

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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by

[Signature]

In the Matter of the Application of)
)
)
 DOUGLAS WILLIAM SEFTON,)
)
)
 Respondent.)

No. H-27617 LA
L-1998040230

DECISION

The Proposed Decision dated June 18, 1998, 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 August 11, 1998.

IT IS SO ORDERED 7/13, 1998.

JIM ANTT, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:)	
)	Case No. H-27617 LA
DOUGLAS WILLIAM SEFTON)	OAH No. L-1998040230
)	
Respondent.)	
_____)	

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California on May 21, 1998. Complainant was represented by Department of Real Estate Staff Counsel, V. Ahda Sands. Respondent, Douglas William Sefton, appeared personally and represented himself.

Oral and documentary evidence was received and the matter was submitted.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Statement of Issues was filed by Thomas McCrady, in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California ("Department").

2. Respondent filed his application for licensure as a real estate salesperson with the Department on December 26, 1997. The Department denied respondent's application, respondent timely filed his Notice of Defense, and the instant hearing ensued.

3. In response to questions 25 and 27 on the application respondent truthfully disclosed that on October 13, 1994, he had been convicted of violating Title 18, U.S. Code, section 1014 (False statement in a loan application.)

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4. On October 5, 1994, in the United States District Court, Central District of California, respondent pled guilty to one count of violating Title 18, U.S. Code, section 1014 (False statement in a loan application), a crime of moral turpitude substantially related to the qualifications, functions, and duties of a licensed salesperson.

On October 13, 1994, respondent was placed on five years probation, ordered to pay a \$50.00 special assessment, and he was required to submit certain financial information, including tax returns, for review.

5. Respondent graduated from West Point in 1959 and served in the Army as an officer until his honorable discharge in 1962. He has an engineering degree and was previously licensed by the California Department of Real Estate, as a real estate broker, from 1977 through 1981, with no record of discipline.

6. The conviction set forth in Finding 4 is the only record of criminal action or disciplinary action taken against respondent.

7. More than three years have passed since respondent's conviction.

8. No restitution was ordered in the criminal matter because the victim suffered no financial loss. Respondent has, however, paid the court ordered "special assessment."

9. Respondent abided by all of the terms and conditions of his probation and completed his probation when he received an early discharge from probation on February 24, 1998.

10. Respondent is remorseful and has reflected a change in attitude from that which existed at the time he committed the crime for which he was convicted. His former probation officer notes that respondent never sought to make excuses for his criminal conduct and that he is truly remorseful. Respondent's former probation officer finds "evidence of integrity" and encourages the Department to seriously consider granting respondent's application for licensure. It is his opinion that respondent "has learned his lesson, is rehabilitated, and would conduct himself with integrity if licensed by the Department." The Administrative Law Judge agrees.

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LEGAL CONCLUSIONS

Based upon the foregoing Factual Findings, the Administrative Law Judge makes the following Conclusions:

1. Cause exists for denial of respondent's license pursuant to Business and Professions Code ("Code") sections 480, subdivision (a) and 10177, subdivision (b), based on respondent's conviction, as set forth in Finding 4. However, in view of the indications of rehabilitation set forth in Findings 6, 7, 8, 9, and 10, it appears that issuance of a restricted license will not adversely effect the public.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's application for a real estate salesperson's license is denied; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to Code section 10156.5. The restricted license shall be subject to all of the terms and conditions set forth in Code section 10156.7, and to the following limitations, conditions and restrictions imposed under the authority of Code section 10156.6:

1. The restricted license shall not confer any property rights in the privileges to be exercised, and the Real Estate Commissioner may, by appropriate order, suspend the right(s) to exercise any privileges granted under the restricted license in the event of:

(a) Respondent's conviction (including a plea of nolo contendere) of a crime substantially to the qualifications, functions or duties of a licensed salesperson, or, substantially related to respondent's fitness or capacity to function as a real estate salesperson; or,

(b) Receipt of evidence 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 his restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions, limitations or restrictions attaching to her restricted license until one year has elapsed from the date of issuance of the restricted license.

3. With the application for licensure, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by

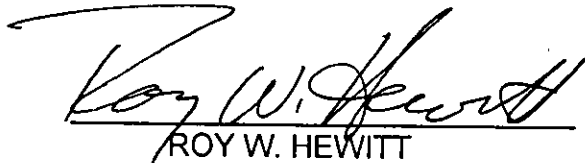
the prospective employing real estate broker on a form approved by the Department, which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for issuance of the restricted license; and,

(b) That the employing broker will carefully review all transaction documents prepared by respondent and otherwise exercise close supervision over respondent's performance of acts for which a license is required.

4. Respondent's restricted real estate salesperson's license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months after issuance of the restricted license, submit evidence, satisfactory to the Commissioner, of successful completion, at an accredited institution, of two of the courses listed in section 10153.2, **other than** real estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. If respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. The suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent that the suspension has been lifted.

Dated: June 18, 1998.



ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

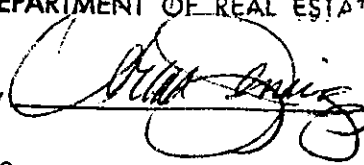
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FILED
APR 27 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of)
)
 DOUGLAS WILLIAM SEFTON,)
)
 Respondent.)

Case No. H-27617 LA
OAH No. L-1998040230

By



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, 107 South Broadway, 2nd Floor, Los Angeles, California, on May 21, 1998, 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. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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 and pay for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: April 27, 1998.

cc: Douglas William Sefton
Sacto.
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DEPARTMENT OF REAL ESTATE



V. AHDA SANDS, Counsel

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V. AHDA SANDS, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
MAR 30 1998

DEPARTMENT OF REAL ESTATE

By

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of)
DOUGLAS WILLIAM SEFTON,)
Respondent.)

No. H-27617 LA

STATEMENT OF ISSUES

The Complainant, Thomas Mc Crady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against DOUGLAS WILLIAM SEFTON (respondent) is informed and alleges as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about December 26, 1997, with the knowledge and understanding that any license issued as a result of that application would be subject to the conditions of Section 10153.4 of the Business and Professions Code.

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2.

On or about October 13, 1994, in the United States District Court, Central District of California, County of Los Angeles, respondent was convicted upon a guilty plea of violating one count of Title 18, Section 1014 of the Unites States Code (false statement in a loan application), a crime which involves moral turpitude and is substantially related to the qualifications, functions or duties of a real estate licensee.

3.

The crime of which respondent was convicted, as alleged above, constitutes cause for denial of his application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

4.

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

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1 WHEREFORE, the Complainant prays that the above-entitled
2 matter be set for hearing and, upon proof of the charges contained
3 herein, that the Commissioner refuse to authorize the issuance of,
4 and deny the issuance of a real estate salesperson license to
5 Respondent DOUGLAS WILLIAM SEFTON and for such other and further
6 relief as may be proper in the premises.

7 Dated at Los Angeles, California

8 this 30th day of March, 1998.


Deputy Real Estate Commissioner

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21 cc: Douglas William Sefton
22 Sacto.
DKB
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