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JUL 25 2007
DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-25953 LA
JONATHAN DREW ALBERT,	)
Respondent.	)

ORDER GRANTING UNRESTRICTED LICENSE

On June 8, 1995, a Decision was rendered herein, denying Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on July 12, 1995. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

///

1 On February 13, 2007, Respondent petitioned for the
2 removal of restrictions attaching to Respondent's real estate
3 salesperson license.

4 I have considered the petition of Respondent and
5 the evidence submitted in support thereof. Respondent has
6 demonstrated to my satisfaction that Respondent meets the
7 requirements of law for the issuance to Respondent of an
8 unrestricted real estate salesperson license and that it
9 would not be against the public interest to issue said
10 license to Respondent.

11 NOW, THEREFORE, IT IS ORDERED that Respondent's
12 petition for removal of restrictions is granted and that a
13 real estate salesperson license be issued to Respondent if
14 Respondent satisfies the following conditions within nine (9)
15 months from the date of this Order:

16 Submittal of a completed application and payment of
17 the fee for a real estate salesperson license.

18 This Order shall be effective immediately.

19 Dated: 7-18-07.

20
21 JEFF DAVI
22 Real Estate Commissioner
23
24
25
26
27

FILED
JUN 14 1995

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Raquel P. Pera

* * * * *

In the Matter of the Application of)
)
)
 JONATHAN DREW ALBERT,)
)
)
 Respondent.)
)

No. H-25953 LA

L-9411069

DECISION

The Proposed Decision dated May 17, 1995, 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 of 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 July 5, 1995.

IT IS SO ORDERED

6-8-95
JIM ANTT, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of)	
Issues Against:)	Agency No. H-25953 LA
JONATHAN DREW ALBERT,)	
Respondent.)	OAH No. L-9411069

AMENDED PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on April 13, 1995.

Complainant was represented by Marjorie P. Mersel, Staff Counsel.

Respondent Jonathan Drew Albert (hereinafter "Respondent") appeared and was represented by Karen L. Woods, Esq.

Evidence was received and the matter deemed submitted on April 13, 1995.

On May 17, 1995, following execution a Proposed Decision on April 14, 1995, by the Administrative Law Judge, Complainant moved to modify the Proposed Decision to increase the period for Respondent's compliance with continuing education at Paragraph 4 of the Proposed Decision. Said Motion was granted.

The Administrative Law Judge finds the following facts:

* * * * *

FINDINGS OF FACT

Procedural Findings

1. Steven J. Ellis made and filed the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner.

2. On March 3, 1994, Respondent executed a Salesperson License Application which he submitted to the Department of Real Estate (hereinafter "Department"). Received by the Department on April 5, 1994, said application is pending.

Factual Findings

3. On October 6, 1978, in the Superior Court of the State of California, County of Los Angeles, in People v. Jonathan Drew Albert, Case Number A521986, Respondent was convicted, on a plea of guilty, of violating Penal Code section 459 (Second Degree Burglary), a felony, and crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was sentenced to the California Youth Authority.

4. The facts and circumstances underlying Respondent's conviction as set forth in Finding No. 3 are, as follows: On April 28, 1977, Respondent, 19, unlawfully entered a business and building occupied by Artistic Polishing and Plating, Inc., with the intent to commit larceny.

5. On February 10, 1984, in the Superior Court of the State of California, County of Santa Barbara, in People v. Jonathan Drew Albert, Case Number 148087, Respondent was convicted, on a plea of nolo contendere, of violating Penal Code section 455/664 (Attempted Arson), a felony, and crime of moral turpitude substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was sentenced to three years supervised probation on terms and conditions including, inter alia, that he serve 180 days in the county jail, make restitution, and obey all laws.

6. The facts and circumstances underlying Respondent's conviction as set forth in Finding No. 5 are, as follows: On September 6, 1983, Respondent, 25, unlawfully attempted, while voluntarily inebriated, to maliciously set fire to and burn an inhabited apartment building, effecting superficial property damage in the sum of \$50.00.

7. On March 18, 1991, in the Superior Court of the State of California, County of Los Angeles, in People v. Jonathan Albert, Case Number BA022577-01, Respondent was convicted, on a plea of guilty, of violating Health and Safety Code section 11350(a) (Possession of a Controlled Substance), a felony. Respondent was sentenced to three years supervised probation on terms and conditions including, inter alia, that he participate in Alcoholics Anonymous, and obey all laws.

8. The facts and circumstances underlying Respondent's conviction as set forth in Finding No. 7 are, as follows: On July 26, 1990, Respondent, 32, unlawfully possessed cocaine.

9. Respondent has had a long history of substance abuse.

A. On September 1, 1981, Respondent, 24, was convicted of violating Vehicle Code section 23102(a) (Driving Under the Influence). Respondent was sentenced to three years probation.

B. On June 23, 1982, Respondent, 25, was convicted of violating Vehicle Code section 23152(a) (Driving Under the Influence). Respondent was sentenced to three years probation.

C. On February 14, 1985, in the Municipal Court of the State of California, County of Santa Barbara, in People v. Jonathan Drew Albert, Case Number 235164, Respondent, 27, was convicted of violating Health and Safety Code section 11364 (Possession of Drug Paraphernalia), a misdemeanor. Respondent was sentenced to ten days in the county jail.

D. On December 8, 1986, Respondent, 29, was convicted of violating Vehicle Code section 23152(a) (Driving with a Blood Alcohol Content in excess of .08%). Respondent was sentenced to three years probation.

10. Respondent's convictions for substance abuse as referenced in Finding Nos. 8 and 9, although not involving crimes of moral turpitude, are substantially related to the qualifications, functions or duties of a real estate licensee.¹

Rehabilitation Findings

11. Respondent admits to having developed a problem with substance abuse attributed by him and his mother to a troubled childhood including paternal abandonment, difficulties reconciling such abandonment by his father with his own developing adolescence and manhood, and poor selection of friends.

12. Following his arrest as referenced in Finding No. 8, he commenced participation in Alcoholics Anonymous. Having maintained uninterrupted participation, Respondent has refrained from the use of alcohol or drugs and has acted as a sponsor for other participants.

13. Respondent has recently married and supports himself from a wide variety of activities. He works parttime for a real estate broker in numerous administrative activities.

14. Having recently married, Respondent, with his wife, participates in church activities.

15. Respondent successfully completed each grant of probation, including restitution as applicable.

¹See In the Matter of Anderson (1992) 2 Cal. State Bar Ct. Rptr. 208, 216-217.

16. Respondent is active in church and Alcoholics Anonymous activities, enjoys a reputation as industrious, honest, and dependable.

17. Without excusing his conduct as set forth in Finding Nos. 3 - 10, Respondent acknowledges that it arose from substance abuse and his personal lack of social responsibility.

18. Respondent expressed remorse and displayed insight into his socially irresponsible conduct as set forth in Finding Nos. 3 - 10.

19. With the continued support of his new friends, his wife and family, he continues to undertake rehabilitative and educational efforts in his personal life to avoid further difficulties with narcotics and to devote himself to his family, his community and the development of a professional career in real estate.

20. At all times relevant, Respondent displayed candor in the Department proceedings.

21. Respondent presented significant character letters attesting to his reputation for industry, honesty and moral character.

22. Respondent's convictions relating to moral turpitude as set forth in Finding Nos. 3 and 5 occurred over a decade ago.

23. Respondent's convictions relating to substance abuse as set forth in Finding Nos. 7 and 9 occurred more than two years ago.

24. Respondent, 37, is partially rehabilitated (Finding Nos. 11 - 23).

* * * * *

DETERMINATION OF ISSUES

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

1. Business and Professions Code section 10177(b) requires that the crime of which Respondent was convicted involve moral turpitude. Respondent's convictions for violating Penal Code section 459 and 455/664 as set forth in Finding Nos. 3 and 5 involve moral turpitude per se. Accordingly, cause exists to deny the application of Respondent for a license pursuant to Business and Professions Code sections 480 and 10177(b) for convictions of crimes involving moral turpitude and substantially related to the

qualifications, functions or duties of a real estate licensee as set forth in Finding Nos. 3 - 6.

2. Respondent's conviction for violating Health and Safety Code section 11350(a) as set forth in Finding No. 7 does not involve moral turpitude per se. This conviction cannot support a denial or revocation of a license unless the crime is "substantially related to the qualifications, functions or duties of the business or profession" in question. (Business & Professions Code section 490, Brandt v. Fox (1979) 90 Cal.App.3d 737, 748). Respondent's conviction, as it relates to his long history of substance abuse (Finding No. 9), is substantially related to the qualifications, functions or duties of a Department license.

Accordingly, cause exists to deny the application of Respondent for a license under section 480 of the Business and Professions Code for crimes substantially related to the qualifications, functions or duties of a departmental licensee as set forth in Finding Nos. 3 - 8 and 10.

3. The key concern in arriving at a disciplinary recommendation is the degree to which the public needs protection from Respondent. Mephram v. State Bar (1986) 42 Cal.3d 943, 948; In the Matter of Rodriguez (1993) 2 Cal. State Bar Ct. Rptr. 480, 501.

Respondent, by his subsequent conduct as referenced in Finding Nos. 11 - 24, has undertaken conscientious efforts towards rehabilitation. (See In the Matter of Kirwan (1994) 2 Cal. State Bar Ct. Rptr. 692, 699; In the Matter of Brown (1993) 2 Cal. State Bar Ct. Rptr. 309, 317-318.)

Nevertheless, two distinct issues relate to the question of Respondent's rehabilitation.

The first concerns his two convictions for crimes of moral turpitude as set forth in Finding Nos. 3 - 6.

One of the purposes of section 10177 of the Business and Professions Code is to insure that real estate salespersons will be honest, truthful and of good reputation. (Arneson v. Fox (1980) 28 Cal.3d 440, 451). Giving due consideration to the facts and circumstances underlying the Accusation as set forth in Finding Nos. 4 - 6, and the criteria of rehabilitation provided in section 2912, Title 10, California Code of Regulations, and, particularly, the long period of time since his most recent conviction² involving

²It is highly doubtful in light of Business and Professions Code section 10101 that the Department could have initiated an action based on the convictions referenced in Finding Nos. 3 and 5 had this action been based on an accusation, particularly with the full disclosure of Respondent as contained in Exhibit 2.

both a crime and conduct of moral turpitude (Finding No. 22), the public interest will not be adversely affected by the issuance of a properly conditioned license to Respondent.

The second issue concerns his long history of substance abuse as referenced in Finding Nos. 7 - 10 and as related to his present rehabilitation.

The objective of this proceeding is to protect the public, the profession, maintain professional integrity, its high standards, and preserve public confidence in the real estate profession and its professionals. These proceedings are not for the primary purpose of punishing an individual, including Respondent. (Camacho v. Youde (1979) 95 Cal.App.3d 161, 165).

Respondent has established his partial rehabilitation.

Respondent has undertaken significant efforts to modify the direction his life was taking in his twenties. With the support of friends, his family, his own efforts and the motivation provided by his most recent grant of probation, Respondent has successfully maintained sobriety and socially responsible conduct.

Seeking to undertake a professional degree within the ambit of the Department, Respondent has displayed sufficient insight, remorse, and rehabilitation to warrant serious consideration of his application to the Department.

Accordingly, giving due consideration to the facts and circumstances underlying the Accusation and the evidence of partial rehabilitation set forth in Finding Nos. 11 - 24, the public interest will not be adversely affected by the issuance of a properly conditioned license to Respondent.

* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of Respondent Jonathan Drew Albert for an unrestricted real estate salesperson license is denied; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to sections 10156.5, 10156.6 and 10156.7 of the Business and Professions Code, if Respondent makes application therefore 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 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 revoked by order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee, including any violation relating to the abuse of alcohol, drugs or controlled substances.

2. Respondent shall obey all laws, including 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. The restricted license issued to Respondent may be suspended following 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, the Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

4. Respondent shall, within eighteen (18) months of the delivery or mailing of Respondent's restricted license, submit evidence satisfactory to the Real Estate Commissioner of successful completion, at an accredited institution, of two of the courses listed in section 10153.2 of the Business and Professions 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 to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension. If Respondent has not satisfied the requirements for an unqualified license on or before eighteen (18) months, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to section 10153.4 of the Business and Professions Code until four years after the date of the issuance of the preceding restricted license.

5. Respondent shall submit to his current employer and with any application for license under any subsequent employing broker, or any application for transfer to a new employing broker, a statement, signed by the prospective employing real estate broker, on a form approved by the Department of Real Estate which shall certify:

A. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

B. That the employing broker will exercise
close supervision over the performance by the
restricted licensee relating to activities for
which a real estate license is required.

6. Respondent shall, within six months from the
effective date of this Decision, take and pass the Professional
Responsibility Examination administered by the Department including
the payment of the appropriate examination fee. If Respondent
fails to satisfy this condition, the Commissioner shall order
suspension of Respondent's license until Respondent passes the
examination.

7. Respondent shall, at his own expense, report in
writing to the Department as the Commissioner shall direct such
information concerning Respondent's activities for which a real
estate license is required as the Commissioner shall deem to be
appropriate to protect the public interest.

8. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license (salesperson or
broker), nor the removal of any of the conditions, limitations or
restrictions of a restricted license until four years have elapsed
from the date of issuance of the restricted license to Respondent.

Dated: May 17, 1995


JAIME RENÉ ROMÁN
Administrative Law Judge
Office of Administrative Hearings

Sacto
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 25 1995
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of)
JONATHAN DREW ALBERT,)
_____)

Case No. H-25953)
OAH No. L-11069) By Raquel B. Rera

Respondent(s)

NOTICE OF CONTINUED HEARING ON APPLICATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on Thursday, April 13, 1995, at the hour of 1:30 P.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. 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 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 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.

DEPARTMENT OF REAL ESTATE

Dated: January 25, 1995

By

Marjorie P. Mersel
MARJORIE P. MERSEL, Counsel

cc: Jonathan Drew Albert
Karen L. Woods, Esq.
✓ Sacto.
OAH
rbr Peter R. Gliniak/RETEP, Inc.

RE 501 (LA Mac 11/92)

*Sacto
Flags*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)

JONATHAN DREW ALBERT,)

Respondent(s)

Case No. H-25953 LA

OAH No. L-11069

FILED
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DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By Raquel B. Lara

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on Friday, January 6, 1995, at the hour of 9:00 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. 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 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 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.

DEPARTMENT OF REAL ESTATE

Dated: November 22, 1994

By

Marjorie P. Mersel
MARJORIE P. MERSEL, Counsel

cc: Jonathan Drew Albert
Karen L. Woods, Esq.
Peter R. Gliniak/RETEP, Inc.
✓ Sacto.
OAH

RE 501 (LA Mac 11/92)RBR

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MARJORIE P. MERSEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
OCT 14 1994
DEPARTMENT OF REAL ESTATE
By *[Signature]*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of	)	No. H-25953 LA
	)	
JONATHAN DREW ALBERT,	)	<u>STATEMENT OF ISSUES</u>
	)	
Respondent.	)	
_____	)	

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against JONATHAN DREW ALBERT (herein "Respondent") alleges as follows:

I

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

II

Respondent, pursuant to the provisions of Section 10153.3 of the California Business and Professions Code, made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about

1 April 5, 1994, with the knowledge and understanding that any
2 license issued as a result of said application would be subject to
3 the conditions of Section 10153.4 of the California Business and
4 Professions Code.

5 III

6 On or about August 1, 1990, in the Municipal Court,
7 Los Angeles Judicial District, County of Los Angeles, State of
8 California, Respondent pled guilty to and was convicted of
9 violating Health and Safety Code Section 11350(a) (Possession of a
10 Controlled Substance), a felony and a crime involving moral
11 turpitude which bears a substantial relationship under Section
12 2910, Title 10, California Code of Regulations (Regulations), to
13 the qualifications, functions or duties of a real estate licensee.

14 IV

15 On or about February 2, 1984, in the Municipal Court of
16 South Coast Judicial District, County of Santa Barbara, Respondent
17 was convicted of the crime of violating Penal Code Section 455
18 (Malicious Attempted Arson), a felony and a crime involving moral
19 turpitude which bears a substantial relationship under Section
20 2910 of the Regulations to the qualifications, functions or duties
21 of a real estate licensee.

22 V

23 On or about August 15, 1978, in the Municipal Court of
24 Rio Hondo Judicial District, County of Los Angeles, Respondent
25 pled guilty to and was convicted of the crime of violating Penal
26 Code Section 459 (Burglary), a felony and a crime involving moral
27 turpitude which bears a substantial relationship under Section

1 2910 of the Regulations to the qualifications, functions or duties
2 of a real estate licensee.

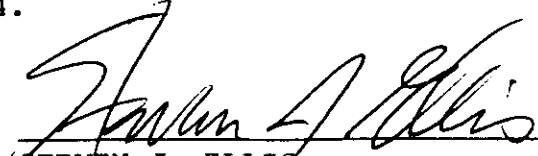
3 VI

4 The crimes of which Respondent was convicted, as alleged
5 in Paragraphs III, IV and V above, constitute cause for denial of
6 Respondent's application for a real estate license under Sections
7 480(a) and 10177(b) of the California Business and Professions
8 Code.

9
10 These proceedings are brought under the provisions of
11 Section 10100, Division 4 of the Business and Professions Code of
12 the State of California and Sections 11500 through 11528 of the
13 Government Code.

14 WHEREFORE, the Complainant prays that the above-entitled
15 matter be set for hearing and, upon proof of the charges contained
16 herein, that the Commissioner refuse to authorize the issuance of,
17 and deny the issuance of, a real estate salesperson license to
18 Respondent JONATHAN DREW ALBERT and for such other and further
19 relief as may be proper in the premises.

20 Dated at Los Angeles, California
21 this 14th day of October, 1994.

22
23 
24 STEVEN J. ELLIS
Deputy Real Estate Commissioner

25 cc: Jonathan Drew Albert
26 Retep, Inc.
27 Sacto.
CGT