby made.

The application of respondent John Jerome Villaescusa for the issuance of an unrestricted real estate salesperson's license is hereby denied; provided, however, that a restricted real estate salesperson's license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for said license within ninety (90) days from the effective date of the decision herein.

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 the authority of section 10156.6 of said Code:

1. Respondent shall not be eligible to apply for the issuance of an unrestricted license, until two years has elapsed from the date of issuance of the restricted license to respondent.

2. Respondent shall submit with his application for license under his employing broker, and with any subsequent application or transfer to a new employing broker, a statement signed by said employing broker which shall certify:

(a) That said broker has read the decision of the Commissioner which granted the right to a restricted license; and

(b) That said broker will exercise close supervision over the performance of the restricted licensee of activities for which a real estate license is required.

3. Any 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 a conviction following a plea of nolo contendere, of any crime which bears a significant relationship to respondent's fitness or capacity as a real estate licensee, or as is otherwise provided by law.

4. Respondent shall comply with all the laws to which he is subject, including all provisions of the California Real Estate Law, the Subdivided Lands Law and all the requirements of the Real Estate Commissioner.

5. Respondent shall, within six (6) months of the issuance of the restricted license under the provisions of Business and Professions Code section 10153.4, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in section 10153.2 of said code, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective six (6) months after the issuance of the restricted license. Said suspension shall not be lifted until respondent has

submitted the required evidence of course completion and the Commissioner has given written notice to the respondent of lifting of the suspension.

6. If the Commissioner determines, after giving respondent notice and an opportunity to be heard, that a violation of any of the conditions has occurred, the Commissioner may suspend or revoke the restricted license.

DATED: December 20, 1991

*Humberto Flores*

HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings

Sacto.  
Jan

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

OCT 22 1991

*Shirley B. Over*

*In the Matter of the Application of*

JOHN JEROME VILLAESCUSA,

}

Case No. H-24771 LA

OAH No. L-54916

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 \_\_\_\_\_  
OFFICE OF ADMINISTRATIVE HEARINGS, 314 W. FIRST ST., LOS ANGELES, CA 90012

on the 22nd day of NOVEMBER, 19 91, at the hour of 11:00 a.m. or as soon thereafter  
as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 21, 1991

By *Elliott MacLennan*  
ELLIOTT MAC LENNAN *Counsel*

cc: John Jerome Villaescusa  
Century 21--Allstate  
Sacto.

OAH, RL  
RE 500 (Rev. 8/87)

*Sacto  
Jury*

1 ELLIOTT MAC LENNAN, Counsel  
2 Department of Real Estate  
3 107 South Broadway, Room 8107  
4 Los Angeles, California 90012  
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6  
7  
8  
9 (213) 620-4790

*Lana B. Orma*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

12 In the Matter of the Application of ) No. H-24771 LA  
13 JOHN JEROME VILLAESCUSA, ) STATEMENT OF ISSUES  
14 Respondent. )  
15

16 The Complainant, Steven J. Ellis, a Deputy Real Estate  
17 Commissioner of the State of California, for Statement of Issues  
18 against JOHN JEROME VILLAESCUSA (respondent) is informed and  
19 alleges in his official capacity as follows:

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 1, 1990 with the knowledge and  
23 understanding that any license issued as a result of that  
24 application would be subject to the conditions of Sections  
25 10153.4 of the Business and Professions Code.

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II

On September 9, 1987, in the United States District Court, Central District, respondent was convicted upon his plea of guilty to one count of 21 U.S.C. 846 (Conspiracy to Possess with Intent to Distribute Cocaine).

III

On February 3, 1984, in the Superior Court of California, South East Branch, Los Angeles County, respondent was convicted upon his plea of guilty to one count of Section 211 of the California Penal Code (Robbery).

III

The facts as alleged in Paragraph II and III, constitute cause for denial of respondent's application for a real estate license under Sections 480 and 10177(b) of the Code.

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code and Sections 11500 through 11528 of the Government Code.

Dated at Los Angeles, California

this 21st da of August, 1991.

  
Deputy Real Estate Commissioner

cc: John Jerome Villaescusa  
Sacto.  
RL  
Century 21-Allstars