

FLAG

FILED

AUG - 6 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JOSEPH ANTHONY SCHIRO,

Respondent.

No. H-27868 LA

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 20, 1999, a Decision was rendered herein revoking the real estate broker license of Respondent effective May 18, 1999, but granting Respondent the right to the issuance of a restricted real estate broker license on terms and conditions. A restricted real estate broker license was issued to Respondent on May 18, 1999. Respondent has operated as a restricted licensee since that time.

On April 18, 2008, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate broker license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this

4 Order:

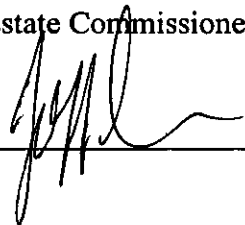
5 1. Submittal of a completed application and payment of the fee for a real estate
6 broker license.

7 2. Submittal of evidence of having, since the most recent issuance of an original
8 or renewal real estate license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
10 license.

11 This Order shall become effective immediately.

12 IT IS SO ORDERED

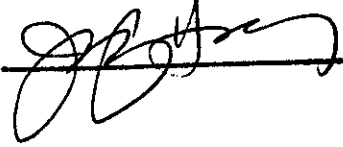
13
14 JEFF DAVI
15 Real Estate Commissioner

16
17 
18
19
20
21
22
23
24
25
26
27

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

FILED
FEB 20 2003

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27868 LA
)
ARMIN WITTENBERG,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 20, 1999, a Decision was rendered herein
revoking the real estate salesperson license of Respondent,
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
May 18, 1999 and Respondent has operated as a restricted
licensee without cause for disciplinary action against
Respondent since that time.

On May 8, 2002, Respondent petitioned for
reinstatement of said real estate salesperson license and
the Attorney General of the State of California has been
given notice of the filing of said petition.

1 I have considered the petition of Respondent and
2 the evidence and arguments in support thereof including
3 Respondent's record as a restricted licensee. Respondent
4 has demonstrated to my satisfaction that Respondent meets
5 the requirements of law for the issuance to Respondent of
6 an unrestricted real estate salesperson license and that
7 it would not be against the public interest to issue said
8 license to Respondent ARMIN WITTENBERG.
9

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

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

17 2. Submittal of evidence of having, since the most
18 recent issuance of an original or renewal real estate license,
19 taken and successfully completed the continuing education
20 requirements of Article 2.5 of Chapter 3 of the Real Estate
21 Law for renewal of a real estate license.

22 This Order shall be effective immediately.

23 Dated: February 14, 2003

24 PAULA REDDISH ZINNEBANN
25 Real Estate Commissioner
26
27

cc: Armin Wittenberg
1065 Carolyn Way
Beverly Hills, CA 90210

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
APR 28 1999
DEPARTMENT OF REAL ESTATE

By C. M. [Signature]

In the Matter of the Accusation of)

No. H-27868 LA

L-1998110298

JOSEPH A. SCHIRO and
ARMIN WITTENBERG,

Respondent(s).)

DECISION

The Proposed Decision dated March 24, 1999,
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.

This Decision shall become effective at 12 o'clock
noon on May 18, 1999.

IT IS SO ORDERED April 20, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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

In the Matter of the Accusation Against:	)	CASE NO. H-27868
	)	
JOSEPH A. SCHIRO	)	OAH NO. L 1998110298
	)	
and	)	
	)	
ARMIN WITTENBERG,	)	
	)	
Respondents.	)	
_____	)	

PROPOSED DECISION

John Thomas Montag, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 24, 1999.

Christopher K. D. Leong, Real Estate Counsel, represented the Department of Real Estate.

James D. Henderson, Attorney at Law, represented respondent, Armin Wittenberg, who was present throughout the hearing.

Brian D. McMahon, Attorney at Law, represented respondent, Joseph A. Schiro, who was also present throughout the hearing.

The parties stipulated that both respondents had managed an apartment complex for another person without possessing a real estate broker's license, as charged in the Accusation herein, and that respondent Wittenberg had been convicted of the misdemeanor offense of violating Section 487 (a) of the California Penal Code, as alleged in the Accusation.

Evidence was received for the limited purpose of assisting the Court in determining the appropriate disciplinary action to be imposed for respondents' admitted violations of the Real Estate Law. Following the receipt of such evidence, the record was closed and the matter was submitted on February 24, 1999.

FACTUAL FINDINGS

1. Thomas McGrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, signed the Accusation herein on October 9, 1998, seeking to impose disciplinary action against all licenses and licensing rights of respondents, Joseph A. Schiro and Armin Wittenberg, under the Real Estate Law, on the grounds that respondents Schiro and Wittenberg had engaged in the activities of a real estate broker, without being licensed to do so, and had accepted compensation for such activities from a person other than the broker under whom they were then licensed, in violation of Sections 10130 and 10137 of the Business and Professions Code.

The Accusation alleges as a further ground for disciplinary action against respondent Wittenberg only, that said respondent was convicted of a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate licensee, in violation of Section 10177 (b) of the Business and Professions Code.

The Accusation was filed with the Department on October 9, 1998, and it was, thereafter, duly served on respondents. Respondents executed and timely filed their Notices of Defense with the Department, and this hearing ensued.

2. Respondent, Armin Wittenberg, obtained his current real estate salesperson license No. 01122440 from the Department on October 8, 1995. His current license will expire on October 8, 1999.

3. Respondent, Joseph A. Schiro, obtained a real estate salesperson license from the Department on October 1, 1995. His salesperson license was terminated on July 9, 1997, when the Department issued him a real estate broker license. His license number is 01162621.

4. In 1989 respondent, Armin Wittenberg, commenced a friendship with Warren J. Marion, M.D.. As a result of that friendship, respondent Wittenberg sold two pieces of real property for Dr. Marion, his residence and two vacant lots. Dr. Marion owned a duplex on North Orange Avenue in Los Angeles, which he also listed for sale with respondent Wittenberg and Respondent Schiro. That property did not sell.

5. Dr. Warren also owned 16 apartments, located in two buildings, at 414-418 North Curson Avenue in Los Angeles, California. On May 19, 1996 respondents Wittenberg and Schiro entered into a written agreement with Dr. Marion to manage those apartment units and to receive as compensation for so doing a monthly sum of 5% of the gross monthly income from said apartments. At the time that respondents entered into this agreement, neither of them was licensed as a broker by the Department. At this time, their employing broker was Jon Douglas Company. Said broker was not a party to the management agreement. The compensation which they received for their management activities was not paid to them through their employing

broker. They received direct payment for their services from Dr. Marion. They testified that they agreed to manage the properties as a favor to Dr. Marion, because he had experienced difficulty in persuading anyone else to manage his properties for him.

6. Respondents managed the apartment units for Dr. Marion until May 20, 1997, at which time they elected to withdraw from the agreement. According to respondents, they had great difficulty with Dr. Marion over his practice of refusing to pay for the full amount of the repair services which respondents arranged for his properties. The termination of the arrangement was not entirely amicable and respondents were forced to sue Dr. Marion for unpaid fees in the amount of \$1,693.67. They recovered a judgment against Dr. Marion in the Small Claims Division of the Beverly Hills Municipal Court in November 1997.

7. For their management services, respondents received \$8,604.11 as their percentage of the rents collected. As noted above, this compensation was paid directly to respondents and it was not paid through their employing broker.

8. Other than properties within their own families, neither of the respondents has managed any other person's property, except for Dr. Marion's property, either before or after their agreement with him in May 1996. Neither respondent was aware that a broker's license was required in order to manage real property for another person.

9. Section 10137 of the Business and Professions Code provides, in pertinent part:

"No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed."

10. Section 10130 of the Business and Professions Code provides, in pertinent part:

"10130. It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department."

11. Section 10131 of the Business and Professions Code provides, in pertinent part:

"10131. A real estate broker within the meaning of this part is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others:

(b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for

prospective tenants, or negotiates the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities."

12. The actions of respondents Schiro and Wittenberg, described in detail in Findings 5, 6 and 7, above, come within the purview of Sections 10131 and 10137 of the Business and Professions Code. These actions of respondents Schiro and Wittenberg violated Sections 10130 and 10137 of the Business and Professions Code, and constitute cause to suspend or revoke all of their licenses and licensing rights under the Real Estate Law.

13. In mitigation of respondents' actions in unlawfully managing Dr. Marion's properties, it does appear that neither respondent was aware of the fact that such activities required them to possess a broker's license. Now they do know, and it is not likely that they will repeat this mistake.

Neither did they know that payments for such management activity should have been channeled through their employing broker. They were employed by Jon Douglas Company, a Coldwell Banker Brokerage Company as "Independent Contractors" (Exhibit A) and they assumed that this independent status gave them the right to engage in the management activity on their own. They now know differently and they will not repeat this mistake.

Neither respondent has any record of prior disciplinary action by the Department. They were cooperative in the investigation of this matter. They presented themselves in an exemplary manner at the hearing. They are good candidates for probation for these offenses.

14. On January 14, 1998, in the Municipal Court of the Beverly Hills Judicial District, County of Los Angeles, State of California, in Case No. SA030659, respondent Armin Wittenberg was convicted, upon his plea of nolo contendere, of one count of Grand Theft of Property over a value of \$400.00, in violation of Section 487 (a) of the California Penal Code, made a misdemeanor offense pursuant to Section 17(b)(4) of the Penal Code. He was sentenced to House Arrest for 60 days, 200 hours of Community Service, a fine in the amount of \$110.00 and restitution of the sum of \$3,805.37 to the Homeowners' Association of the residential community in which he resided.

Respondent completed the terms of his sentence and this conviction was expunged, pursuant to Section 1203.4 of the Penal Code, on January 11, 1999. (Exhibit D.)

15. The offense of which respondent was convicted on January 14, 1998, is a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, pursuant to Section 2910 of Title 10, California Code of Regulations. Such a conviction constitutes cause for suspension or revocation of his license and

license rights under the Real Estate Law, in accordance with the provisions of Sections 490 and 10177(b) of the Business and Professions Code.

16. The circumstances of respondent Wittenberg's criminal conviction are:

For three years he was the President of the Beverly Hills Towne House Homeowners' Association, the community in which he resided. During that time, the community was engaged in extensive repair work to the residential units caused by the 1994 Northridge earthquake. For approximately one year of that time the Treasurer of the Homeowners' Association was absent from the country and respondent Wittenberg took over his duties. He became sloppy in his bookkeeping and, among other things, for a number of months he paid his personal utility bills, along with the Association's utility bills, which were addressed to him because he was the president, from the Homeowners' Association account. Respondent's records were apparently in some disarray.

Further, the Association had offered to pay Mr. Wittenberg, for his years of effort in effecting the restoration of the community's buildings, a sum of money in excess of the \$3,800.00 which he ultimately reimbursed to the Association as part of his plea bargain. Mr. Wittenberg declined the payment. Mr. Wittenberg's testimony in this regard is verified by Exhibits E and F, which are letters from two of the homeowners in the community.

In further mitigation, Exhibit F is a letter from the Secretary of the Homeowners' Association during the time in question, who says that she doubts that Mr. Wittenberg ever intended to misappropriate any of the Association's funds and that the cost of defense was the motivating factor for his having entered a plea to the criminal charge. She would welcome him back as an Association member and would trust him to serve honorably. She asks that his license not be revoked.

Similarly, and of even more persuasion in mitigation, is the letter from Mr. Stan Richman, who is respondent Wittenberg's Manager and Supervisor at Coldwell Banker Beverly Hills South Office (formerly Prudential Jon Douglas). (Exhibit G.) Mr. Richman states that respondent Wittenberg is a dedicated family man, who is well liked and respected by his co-workers. He is familiar with respondent's work and verifies his employment with the same company for eight years. He attests that: "At no time has Mr. Wittenberg engaged in any activity which would make me doubt either his integrity or his capabilities." Mr. Richman asks that respondent's "ability to earn a living not be taken from him."

The reduction of the criminal charge to a misdemeanor by the prosecutor at the time of respondent's plea, the relative leniency of the sentence imposed by the court thereafter, and the expungement of the charge by the court after only one year's time, all indicate that this was not a serious offense. Exhibits E and F confirm this impression. All of the factors noted herein indicate that respondent Wittenberg may be entrusted with a probationary license.

LEGAL CONCLUSIONS

1. Cause exists, pursuant to Sections 10130 and 10137 of the Business and Professions Code, to suspend or revoke respondent Joseph A. Schiro's real estate broker's license, and to suspend or revoke respondent Armin Wittenberg's real estate salesperson's license, upon the ground that, commencing in May 1996, and continuing through May 1997, they engaged in the activities of a real estate broker without being first licensed to do so by the Department of Real Estate, when they managed the properties of another person, and upon the further ground that they did not channel the compensation which they received for such management activities through their employing broker, by reason of Findings 2, 3, 4 5, 6, 7, 8, 9, 10, 11 and 12.

2. A further cause exists to suspend or revoke respondent Armin Wittenberg's real estate salesperson's license upon the ground that he has been convicted of a crime involving moral turpitude, which bears a substantial relationship to the qualifications, functions or duties of a real estate licensee, in violation of Sections 490 and 10177(b) of the Business and Professions Code, by reason of Findings 14 and 15.

3. Although cause does exist to suspend or revoke the licenses of each respondent herein, in view of the matters set forth in Findings 13 and 16, this is an appropriate case in which to stay the disciplinary action and allow each respondent to have a restricted license, in accordance with certain specified terms, conditions and restrictions, as set forth hereinafter.

ORDER

1. All licenses and licensing rights of respondent, Joseph A. Schiro, under the Real Estate Law are revoked; provided, however, that a restricted real estate broker license shall be issued to respondent, pursuant to Section 10156.5 of the Business and Professions Code, if respondent makes application therefor, 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 to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The 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 of, or plea of nolo contendere to, a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner, on evidence satisfactory to the Commissioner, that respondent has violated any provisions of the California Real Estate Law, the Subdivided Lands law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor for the removal of any of the conditions, limitations or restrictions of a restricted license, until twenty-four (24) months have elapsed from the effective date of this Decision.

d. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal 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 a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

2. All licenses and licensing rights of respondent, Armin Wittenberg, under the Real Estate Law are revoked; provided, however, that a restricted real estate salesperson license shall be issued to respondent, pursuant to Section 10156.5 of the Business and Professions Code, if respondent makes application therefor, 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 to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The 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 of, or plea of nolo contendere to, a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner, on evidence satisfactory to the Commissioner, that respondent has violated any provisions of the California Real Estate Law, the Subdivided Lands law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor for the removal of any of the conditions, limitations or restrictions of a restricted license, until twenty-four (24) months have elapsed from the effective date of this Decision.

d. Respondent shall submit with any application for license under an employing broker, or real estate mortgage loan company, or any application for transfer to a new employing broker, or real estate mortgage loan company, a statement signed by the prospective employing real estate broker, or real estate mortgage loan company, on a form approved by the Department of Real Estate, which shall certify:

(1) That the employing broker, or real estate mortgage loan company, has read the Decision of the Commissioner which granted the right to a restricted license; and

(2) That the employing broker, or real estate mortgage loan company, will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

e. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal 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 a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: March 24, 1999


JOHN THOMAS MONTAG
Administrative Law Judge
Office of Administrative Hearings

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
JOSEPH A. SCHIRO)
and ARMIN WITTENBERG,)
Respondent(s)

Case No. H-27868 LA

OAH No. L-1998110298

FILED
DEC - 2 1998
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By C3

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on TUESDAY, WEDNESDAY and THURSDAY, FEBRUARY 23, 24 and 25, 1999, at the hour of 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.

DEPARTMENT OF REAL ESTATE

Dated: December 2, 1998

By

Chris Leong
CHRIS LEONG, Counsel

cc: Joseph A. Schiro
Armin Wittenberg
Brian D. McMahon, Esq.
James D. Henderson, Esq.
Coldwell Banker Residential Brokerage Co.
✓ Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

5AC

1 CHRIS LEONG, Counsel
2 State Bar Number 141079
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012
6 (213) 897-3937

FILED
OCT - 9 1998
DEPARTMENT OF REAL ESTATE

By CB

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

10
11 In the Matter of the Accusation of)
12 JOSEPH A. SCHIRO, and) NO. H-27868 LA
13 ARMIN WITTENBERG,) A C C U S A T I O N
14 Respondent.)

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against JOSEPH A. SCHIRO (hereinafter "SCHIRO") and ARMIN
18 WITTENBERG (hereinafter "WITTENBERG"), (hereinafter sometimes
19 referred to as "Respondents"), is informed and alleges as
20 follows:

21 I

22 The Complainant, Thomas McCrady, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 in his official capacity.

25 II

26 At all times herein mentioned, effective October 9,
27 1991, Respondent WITTENBERG was licensed and/or had license
rights under the Real Estate Law, Part 1 of Division 4 of the

1 Business and Professions Code, as real estate salesperson. Jon
2 Douglas Company was WITTENBERG's employing broker from
3 December 5, 1995 to November 2, 1997.

4 III

5 On or about July 21, 1993, Respondent SCHIRO was
6 licensed and/or had license rights under the Real Estate Law,
7 Part 1 of Division 4 of the Business and Professions Code
8 (Code), as real estate salesperson. Jon Douglas Company was
9 SCHIRO's employing broker from November 15, 1995 to July 9,
10 1997. On or about July 9, 1997, SCHIRO was licensed as real
11 estate broker.

12 IV

13 On or about January 14, 1998, in the Municipal Court
14 of Beverly Hills Judicial District, County of Los Angeles,
15 California, Respondent WITTENBERG, was convicted of violating
16 Section 487(a) of the California Penal Code (Grand theft by
17 embezzlement), a crime involving moral turpitude which is
18 substantially related under Section 2910, Title 10, California
19 Code of Regulations to the qualifications, functions or duties
20 of a real estate licensee.

21 V

22 Respondent WITTENBERG's criminal conviction, as
23 alleged above in Paragraph IV, is cause under Code Sections 490
24 and 10177(b) for the suspension or revocation of all of his
25 licenses and license rights under the Real Estate Law.

26 /////

27

1 VI

2 At all times mentioned herein, for compensation or in
3 expectation of compensation, Respondents engaged in the business
4 of, acted in the capacity of, advertised or assumed to act as
5 real estate brokers in the State of California, within the
6 meaning of Code Section 10131(b), including the operation of a
7 real estate property management business with the public wherein
8 tenants and owners were solicited for leases of real property,
9 wherein such lease and management agreements were arranged,
10 negotiated, processed, and consummated on behalf of others for
11 compensation or in expectation of compensation. On or about
12 May 19, 1996, SCHIRO and WITTENBERG entered into a property
13 management agreement with Warren J. Manion (hereinafter
14 "Manion") for the management of real property known as 414 & 418
15 North Curson Avenue, Los Angeles, CA (hereinafter "Curson Ave.
16 property"). As part of this agreement, SCHIRO and WITTENBERG
17 agreed to solicit renters, negotiate leases and collect rents
18 from renters of the Curson Ave property. The effective date of
19 the property management agreement was June 1, 1996.

20 VII

21 Prior to engaging in the business and acting in the
22 capacity of a real estate broker within the State of California,
23 Respondents failed to obtain real estate broker licenses from
24 the Department of Real Estate, in violation of Code Section
25 10130.

26 VIII

27 Between June 1, 1996 to about July 1, 1997, SCHIRO and

1 WITTENBERG independently managed the Curson Ave. property and
2 received approximately \$8,604.11 as compensation from Manion.
3 Although SCHIRO and WITTENBERG were salespersons at the time
4 they were managing the Curson Ave. property, their sponsoring
5 broker, Jon Douglas Company, was unaware that they were managing
6 the Curson Ave. property. The compensation referred to, above,
7 was paid directly to them and not through their employing
8 broker.

9 IX

10 Respondents WITTENBERG's and SCHIRO's conduct, as
11 alleged above in Paragraphs VI through VIII, are cause under
12 Code Sections 10130 and 10137 for the suspension or revocation
13 of all their licenses and license rights under the Real Estate
14 Law.

15 WHEREFORE, Complainant prays that a hearing be
16 conducted on the allegations of this Accusation and that upon
17 proof thereof, a decision be rendered imposing disciplinary
18 action against all licenses and license rights of Respondents,
19 JOSEPH A. SCHIRO and ARMIN WITTENBERG, under the Real Estate Law
20 (Part 1 of Division 4 of the Business and Professions Code), and
21 for such other and further relief as may be proper under other
22 applicable provisions of law.

23 Dated at Los Angeles, California
24 this 9th day of October, 1998.

25 THOMAS MCCRADY

Deputy Real Estate Commissioner

26 cc: Joseph A. Schiro
27 Armin Wittenberg
Sacto.
CL