

FILED
NOV 18 1994

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By

[Signature]

* * *

In the Matter of the Accusation of)
BRIAN ROBERT DAHL,)
Respondent.)
_____)

NO. H-25823 LA

L-08107

DECISION

The Proposed Decision dated October 24, 1994, 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock
noon on December 8, 1994.

IT IS SO ORDERED November 7, 1994.

JOHN R. LIBERATOR
Interim Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
of:)	
	) No. H-25823 LA
	)
BRIAN ROBERT DAHL,	) L-08107
	)
	)
Respondent.)	
_____)	

PROPOSED DECISION

This matter was tried before Rosalyn M. Chapman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on October 14, 1994. Complainant was represented at the trial by Elliott MacLennan, Staff Counsel. Respondent was present at the trial and represented himself.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds as follows:

FINDINGS OF FACT

1. The Accusation was made by Steven J. Ellis solely in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate of the State of California.

2. On June 10, 1987, the Department of Real Estate of the State of California (hereafter Department), issued real estate salesperson's license no. 00959044 to Brian Robert Dahl (hereafter respondent). Said license is in full force and effect.

3. A. On March 24, 1993, in the Superior Court of the State of California, Ventura County, California, respondent pleaded guilty to, and was convicted of, violating Penal Code Section 499c(b)(4) (theft of a trade secret), a felony involving moral turpitude per se.

B. Imposition of sentence was suspended and respondent was placed on probation for five years on certain terms and conditions, including that he serve 30 days on the county jail under the work furlough program.

C. Effective January 1, 1994, respondent's conviction was reduced to a misdemeanor, pursuant to Penal Code Section 17b.

D. Said conviction is, as a matter of law, substantially related to the duties, qualifications, or functions of a real estate salesperson.

4. The facts and circumstances underlying respondent's conviction are, as follows: While respondent was employed by Barbara Simmons (Simmons), a real estate broker, he had used a computer program, which Simmons had, at her own expense, programmed; and respondent added his list of clients to the program. A rift developed between respondent and Simmons, and respondent decided to end his employment by Simmons. Rather than retrieve his client list, on or about July 16, 1991, respondent copied all of Simmons's computer program, a trade secret, with the intent of using it in the future, and without authority from Simmons and in breach of his relationship with her.

5. Respondent remains on probation, although he has served the custodial portion of his sentence by working for 15 days while remaining in a halfway house, as part of a work furlough program.

6. Respondent is 31 years old, single, and holds a high school diploma. He is ambitious, and hopes to own a realty firm in the future and become a real estate broker. Respondent is employed in the Simi Valley area, where he has worked since licensure by Department. Respondent's father is now a salesperson in the same realty office as respondent.

7. Respondent acknowledges he made a "mistake" when he copied his former real estate broker's computer program. He now owns every computer program he uses, whether at home or in his real estate office.

* * * * *

Pursuant to the foregoing Findings of Fact, the Administrative Law Judge makes the following Determination of Issues:

CONCLUSIONS OF LAW

1. Grounds exist to revoke or suspend respondent's license to act as a real estate salesperson pursuant to Business and Professions Code Sections 490 and 10177(b) in that respondent has been convicted of a misdemeanor involving moral turpitude, which is substantially related to the duties, qualifications, or functions of a real estate salesperson, as set forth in Findings 3 and 4 above.

2. Respondent remains on probation, and is not rehabilitated from his conviction, based on Findings 2 and 5 through 7 above. However, it would not be against the public interest to permit respondent to continue to act as a real estate salesperson upon certain terms and conditions.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

ORDER

Real estate salesperson's license no. 00959004, issued to respondent Brian Robert Dahl, is hereby revoked; provided, however, that respondent shall be entitled to apply for, and shall be issued, a restricted real estate salesperson's license, pursuant to Business and Professions Code (BPC) Sections 10156.5 et seq., if he makes application therefor within sixty (60) days from the effective date of this Decision and pays the appropriate fee for said license. The restricted license issued to respondent shall be subject to the provisions of BPC Section 10156.7 and to the following specific conditions authorized under BPC Section 10156.6:

1. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction of, including by a plea of nolo contendere, a crime which bears a substantial relationship to respondent's fitness or capacity to act as a real estate agent.

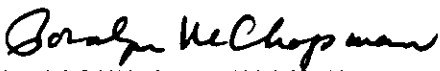
2. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the Real Estate Law, the Subdivided Lands Law, regulations of the Commissioner or conditions attaching to the restricted license.

3. Respondent shall immediately present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of the original or renewal of the 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 the real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence.

4. Within thirty (30) days of the effective date of the Decision, and whenever respondent associates with another real estate broker, respondent shall submit to the Department, a statement signed by the broker which shall certify that she or he has read the Decision of the Commissioner granting respondent the right to a restricted license and that she or he will help respondent perform the duties for which a real estate license is required in a professional and legal manner.

5. Respondent shall not be eligible to apply for the issuance of an unrestricted license, nor the removal of any of the conditions, limitations, or restrictions on a restricted license, until three (3) years have elapsed from the date of the issuance of the restricted license to him.

DATED: October 24, 1994


ROSALYN M. CHAPMAN
Administrative Law Judge

RMC:btm

SACTO
Flag

194-0301-003 ✓
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

AUG 18 1994
DEPARTMENT OF REAL ESTATE
By [Signature]

In the Matter of the Accusation of) Case No. H-25823 LA
)
BRIAN ROBERT DAHL,) OAH L-08107
)
Respondent(s).)
_____)

NOTICE OF HEARING ON ACCUSATION

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 West First Street, Los Angeles, California, on **OCTOBER 14, 1994 at 9:00 a.m.** or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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.

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 Administrative Law Judge 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 Administrative Law Judge directs otherwise.

Dated: August 18, 1994

DEPARTMENT OF REAL ESTATE

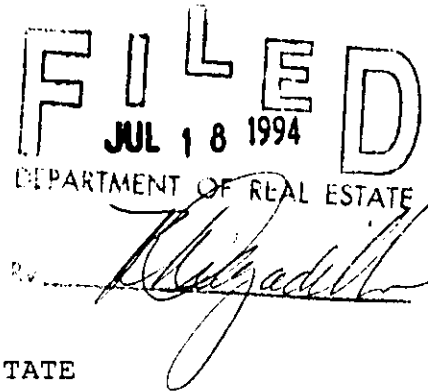
By: [Signature]
ELLIOTT MAC LENNAN, DRE, Counsel

cc: BRIAN ROBERT DAHL
OAH
SACTO

RE 501 (Mac 8/92EM:rd)

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3194



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H- 25823 LA
BRIAN ROBERT DAHL,)	A C C U S A T I O N
Respondent.)	

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against BRIAN ROBERT DAHL is informed and alleges in his official capacity as follows:

I

Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

/

/

/

/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate salesperson on April 21, 1987.

III

On March 24, 1993, in the Superior Court of California, County of Ventura, State of California, respondent was convicted upon a guilty plea to one count of violating Section 499(c) (b) (4) of the California Penal Code (Theft or unauthorized copying of software from employer), for a felony crime that occurred on July 16, 1991, which by its facts and circumstances involves moral turpitude and is substantially related under Section 2910, Chapter 6, Title 10, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The facts as alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of all licenses and license rights of respondent under the Real Estate Law.

/

/

/

/

/

/

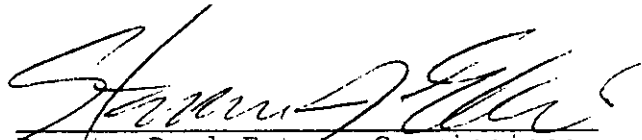
/

/

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against the
4 license and license rights of respondent BRIAN ROBERT DAHL under
5 the Real Estate Law and for such other and further relief as may
6 be proper under other applicable provisions of law.

7 Dated at Los Angeles, California

8 this 18th day of July, 1994.

9
10 
11 Deputy Real Estate Commissioner
12
13
14
15
16
17
18
19
20
21
22
23

24 cc: Brian Robert Dahl
25 Sacto.
26 CGT
27