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**FILED**  
APR 29, 1999  
DEPARTMENT OF REAL ESTATE  
By *[Signature]*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Application of )	No. H-27881 LA
)	)
)	)
WAYNE AARON PITTER,	L-1998110248
)	)
)	)
Respondent.	)
)	)

DECISION

The Proposed Decision dated March 26, 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.

The application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on MAY 19 1999.

IT IS SO ORDERED April 21, 1999.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

*John R. Liberator*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of	)	
	)	NO. H-27881 LA
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WAYNE AARON PITTER	)	OAH. L-1998110248
	)	
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Respondent.	)	
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PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, on March 17, 1999, at Los Angeles, California.

James R. Peel, Real Estate Counsel, represented the complainant Department of Real Estate. Respondent was personally present throughout the hearing and represented himself.

Oral and documentary evidence and evidence by way of stipulation on the record having been received and the matter submitted, the Administrative Law Judge finds as follows:

1. Thomas McCrady, Deputy Real Estate Commissioner, State of California, made the Statement of Issues in his official capacity.

2. Respondent made application to the Department for a real estate salesperson license on April 15, 1998. Said license was to be subject to Business and Professions Code section 10153.4.

3. Question 25 of said application asked 'Have you ever been convicted of any violation of law?' In response thereto, respondent marked the box denoting 'Yes', and disclosed a conviction on March 11, 1998 for violation of Vehicle Code section 23152. Respondent failed to disclose the conviction found in Finding 4, which failure constitutes the procurement of a real estate license by the making of a material misstatement of fact in an application.

4. A. On May 13, 1997, in the Municipal Court, South Judicial District, County of Orange, State of California, respondent was convicted, on his plea of guilty, of a violation of Penal Code section 488 (petty theft), a misdemeanor which involved moral turpitude and which is substantially related under 10 California Code of Regulations section 2910, to the duties, qualifications or functions of a real estate licensee.

B. Imposition of sentence was suspended and respondent was placed on 3 years probation subject to certain terms and conditions including a fine and restitution.

C. The facts and circumstances surrounding the conviction were that respondent left a supermarket with cigarettes that he had not paid for.

5. Respondent admits his failure to disclose his prior conviction on his application and offers no evidence in mitigation other than that he was ashamed of his conduct.

6. Respondent is 31 years of age, single and has been a resident of Southern California for 23 years. He is a High School graduate but holds no college degree. Respondent had been previously licensed by the Department but allowed said licensure to expire in February, 1998.

7. Respondent has been employed for approximately one year as a telemarketer by a Real Estate Broker who is aware of his prior conviction.

8. No credible evidence of mitigation or rehabilitation was offered by respondent. While he paid all of his fines and restitution orders, he remains on probation. It is suggested that he reapply at such time as he is no longer on probation and has received an expungement Order from the court.

\* \* \* \* \*

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

1. Grounds exist to deny respondent's application for a license pursuant to Business and Professions Code sections 480 and 10177(a), based on Findings 3 and 4.


2. Further grounds exist to deny respondent's application for a license pursuant to Business and Professions Code sections 480 and 10177(b), based on Finding 4.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent Wayne Aaron Pitter's application for a real estate salesperson's license is denied.

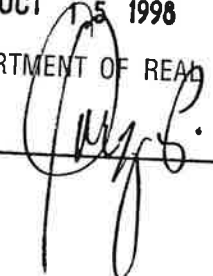
Dated: March 26, 1999

  
\_\_\_\_\_  
Leslie H. Greenfield  
Administrative Law Judge  
Office of Administrative Hearings

LHG:me

SACTO

JAMES R. PEEL, Counsel  
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Department of Real Estate  
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Los Angeles, CA 90012  
(213) 897-3937

FILED  
OCT 15 1998  
DEPARTMENT OF REAL ESTATE  
By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Application of ) NO. H-27881 LA  
)  
WAYNE AARON PITTER, ) STATEMENT OF ISSUES  
)  
Respondent. )  
\_\_\_\_\_ )

The Real Estate Commissioner, in conformity with Section 10152, Division 4, Business and Professions Code of the State of California, requires further proof of the honesty and truthfulness of WAYNE AARON PITTER, (hereinafter referred to as respondent), in connection with respondent's application for a real estate salesperson license, filed on April 15, 1998, and in relation thereto, will consider the following:

I

Respondent, pursuant to the provisions of Section 10153.3 of the 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 April 15, 1998



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

4 II

5 In response to Question 25 of said license  
6 application, to wit "Have you ever been convicted of any  
7 violation of law?" respondent marked the box denoting "yes", and  
8 disclosed a conviction on March 11, 1998, for violation of  
9 Vehicle Code Section 23152. Respondent disclosed no other  
10 convictions.

11 III

12 In truth, on or about May 13, 1997, in the Municipal  
13 Court, County of Orange, State of California, respondent was  
14 convicted of violating Penal Code Section 488 (petty theft), a  
15 crime involving moral turpitude.

16 IV

17 The crime of which respondent was convicted bears a  
18 substantial relationship to the qualifications, functions or  
19 duties of a real estate licensee.

20 V

21 Respondent's failure to reveal the criminal conviction  
22 set forth in Paragraph III above, in said application,  
23 constitutes the procurement of a real estate license by fraud,  
24 misrepresentation or deceit, or by making a material  
25 misstatement of fact in said application, which failure is cause  
26 for denying respondent's application for a real estate license  
27 under Sections 480 and 10177(a) of the Business and Professions  
Code of the State of California.



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Respondent's criminal conviction, as alleged in Paragraph III, above, is cause under Sections 480 and 10177(b) of the Business and Professions Code for denying respondent's application for a real estate license.

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.

Dated at Los Angeles, California this 14th day of October, 1998.

  
Deputy Real Estate Commissioner

cc: WAYNE AARON PITTER  
Sacto.  
SV

JRP:rgp