

FILED
JUL 26 2005
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-28991 LA
GLEN EVAN SCALISE,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 11, 2002, a Decision was rendered herein, denying Respondent's application for a real estate broker license, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 23, 2002. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

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2 On October 14, 2004, Respondent petitioned for the
3 removal of restrictions attaching to Respondent's real estate
4 broker license.

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

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

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

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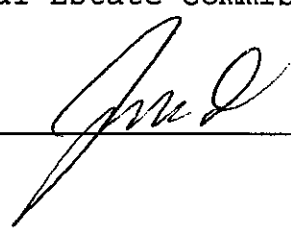
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2 2. Submittal of evidence of having since the most
3 recent issuance of an original or renewal real estate license,
4 taken and successfully completed the continuing education
5 requirements of Article 2.5 of Chapter 3 of the Real Estate
6 Law for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

7 This Order shall be effective immediately.

8 Dated: _____

7-21-08

9 JEFF DAVI
10 Real Estate Commissioner

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12 _____

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22 cc: Glen E. Scalise
23 1033 Sunset Oak Circle
24 Newbury Park, CA 91320
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FILED
JAN 17 2002

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the)	DRE NO. H-28991 LA
Application of)	
)	OAH NO. L200 1040265
GLEN EVAN SCALISE,)	
)	
Respondent.)	

DECISION AFTER REJECTION

This matter was heard on June 15, 2001, at Los Angeles, California by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by Mary E. Work, Counsel. The respondent was present and was represented by Frank M. Buda, Attorney at Law.

On July 9, 2001, the administrative law judge submitted an Amended Proposed Decision which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with notice of my determination not to adopt the Proposed

1 Decision of the Administrative Law Judge along with a copy of
2 said Proposed Decision.

3 On July 26, 2001, Respondent was notified that the
4 case would be decided by me upon the record, the transcript of
5 the proceedings held on June 15, 2001, and upon written argument
6 offered by Respondent, which has now been received.

7 After further consideration of the matter, the
8 following shall constitute the Decision of the Real Estate
9 Commissioner in the above-entitled matter:

10
11 FACTUAL FINDINGS

12
13 1. The Statement of Issues was made by Thomas
14 McCrady in his official capacity as a Deputy Real Estate of the
15 State of California.

16 2. On or about October 23, 2000, Glen Evan Scalise
17 ("Respondent") applied to the Department of Real Estate
18 ("Department") of the State of California for a real estate
19 broker license.

20 3. Respondent is presently licensed and has license
21 rights under a restricted real estate salesperson license.

22 4. On July 19, 1985, Respondent was licensed by the
23 Department as a real estate salesperson. On April 6, 1998, in
24 Case No. CR 97-985-ER of the U. S. District Court for the
25 Central District of California, he pleaded guilty to, and was
26 convicted of, violating 18 U.S.C. 1014 (false statement on loan
27 application), a felony and a crime involving moral turpitude
28 which is substantially related to the qualifications, functions

1 or duties of a real estate licensee. He was placed on two years
2 probation and ordered to pay a \$5,000 fine and perform 150 hours
3 of community service.

4 5. On or about May 4, 1999, Respondent's real estate
5 salesperson license was revoked as a result of said conviction,
6 and he was granted the right to the restricted license he now
7 holds. On September 18, 2000, he petitioned to have his
8 unrestricted license reinstated. The petition was denied on the
9 grounds that his conviction had not been expunged, and not
10 enough time had passed to establish that he was fully
11 rehabilitated. His conviction has still not been expunged, but
12 it was in federal court, and there was no evidence that a
13 procedure similar to that provided by California Penal Code
14 section 1203.4 is available.

15 6. In a written statement dated February 1999,
16 respondent described the facts and circumstances resulting in
17 his conviction as follows:

18 "In 1988, I represented a seller in a real estate
19 transaction. Another agent brought in an offer from a
20 prequalified buyer who was an employee of my broker's
21 company (Lamb Escrow). The sales price and terms were
22 negotiated to the satisfaction of all parties and escrow
23 was opened. My seller proceeded to find a replacement
24 residence, and that escrow was opened a few days later.
25 After the passage of approximately 3 weeks I was informed
26 the buyers could not qualify for the loan they were seeking
27 without a larger down payment. I was informed the buyers
28 did not have additional monies. It was suggested by the

1 buyer's agent and the loan agent that an amendment to
2 escrow be prepared which would reflect an increase to the
3 sales price of \$10,000 and a credit to the buyer of this
4 \$10,000 towards a carpeting and landscape allowance. I knew
5 this amendment would not be shown to the lender.

6 I immediately brought this issue to the attention of
7 my broker. My broker assured me that this was normal
8 business practice. My broker informed me there was no
9 problem so long as the buyers and sellers were aware of
10 what was going on. Believing that my broker had no
11 motivation to improperly advise me, I erroneously believed
12 my broker."

13 7. In an interview with a Deputy Real Estate
14 Commissioner on November 17, 2000, Respondent stated that his
15 broker "suggested that the sellers and buyers sign an amendment
16 to the escrow documents, increasing the sales price by
17 \$10,000.00 and issue a credit to the buyer's for the same
18 amount. The credit was to be earmarked for painting, landscaping
19 and carpeting, however, in reality it was a scheme to help the
20 buyers qualify for the loan without the lender's knowledge.
21 [Respondent] stated that red flags went up at the thought of
22 doing this, however, the REB assured him that as long as the
23 principals were aware and agreed to the arrangement, it would be
24 appropriate do so and that nothing wrong was being done."

25 During the same interview, Respondent was asked by the
26 Deputy Real Estate Commissioner what he had learned from this
27 experience, and he replied that "Real Estate procedures are
28 either black or white, meaning right or wrong, and he has

1 striven to do the right thing. He has learned to follow his own
2 instincts and to play by the rules. [Respondent] stated that if
3 he considers a procedure to be in a gray area, he does not want
4 to go there. He stated that he never wants to be put in this
5 situation again, nor does he want any of his associates to
6 experience what he went through."

7 According to the Deputy Commissioner, "He appeared to.
8 be quite remorseful as he admitted his guilt. He regretted not
9 having followed his initial instincts and walked away from the
10 deal. He stated that since his broker assured him that he was
11 following normal procedures for similar type of transactions,
12 his concerns were alleviated. He has learned a valuable lesson,
13 which is to develop and depend on his own real estate expertise.
14 He has complied with the court ordered probation and fine."

15 8. Respondent testified to substantially the same
16 facts and circumstances at the hearing, except that he did not
17 say it was his broker who suggested that the selling price be
18 artificially raised and that the buyer be given a credit for the
19 difference. He said it was the buyer's agent who made that
20 suggestion. He said that he (respondent) was in his third year
21 as a real estate license, but had just started working at it
22 full-time, and was uncertain about the propriety of what was
23 suggested. Therefore, he asked his broker about the propriety
24 of it before he did anything. His broker told him that was the
25 way business was done and there was nothing wrong with it as
26 long as all of the parties (apparently not including the lender)
27 knew about it. He did not generate the false escrow document,
28 but did have the sellers sign it.

1 (a) Respondent was new to full-time real estate work when
2 he committed the act or acts that resulted in his conviction;

3 (b) He acted appropriately by seeking advice from his
4 broker. However, his broker (who stood to receive both the
5 listing broker's commission and the selling broker's commission)
6 gave him erroneous advice;

7 (c) More than 12 years have elapsed since the crime was
8 committed;

9 (d) The type of life respondent appears to have led in the
10 12-plus years since the crime was committed indicates that he is
11 sufficiently rehabilitated so that it would not be against the
12 public interest to issue him a restricted real estate broker
13 license.

14 3. I do not agree with the Administrative Law Judge's
15 Legal Conclusion 2(c) that,

16 "(c) None of the parties, including the lender, suffered a
17 monetary loss";

18 Any type of loan fraud results in harm to the public.
19 In the instant case, there were costs to the government
20 associated with the prosecution of Respondent as well as costs
21 to the lender that flow from having to support the government's
22 case with documentation from their files.

23 Considering all of the factors discussed above, I
24 believe a period of restriction lasting more than one year is
25 necessary to ensure the protection of the public interest and
26 that the following Order is appropriate.

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2 This Decision shall become effective at 12 o'clock
3 noon on
4 February 6, 2002.

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6 IT IS SO ORDERED January 11, 2002 2002.
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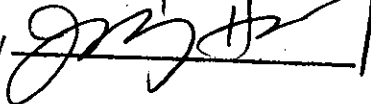
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9 PAULA REDDISH ZINNEMANN
10 Real Estate Commissioner

11 Paula Reddish Z.
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FILED
AUG 8 2001

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
GLEN EVAN SCALISE,)	No. H-28991 LA
)	
)	L-2001040265
Respondent.)	

NOTICE

TO: Respondent GLEN EVAN SCALISE, and FRANK M. BUDA, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 9, 2001, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 9, 2001, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 15,

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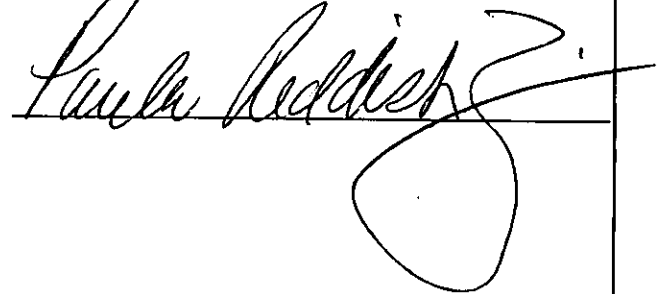
1 2001, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of June 15, 2001, at the Los Angeles office of
6 the Department of Real Estate unless an extension of the time is
7 granted for good cause shown.

8 Written argument of Complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 Respondent at the Los Angeles office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: July 26, 2001

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15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues) NO. H-28991 LA
Against:)
) OAH NO. L2001040265
GLEN EVAN SCALISE,)
)
) Respondent.)
_____)

AMENDED PROPOSED DECISION

This matter was heard on June 15, 2001, at Los Angeles, California by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by Mary E. Work, Counsel. The respondent was present and was represented by Frank M. Buda, Attorney at Law. The administrative law judge issued a proposed decision on July 2, 2001. Thereafter, it came to his attention that "1998" in the third line of paragraph 4 is a typographical error and should be "1988." The decision is corrected accordingly, nunc pro tunc.

Factual Findings

1. The Statement of Issues was made by Thomas McCrady in his official capacity as a Deputy Real Estate of the State of California.
2. On or about October 23, 2000, Glen Evan Scalise (respondent) applied to the Department of Real Estate (Department) of the State of California for a real estate broker license.
3. Respondent is presently licensed and has license rights under a restricted real estate salesperson license.
4. On July 19, 1985, respondent was licensed by the Department as a real estate salesperson. On April 6, 1998, in Case No. CR 97-985-ER of the U. S. District Court for the Central District of California, he pleaded guilty to, and was convicted of, violating 18 U.S.C. 1014 (false statement on loan application), a felony and a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate licensee. He was placed on two years probation and ordered to pay a \$5,000 fine and perform 150 hours of community service.
5. On or about May 4, 1999, respondent's real estate salesperson license was revoked as a result of said conviction, and he was granted the right to the restricted license he now

holds. On September 18, 2000, he petitioned to have his unrestricted license reinstated. The petition was denied on the grounds that his conviction had not been expunged, and not enough time had passed to establish that he was fully rehabilitated. His conviction has still not been expunged, but it was in federal court, and there was no evidence that a procedure similar to that provided by California Penal Code section 1203.4 is available.

4. In a written statement dated February 1999, respondent described the facts and circumstances resulting in his conviction as follows:

“In 1988, I represented a seller in a real estate transaction. Another agent brought in an offer from a prequalified buyer who was an employee of my broker’s company (Lamb Escrow). The sales price and terms were negotiated to the satisfaction of all parties and escrow was opened. My seller proceeded to find a replacement residence, and that escrow was opened a few days later.

“After the passage of approximately 3 weeks I was informed the buyers could not qualify for the loan they were seeking without a larger down payment. I was informed the buyers did not have additional monies. It was suggested by the buyer’s agent and the loan agent that an amendment to escrow be prepared which would reflect an increase to the sales price of \$10,000 and a credit to the buyer of this \$10,000 towards a carpeting and landscape allowance. I knew this amendment would not be shown to the lender.

“I immediately brought this issue to the attention of my broker. My broker assured me that this was normal business practice. My broker informed me there was no problem so long as the buyers and sellers were aware of what was going on. Believing that my broker had no motivation to improperly advise me, I erroneously believed my broker.”

5. In an interview with a Deputy Real Estate Commissioner on November 17, 2000, respondent stated that his broker “suggested that the sellers and buyers sign an amendment to the escrow documents, increasing the sales price by \$10,000.00 and issue a credit to the buyer’s for the same amount. The credit was to be earmarked for painting, landscaping and carpeting, however, in reality it was a scheme to help the buyers qualify for the loan without the lender’s knowledge. [Respondent] stated that red flags went up at the thought of doing this, however, the REB assured him that as long as the principals were aware and agreed to the arrangement, it would be appropriate do so and that nothing wrong was being done.”

During the same interview, Respondent was asked by the Deputy Real Estate Commissioner what he had learned from this experience, and he replied that “Real Estate procedures are either black or white, meaning right or wrong, and he has strive[n] to do the right thing. He has learned to follow his own instincts and to play by the rules. [Respondent] stated that if he considers a procedure to be in a gray area, he does not want to go there. He stated that he never wants to be put in this situation again, nor does he want any of his associates to experience what he went through.”

According to the Deputy Commissioner, "He appeared to be quite remorseful as he admitted his guilt. He regretted not having followed his initial instincts and walked away from the deal. He stated that since his broker assured him that he was following normal procedures for similar type of transactions, his concerns were alleviated. He has learned a valuable lesson, which is to develop and depend on his own real estate expertise. . . . He has complied with the court ordered probation and fine."

5. Respondent testified to substantially the same facts and circumstances at the hearing, except that he did not say it was his broker who suggested that the selling price be artificially raised and the buyer given a credit for the difference. He said it was the buyer's agent who made that suggestion. He said that he (respondent) was in his third year as a real estate license, but had just started working at it full-time, and was uncertain about the propriety of what was suggested. Therefore, he asked his broker about the propriety of it before he did anything. His broker told him that was the way business was done and there was nothing wrong with it as long as all of the parties (apparently not including the lender) knew about it. He did not generate the false escrow document, but did have the sellers sign it.

6. Respondent was quite remorseful and made a good impression while testifying at this hearing. He did not downplay his culpability except to say that he acted on bad advice from his broker and that no one incurred any monetary loss. He has paid his fine; performed his community service; and on April 5, 2000, successfully completed his probation. He is 44 years old, married, and has two teenage children. So far as is known, he has had no other convictions, license discipline, or complaints. He is involved in community and charitable activities, and he submitted numerous letters attesting to his good character and professional competence. He no longer works for the broker who gave him the bad advice. He now owns a one-third interest in a real estate brokerage and, although one of his co-owners is the broker, respondent manages the office. Having a broker's license would greatly facilitate discharging his management duties. He has already taken and passed the broker examination.

Legal Conclusions

1. The conviction described in Factual Finding 3, above, constitute ground for denial of respondent's application under Sections 475(a), 480(a) and 10177(b) of the Code.

2. In determining the appropriate order to be made herein, due consideration was given to the fact that respondent's petition for reinstatement of his unrestricted real estate salesperson license has recently been considered and denied. However, the following additional facts were considered:

(a) Respondent was new to full-time real estate work when he committed the act or acts that resulted in his conviction;

(b) He acted appropriately by seeking advice from his broker. However, his broker (who stood to receive both the listing broker's commission and the selling broker's commission) gave him erroneous advice;

(c) None of the parties, including the lender, suffered a monetary loss;

(d) More than 12 years have elapsed since the crime was committed

(e) The type of life respondent appears to have led in the 12-plus years since the crime was committed indicates that he is sufficiently rehabilitated so that it would not be against the public interest to issue him a restricted real estate broker license.

Order

Respondent's application for a real estate broker license is denied; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. 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 said Code:

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

(a) 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; or

(b) The 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 this restricted license.

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

DATED: July 9, 2001


JERRY MITCHELL
Administrative Law Judge

SACTO

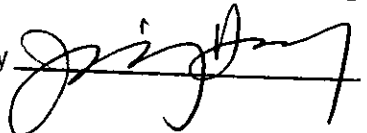
BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-28991 LA
)
GLEN EVAN SCALISE,) OAH No. L-2001040265
)
_____)
Respondent(s)

FILED
APR 25 2001
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By 

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, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on FRIDAY, JUNE 15, 2001, 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 the 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.

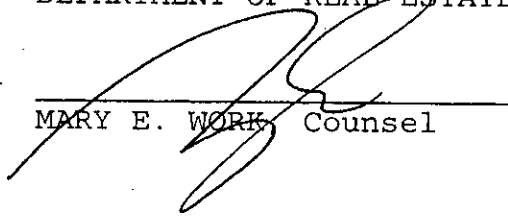
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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

DEPARTMENT OF REAL ESTATE

Dated: April 25, 2001

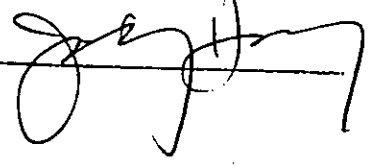
By 
MARY E. WORK, Counsel

cc: Glen Evan Scalise
Sacto.
OAH

59270

1 MARY E. WORK, Counsel
SBN 175887
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone (213) 576-6982
-Direct- (213) 576-6916
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FILED
MAR 21 2001
DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) No. H-28991 LA
12 GLEN EVAN SCALISE,) STATEMENT OF ISSUES
13 Respondent.)
14

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against GLEN EVAN SCALISE (hereinafter "Respondent"), is informed
18 and alleges as follows:

19 I

20 On or about October 23, 2000, Respondent applied to the
21 Department of Real Estate of the State of California for a real
22 estate broker license.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the
26 Business and Professions Code (hereinafter "Code") as a
27 restricted real estate salesperson subject to all of the

1 provisions of Section 10156.7 of the Code and to certain limiting
2 conditions and restrictions under Section 10156.6 of the Code.

3 III

4 On or about April 6, 1998, Respondent was convicted
5 upon a plea of guilty of violating 18 U.S. Code Section 1014
6 (false statement on a loan application) a felony, which by its
7 facts and circumstances involved moral turpitude and is
8 substantially related under Section 2910, Title 10, California
9 Code of Regulations to the qualifications, functions or duties of
10 a real estate licensee.

11 IV

12 PRIOR DISCIPLINE

13 On or about December 2, 1998, an Accusation was filed
14 against Respondent in H-27942 LA. Said Accusation was based on
15 the conviction described above in Paragraph III. On or about May
16 4, 1999, Respondent's license was revoked with a right to a
17 restricted license. Thereafter, Respondent filed a Petition to
18 reinstate his license on September 18, 2000. The Petition was
19 denied on February 15, 2001.

20 V

21 The crime for which Respondent was convicted, as
22 described above in Paragraph III, constitutes ground for denial
23 of his application for a real estate license under Sections
24 475(a), 480(a) and 10177(b) of the Code.

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1 This Statement of Issues is brought under the
2 provisions of Section 10100, Division 4 of the Business and
3 Professions Code of the State of California and Sections 11500
4 through 11528 of the Government Code.

5 WHEREFORE, the Complainant prays that the above-
6 entitled matter be set for hearing and, upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of a real estate broker
9 license to Respondent, GLEN EVAN SCALISE, and for such other and
10 further relief as may be proper in the premises.

11 Dated at Los Angeles, California,
12 this 21st day of March, 2001.

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15 Thomas McCrady
16 Deputy Real Estate Commissioner
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24 cc: Glen Evan Scalise
25 ✓ Thomas McCrady
26 ✓ Sacto
27 RG