

FLAG

FILED

OCT - 8 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
JEFF A. WELLCOME,
Respondent.

No. H-29391 LA

ORDER GRANTING UNRESTRICTED LICENSE

On December 5, 2002, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, 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 January 29, 2003, and Respondent has operated as a restricted licensee since that time.

On August 21, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson 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 removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent if, within
3 twelve (12) months from the date of this order, Respondent shall:

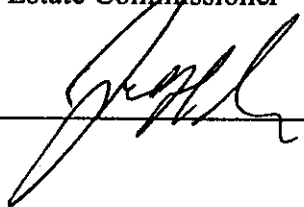
4 (a) Submit a completed application and pay the appropriate fee for a real
5 estate salesperson license, and

6 (b) Submit evidence of having, since the most recent issuance of an original or
7 renewal real estate license, taken and successfully completed the continuing education
8 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate.

9 This Order shall become effective immediately.

10 IT IS SO ORDERED 9-5-09

11 JEFF DAVI
12 Real Estate Commissioner

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Handwritten initials/signature in top left corner.

FILED
JUL 13 2007
DEPARTMENT OF REAL ESTATE

Handwritten signature: K. Mederholt

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-29391 LA
JEFF A. WELCOME,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On December 5, 2002, a Decision was rendered herein, denying Respondent's application for a real estate salesperson license, 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 January 29, 2003. Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On February 8, 2005, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for removal of restrictions is granted and that a real
10 estate salesperson license be issued to Respondent subject to
11 the following understanding and condition (9) months from the
12 date of this Order:

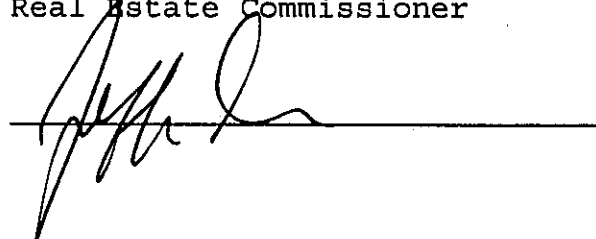
13 Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 This Order shall be effective immediately.

16 Dated:

17 7.5.07

18 JEFF DAVI
19 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

JEFF A. WELLCOME, aka
JEFFERY ALLAN WELLCOME,

Respondent.

CASE NO. H-29391 LA

OAH NO. L2002030488

PROPOSED DECISION

John Thomas Montag, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on September 26, 2002.

Martha Rosett, Real Estate Counsel, represented the Department of Real Estate.

Kyle Nielson, Attorney at Law, represented respondent, Jeff A. Wellcome, who was present throughout the hearing.

Evidence was received, the record was closed and the matter was submitted on September 26, 2002.

FACTUAL FINDINGS

1. Respondent, Jeffery Allan Wellcome, was born on October 16, 1973 (Certificate of Live Birth attached to Exhibit 2). He is presently twenty-nine (29) years of age. Three years ago respondent married Lisa Ann DiGiovanni. They are presently expecting the birth of their first child. For approximately two (2) years prior to their marriage, respondent and Lisa Ann DiGiovanni lived together.

Respondent now works as a Land Acquisition Agent for Paragon Partners, Ltd., which is a consulting firm. Paragon Partners works in the area of land acquisition in such matters as Eminent Domain proceedings, as well as the purchase of right-of-way easements for various other entities, both public and private. For example, if a company wished to build a pipe line through private property, respondent would meet with the landowners and negotiate a price for purchasing the required easement. Respondent's position requires him to work "unsupervised in the field." As part of his job, respondent utilizes a company credit card to purchase supply

items for Paragon Partners. He is also authorized, from time to time, to drive the company's Mercedes Sports Utility Vehicle.

Respondent commenced his employment with Paragon Partners in December 1999 as an Administrative Assistant. In this capacity, he performed such mundane tasks as answering the telephones and preparing various low-level documents. He worked his way through the company to achieve his present responsible position. He is a salaried employee of the company. Respondent's wife is employed as an Underwriting Assistant for a life insurance company.

2. Life was not always financially secure for respondent and his wife/fiancee'. In mid 1998 respondent's employment was confined to intermittent employment as a construction worker. His wife was working in a pre-school. Their rent was \$980.00 per month and their joint income was insufficient to pay the rent. Their credit cards were at the limit, their power was being shut-off and they were hounded by bill collectors.

Living under these adverse circumstances, together, they resorted to shoplifting. On the October 7, 1998, they entered Lucky's Food Market in Garden Grove, California. While shopping in the store, they secreted in Lisa's handbag, 8 weight loss bars, a 22 ounce package of Carne Asada meat, a 1/2 pound steak, 2 small shrimp cocktails, a 1 pound turkey breast and 1 Gillette Men's Razor. Lisa left the store without paying for these items while respondent took their shopping cart through the check-out register, paying for some other items which they had selected during their sojourn throughout the store. All of their actions had been observed by one of the store's security personnel. Respondent and his fiancee' were equally culpable. Each was arrested after the Garden Grove Police Department responded to a call from the store's security officers. They were given a Notice to Appear in court on November 18, 1998 to answer a charge of Petty Theft (Exhibit 4).

The statement which respondent made to a Garden Grove Police Officer following his arrest is significant. When asked why he and Lisa had stolen the items in question, Exhibit 4 notes that he replied:

Just, we didn't have the money.

The total value of the items which were stolen, per the Lucky store incident report, was \$39.96 (Exhibit 4).

Neither respondent nor his wife had ever stolen anything before this incident, nor have they done any such act since the occurrence on October 7, 1998. Neither of them has any other record of criminal involvement with the law.

3. On November 10, 1998, (prior to the date initially scheduled for his arraignment) in the Municipal Court of the State of California, West Orange County Judicial District, in Case

Number GG 98 WM 11309, respondent, Jeffery Allan Wellcome, was convicted, upon his plea of guilty, of the misdemeanor crime of Petty Theft, in violation of Sections 484(a) - 488 of the California Penal Code. He was sentenced to pay a total of \$440.00 in fines and penalties. In light of his precarious financial situation, respondent was permitted to pay this amount in monthly installments of \$50.00. He was placed on summary probation to the Court for a period of three years (Exhibit 3). Respondent successfully completed his term of probation and it terminated on November 17, 2001.

On September 11, 2002 respondent's conviction for this misdemeanor crime was expunged by the Court, pursuant to the provisions of Section 1203.4 of the California Penal Code (Exhibit B).

The circumstances of this offense are set forth in complete detail in Finding 2, above.

4. On May 31, 2001, respondent executed an application for issuance of a real Estate Salesperson's License by the Department and filed it, together with the required fee. Respondent's Application was received by the Department on June 11, 2001. The Department has refused to issue the requested license on the ground that respondent has been convicted of the criminal offense of petty theft, a crime involving moral turpitude, which bears a substantial relationship, under Section 2910 of Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee. Respondent appealed this denial of his application.

5. Thomas McGrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, signed the Statement of Issues herein on 15th of February 2002, seeking to deny respondent's application on the basis of his November 10, 1998 criminal conviction. The Statement of Issues was duly filed with the Department and it was subsequently served upon respondent. Respondent executed his Notice of Defense on February 22, 2002 and it was timely filed with the Department on March 8, 2002 (Exhibit 1).

6. The offense of which respondent was convicted on November 10, 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 to refuse to issue a real estate's salesperson's license to respondent pursuant to the provisions of Sections 490 and 10177(b) of the California Business and Professions Code.

7. The letters of recommendation which were submitted on behalf of respondent (Exhibits C through K) and the testimony of the respondent at the hearing, however, indicate that this is an appropriate case in which to grant respondent a restricted license.

Respondent offered the nine (9) statements encompassed by Exhibits C through K in Declaration form. The Department timely and wisely objected to these exhibits as Declarations

because respondent failed to follow the procedure set forth in Section 11514 of the Government Code. The Department asserted its right under Section 11514 to cross-examine the authors of Exhibits C through K. The Department's objection was sustained. Exhibits C through K were received into evidence as administrative hearsay, in supplement of respondent's testimony.

8. Respondent testified that his present employer allows him to use the corporate credit card and the corporate automobile at times while he is performing his job. He further testified that he has done some construction work for his employer at her personal residence, often when she is not at the home. She has entrusted him with the keys to her house and unsupervised admission thereto. Respondent stated that this is a million dollar residence.

Exhibit H is a letter from Neilia La Valle, who is the President of Paragon Partners, Ltd., and respondent's employer. She confirms the length of respondent's employment with her company. She says that he is a dedicated employee and that he has given her no reason to question either his loyalty or his trustworthiness. She confirms that he has used the company business accounts and the "company's 2000 Mercedes S. U. V."

Ms. La Valle further states that, in her opinion, respondent is a man of honor and trustworthiness. In this regard she says:

I believe in Mr. Wellcome's integrity to the extent that I have entrusted him with the keys and alarm code for the corporate offices. In addition to, entrusting him with the keys to my residence and unsupervised access on many occasions when he has done extra work for me.

9. Respondent testified that he has, on several occasions been entrusted with the care of his neighbors' three children, ages three (3), five (5) and nine (9) years. He has also borrowed tools from these neighbors, which he has always returned to them. He has been given the keys to their home.

Steve and Eileen Pay are the authors of Exhibits F and G, respectively. They confirm that they have indeed entrusted respondent with the safety and lives of their children on several occasions. They further state that there have been times when respondent has borrowed tools from them and that he has "always returned them promptly and in the same condition." They both say that he is a man of integrity.

10. Respondent testified that he has also watched over another neighbor's home while they were absent from it and that he cared for their dog. Exhibits D and E are letters from Shawn and Terri Foote. They confirm that they have been neighbors of respondent for the last year and that they have entrusted him with the keys to their home. Respondent has watched over their house, in their absence, and he has taken care of their dog. They offer the opinion that the respondent "is a man that you can trust."

11. Respondent testified that he has, on occasion, borrowed money from his father-in-law and that he has always paid back to him any loans which he has received. Exhibit C is a letter from Marty DiGiovanni, respondent's father-in-law, which supports this testimony. Mr. DiGiovanni states:

Jeffery A. Wellcome has been my son-in-law for the last 3 years and I have known him for the last 5 years. During that time, I have watched Jeff grow into a responsible man. He is a loyal and trusted son-in-law, in addition to being a good provider for my daughter.

I believe in Mr. Wellcome's integrity, to the extent that I have loaned him large sums of money and he has always repaid the debts in a reasonable amount of time.

12. Ryan Simmons has been respondent's friend for seventeen (17) years. For a short period of time he was respondent's roommate. He is the author of Exhibit J. He describes respondent as loyal and trustworthy. He has loaned respondent money and personal belongings throughout their friendship, apparently without regret. He attests to respondent's personal development in these words:

Since I have known Mr. Wellcome for so long, I have had the opportunity to watch him grow. I have seen a significant change in Mr. Wellcome over the last three (3) years. He has gotten married, purchased a house, a new car, and has held a steady job for over 2 1/2 years.

In my opinion, Mr. Wellcome has changed tremendously for the better.

13. Mike Koons has been respondent's friend for the last 11 years. He is the author of Exhibit K. He attests to respondent's integrity. He also attests to the fact that, prior to the last three (3) years, respondent had been struggling, "living paycheck to paycheck. During the past three years, however, based upon respondent's marriage, purchase of a home and steady employment, respondent "has changed his life around."

14. Respondent has expressed remorse over his petty theft incident. He immediately accepted responsibility for his actions by appearing in court before his scheduled arraignment date and admitting his guilt. He testified that this conviction acted as a changing point in his life and his actions subsequent thereto indicate that this is so. He has maintained steady gainful employment since that time. He has married his fiancée' and together they have led a productive life. He testified that he now has a very good credit history. He does not "run up" charges on his credit cards as he did prior to his conviction. Rather, he pays the entire balance owed on his credit cards each month, as the bills are received.

/

The evidence clearly shows that respondent has been effectively rehabilitated. Moreover, it appears that his single act of shoplifting \$39.96 worth of food at a time when he and his fiancée' "were broke and had no food" (Exhibit 5) was not in conformity with his true character. He is not likely to repeat such an act.

15. Respondent has applied for a real estate license so that he can make further advances in his present employment. His employer has expressed the desire to have more educated persons available to assist in their re-location of utilities for their clients, many of whom are involved in freeway construction. His employer believes that a real estate licensee would have more credibility in determining the value of properties involved in the company's re-location activities on behalf of their clients.

There was abundant evidence produced at the hearing to show that the petty theft incident was indeed an unusual aberration for respondent. The evidence as to his usual good character justifies granting him a restricted license. The restrictions which will be placed on his license will adequately protect the public.

LEGAL CONCLUSIONS

1. Cause exists, pursuant to Sections 490 and 10177(b) of the Business and Professions Code to refuse to issue a real estate salesperson's license to respondent 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, by reason of Findings 2, 3 and 6.

2. Although cause does exist to refuse to issue a real estate salesperson's license to respondent, in view of the matters set forth in Findings 1, 2, 7, 8, 9, 10, 11, 12, 13, 14 and 15, this is an appropriate case in which to allow the respondent to have a restricted license, in accordance with certain specified terms, conditions and restrictions, as set forth hereinafter.

ORDER

The application of respondent, Jeff A. Wellcome, for issuance of a real estate salesperson's license, is denied; 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. 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 this 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 any 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 license, nor for the removal of any of the conditions, limitations or restrictions attaching to the restricted license, until the period of two (2) years has elapsed from the date of issuance of the restricted license to respondent.


3. With the application for license, 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 RE 552 (Rev. 4/88) approved by the Department of Real Estate, which shall certify, as follows:

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

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

4. In light of the License Certification, which is a part of Exhibit 2, indicating that the Department has no record to show that respondent has successfully completed all of the courses required of him pursuant to Section 10153.4 of the Business and Professions Code, if respondent is unable to submit satisfactory proof to the Department that he has done so, no restricted license shall be issued to him pursuant to this Decision until such time as respondent has completed all of the courses required by said section.

Dated: November 12, 2002


JOHN THOMAS MONTAG
Administrative Law Judge
Office of Administrative Hearings

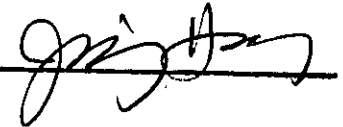
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-29391 LA
JEFF A. WELLCOME,) OAH No. L-2002030488
_____) Respondent(s)

FILED
JUN 05 2002
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON APPLICATION



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 THURSDAY, SEPTEMBER 26, 2002, at the hour of 1:30 P.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.

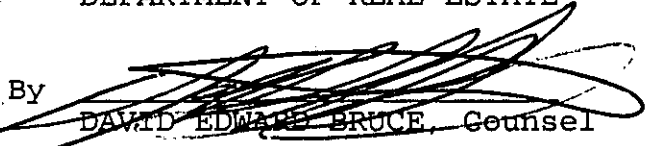
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: June 5, 2002

By 
DAVID EDWARDS BRUCE, Counsel

cc: Jeff A. Wellcome
v Sacto.
OAH

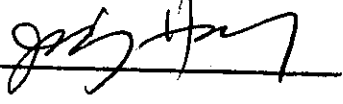
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-29391 LA
)
JEFF A. WELLCOME,) OAH No. L-2002030488
)
_____)
Respondent(s)

FILED
MAR 27 2002
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 THURSDAY, MAY 30, 2002, 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.

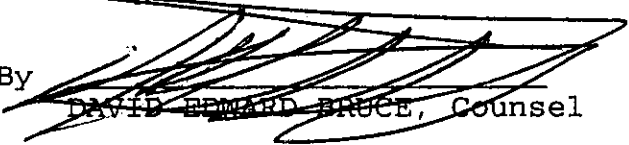
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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

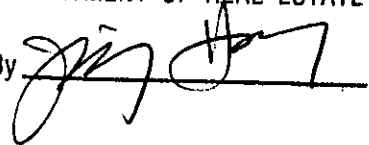
By 
DAVID EDWARD BRUCE, Counsel

Dated: March 27, 2002

cc: Jeff A. Wellcome
Sacto.
OAH

58110

1 DAVID EDWARD BRUCE, Counsel (SBN 212539)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6905 (direct)
6 (213) 576-6982 (office)

FILED
FEB 15 2002
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-29391 LA
12 JEFF A. WELLCOME,)	<u>STATEMENT OF ISSUES</u>
13 Respondent.)	

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15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JEFF A. WELLCOME (Respondent) aka Jeffery Allan Wellcome,
18 Jeffery Allen Wellcome, Jeffery A. Wellcome and Jeffrey Allan
19 Wellcome, is informed and alleges in her official capacity as
20 follows:
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23 Respondent made application to the Department of Real
24 Estate of the State of California for a real estate salesperson
25 license on or about June 11, 2001, with the knowledge and
26 understanding that any license issued as a result of said

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1 application would be subject to Section 10153.4 of the California
2 Business and Professions Code (Code).

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4 II

5 On or about November 10, 1998, in the Municipal Court
6 of California, County of Orange, West Orange County Judicial
7 District, Respondent was convicted by a guilty plea to one (1)
8 count of violating Section 484(a) (Acts Constituting Theft) and
9 Section 488 (Petty Theft) of the California Penal Code. These
10 misdemeanor crimes involve moral turpitude and are substantially
11 related under Section 2910, Chapter 6, Title 10 of the California
12 Code of Regulations, to the qualifications, functions or duties
13 of a real estate licensee.

14
15 III

16 Respondent's criminal conviction, as alleged in
17 Paragraph II above, constitutes cause for denial of Respondent's
18 application for a real estate license under Sections 480(a) and
19 10177(b) of the Code.

20 These proceedings are brought under the provisions of
21 Section 10100 of the Code and Sections 11500 through 11528 of the
22 California Government Code.

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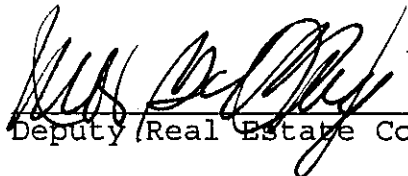
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1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, that upon proof of the
3 charges contained herein, that the Commissioner refuse to
4 authorize the issuance of, and deny the issuance of, a real
5 estate salesperson license to Respondent, JEFF A. WELLCOME, and
6 for such other and further relief as may be proper under other
7 applicable provisions of law.

8 Dated at Los Angeles, California,
9 this 15th day of February, 2002.
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12 Deputy Real Estate Commissioner
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25 cc: Jeff A. Wellcome
26 Maria Suarez
27 ✓ Sac
 CW