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FILED
NOV 21 2001
DEPARTMENT OF REAL ESTATE

By *Laura S. Owen*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-27942 LA
)
GLEN EVAN SCALISE,)
)
Respondent.)

ORDER NUNC PRO TUNC MODIFYING
ORDER DENYING REINSTATEMENT OF LICENSE

It having been called to the attention of the Real Estate Commissioner that there are errors in the Order dated January 16, 2001, which was to be effective February 15, 2001, and good cause appearing therefor, the Decision is amended as follows:

Paragraph I, Page 2, Lines 20-23 of the Order is amended to read as follows:

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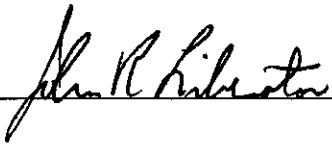
"This escrow instruction was not shown to the lender making the loan for the purchase. Respondent was assured by the buyer's agent, the loan agent and his supervising broker, that this was acceptable."

Page 3, Line 21, of the Order which reads "This Order shall be effective immediately" is stricken.

This Order, nunc pro tunc to January 16, 2001, shall become effective at 12 o'clock noon on February 15, 2001.

IT IS SO ORDERED November 19, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BY: John R. Liberator
Chief Deputy Commissioner

cc: Glen Evan Scalise
3383 Montagne Way
Thousand Oaks, CA 91361

1 I have considered the petition of Respondent and
2 the evidence and arguments in support thereof. Respondent has
3 failed to demonstrate to my satisfaction that Respondent has
4 undergone sufficient rehabilitation to warrant the reinstatement
5 of Respondent's real estate salesperson license. This
6 determination has been made in light of Respondent's history
7 of acts and conduct which are substantially related to the
8 qualifications, functions and duties of a real estate licensee.
9 That history includes:

10
11 I

12 The Decision which revoked Respondent's real estate
13 salesperson license pursuant to Sections 490(a) and 10177(b) of
14 the Business and Professions Code, was based on Findings that
15 Respondent was convicted of violating 18 United States Code
16 1014, 2 (False Statement in a Loan Application) on April 10,
17 1998. The facts which resulted in said conviction were that
18 Respondent represented a seller in a real estate transaction in
19 which a false escrow instruction was prepared indicating changes
20 in the sales price and a credit to the buyer. This escrow
21 instruction was not shown to the lender making the loan for the
22 purchase, and Respondent assured the buyer's agent and the loan
23 agent that this was acceptable.

24 As a result of said conviction, Respondent was
25 sentenced to two years probation on various terms and
26 conditions, including the payment of a fine in the amount of
27 \$5,000, 150 hours of community service, and the condition that

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REMOVED

1 Respondent cooperate with the Department of Real Estate with
2 respect to the conviction.

3 II

4 Respondent's conviction has not been expunged.
5 This evidences lack of rehabilitation and is cause to deny
6 Respondent's petition pursuant to Section 2911(c) of the
7 Title 10, Chapter 6, California Code of Regulations
8 ("Regulations").

9 III

10 Due to the very serious nature of the acts and
11 misconduct which led to the loss of Respondent's real estate
12 salesperson license, not enough time has passed to establish
13 that Respondent is now fully rehabilitated. This is cause to
14 deny Respondent's petition pursuant to Section 2911(a) of the
15 Regulations.

16 NOW, THEREFORE, IT IS ORDERED that Respondent's
17 petition for reinstatement of Respondent's salesperson license
18 is denied.

19 This Order shall become effective at 12 o'clock noon
20 on February 15, 2001.

21 ~~This Order shall be effective immediately.~~ *STRICKEN*

22 DATED: January 16, 2001

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner
25 *Paula Reddish*

26 cc: Glen Evan Scalise
27 3383 Montagne Way
Thousand Oaks, CA 91362

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against:)	
)	DRE Case No. H-27942 LA
GLEN E. SCALISE,)	
)	OAH No. L1999010219
Respondent.)	
_____)	

PROPOSED DECISION

This matter came on regularly for hearing before David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California, at Los Angeles, California on February 17, 1999. Complainant Thomas McCrady and the Department of Real Estate ("DRE") were represented by Elliott Mac Lennan, Staff Counsel. Respondent, Glen E. Scalise, was present and was represented by Hugh W. Holbert, attorney at law.

At the hearing, the Accusation was amended as follows:

1. At page 2, line 3: change "broker" to "salesperson";
2. At page 2, line 4: change "1998" to "1985"; and
3. At page 2, line 4: change "two counts" to "one count."

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

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Thomas McCrady, a Deputy Real Estate Commissioner, in his official capacity.
2. Respondent was licensed by DRE on July 19, 1985 as a salesperson. His license will expire on July 18, 2001, unless renewed. Respondent has no prior license disciplinary record.
3. On April 10, 1998, in the United States District Court for the Central District of California, in case no. CR 97-985-ER, respondent was convicted on his plea of guilty to one

count of violating Title 18, United States Code section 1014 (false statement in a loan application), a felony which is substantially related to the qualifications, functions and duties and of a DRE licensee pursuant to California Code of Regulations, Title 10, section 2910.

Respondent was sentenced to pay a \$5000 fine and was placed on probation for 2 years on various terms and conditions, including that he perform 150 hours of community service and cooperate with DRE with respect to the conviction.

4. Respondent's conviction was the result of his actions in October 1988. He represented a seller in a real estate transaction in which a false escrow instruction was prepared indicating changes in the sales price and a credit to the buyer. This escrow instruction was not shown to the lender making the loan for the purchase. Although respondent was concerned about this practice, he was assured by the buyer's agent and the loan agent that this was acceptable. When respondent asked his supervising broker (Ray Lamb), he was again assured that, as long as the buyer and seller were aware, this was a normal business practice.

5. Respondent continued to work for the same broker (Lamb) for several years, but began to distrust him. Respondent and several other employees decided to form their own business in 1994, and since then he has been working for Starion Four Team Inc., presently under the supervision of Claire Molavi, broker. His partners and his broker are aware of the criminal conviction and this present licensing case, and are all in support of respondent.

In 1991 or 1992, respondent was asked to assist the FBI in its investigation of Lamb. He reviewed various transaction files at the FBI's request.

Respondent first learned of the criminal case against him in 1997. Respondent has completed approximately 40% of the 150 hours of community service required under his probation. He has paid the fine of \$5000.

6. At the time of the transaction, respondent was apprehensive about going forward but, when he challenged it, was assured it was OK. Lamb told him that these were good practices because it helped people buy their houses. Lamb instructed all of his 35 to 40 salespeople in using these practices.

Respondent now knows this was wrong and states that, if he were advised to do something that he thought was wrong, he would not follow it and would tell the seller to "walk away from the deal" and list the property for sale again.

In his present job, respondent tries to uphold the highest standards of real estate practice. He has had no other complaints lodged against him.

7. Respondent has lived in Thousand Oaks for the past 20 years. He has been married for 22 years and supports his wife and two children, ages 12 and 14. He uses his license full-time, in

residential sales.

8. Respondent expresses his remorse in many different ways. He states that, by his actions, he not only jeopardized himself but also his clients and the bank. He freely admits his actions and acknowledges that they amounted to fraud and a serious error in judgment. He characterizes his actions as naïve and wrong. His mentor/role model has proven to be dishonest and is now in jail. He now tries to strictly abide by the law. He expresses embarrassment and anxiety over his actions.

Respondent was candid in his testimony. By his demeanor, conduct and testimony, respondent demonstrated that these acts were an aberration from his usual course of conduct and are not likely to be repeated.

9. Respondent has satisfied the majority of the criteria for rehabilitation found at California Code of Regulations, Title 10, section 2912. The only relevant factors listed that he has not complied with are subsections (a) and (d). Subsection (a) requires the passage of at least two years since the conviction. As applied to respondent, this factor is ameliorated because, although the conviction was in 1998, the underlying acts took place more than 10 years earlier. Subsection (d) requires completion of the criminal probation, which won't take place until April 2000.

DETERMINATION OF ISSUES

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

1. Grounds exist to suspend or revoke respondent's license pursuant to Business and Professions Code section 490(a), as that section interacts with section 10177(b), for conviction of a crime, as set forth in Findings 3 and 4.
2. Considering all the facts and circumstances of this matter, and particularly the nature of the criminal act, the passage of time since the criminal act and respondent's remorse and rehabilitation, it would not be inconsistent with the public interest to revoke respondent's license and allow respondent to apply for a restricted license with appropriate terms and conditions during a probationary period. See Findings 4 through 9.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent Glen E. Scalise under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department the appropriate fee within 90 days from the effective date of this Decision.

The restricted license issued to the respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of Code section 10156.6:

1. 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 provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted license, or in the event of the conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted license, nor for the removal of any conditions, limitations or restrictions attaching to the restricted license, until one (1) year has elapsed from the date of issuance of the restricted license pursuant to this Decision.

3. Respondent shall submit with his application for a restricted license under an employing broker, or any application for or notification of transfer to a new employing broker, under California Code of Regulations, Title 10, section 2752, a statement signed by the prospective employing broker on a form approved by DRE which shall certify:

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

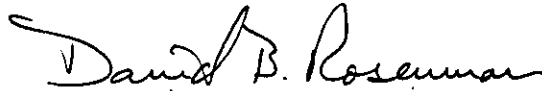
b. That the employing broker will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

4. Respondent shall, within 1 year of the effective date of this Decision, present evidence satisfactory to the 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 suspension of

the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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

DATED: March 19, 1999.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

DBR/dr

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILE
JAN 27 1999
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)
GLEN EVAN SCALISE,)
Respondent.)

Case No. H-27942 LA
OAH No. L- 1999010219

By Sandra B. ...

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

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 FEBRUARY 17, 1999, at the hour of 1:30 p.m. or as soon thereafter as the matter can be heard, upon the Accusation 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 upon 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.

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

Dated: JAN 27 1999

DEPARTMENT OF REAL ESTATE

By: Elliott MacLennan
ELLIOTT MACLENNAN, Counsel

cc: Glen Evan Scalise
Starion Four Team Inc.
Sacto.
OAH

Sachs

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
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DEPARTMENT OF REAL ESTATE

By James B. Orme

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27942 LA
GLEN EVAN SCALISE,)	<u>A C C U S A T I O N</u>
)	
)	
Respondent.)	
_____)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against GLEN EVAN SCALISE 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).

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II

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate broker on July 19, 1998.

III

On April 6, 1998, in the United States District Court for the Central District of California, case number CR 97-985-ER, respondent was convicted upon plea of guilty of violating two counts of 18 United States Code Section 1014 (False Statement In Loan Application), a felony crime 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

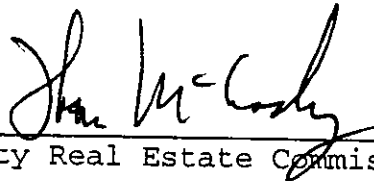
The facts as alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of all licenses and license rights of respondent under the Real Estate Law.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of respondent GLEN EVAN SCALISE under the Real Estate Law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 2nd day of December, 1998,



Deputy Real Estate Commissioner

cc: Glen Evan Scalise
Sacto.
PM

