

*Sub  
file*

**FILED**  
APR - 7 2009  
DEPARTMENT OF REAL ESTATE

*K Medley*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of ) NO. H-29850 LA  
)  
NAH'L AUSAR, )  
)  
Respondent. )

ORDER DENYING UNRESTRICTED LICENSE

On July 17, 2003, a Decision was rendered herein,  
denying Respondent NAH'L AUSAR aka Frederic W. Dumas'  
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 or about September 9, 2003.

On or about August 16, 2007, Respondent petitioned  
for the removal of restrictions attaching to Respondent's real  
estate broker license.

///

1 I have considered the petition of Respondent and  
2 the evidence submitted in support thereof. Respondent has  
3 failed to demonstrate to my satisfaction that it would be  
4 in the public interest to issue an unrestricted real estate  
5 broker license to Respondent, in that:  
6

7 I

8 The Decision which denied Respondent's real estate  
9 broker license pursuant to Sections 475(a)(1), 480(a), 480(c),  
10 10177(a) and 10177(b) of the Business and Professions Code  
11 ("Code"), was based on Findings that Respondent failed to  
12 disclose a criminal conviction on Respondent's real estate  
13 license application.  
14

15 On or about March 5, 1993, Respondent was convicted  
16 of violating Penal Code Section 484 (petty theft).  
17

18 On or about September 13, 2002, Respondent applied to  
19 the Department for a real estate broker license. Respondent  
20 failed to disclose the criminal conviction on Respondent's  
21 license application.

22 II

23 The burden of proving rehabilitation rests with the  
24 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).

25 A petitioner is required to show greater proof of honesty and  
26 integrity than an applicant for first time licensure. The  
27 proof must be sufficient to overcome the prior adverse judgment

1 on the applicant's character (Tardiff v. State Bar (1980) 27  
2 Cal. 3d 395).

3 The Department has developed criteria in Title 10,  
4 Chapter 6, California Code of Regulations ("Regulation") 2911  
5 to assist in evaluating the rehabilitation of an applicant for  
6 reinstatement of a license. Among the criteria relevant in  
7 this proceeding are:

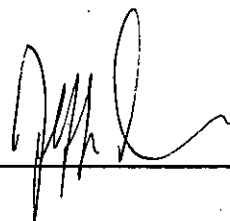
9 2911 (n)(1) - Respondent has not demonstrated a  
10 change in attitude from that which existed at the time of the  
11 conduct in question. As part of the petition application  
12 process, a Deputy Real Estate Commissioner requested that  
13 Respondent provide additional information and appear for a  
14 scheduled interview. Respondent failed to do so.

16 Given the fact that Respondent has not established  
17 that Respondent has complied with Regulation 2911(n)(1), I am  
18 not satisfied that Respondent is sufficiently rehabilitated to  
19 receive a real estate broker license.

21 This Order shall be effective at 12 o'clock noon  
22 on APR 27 2009.

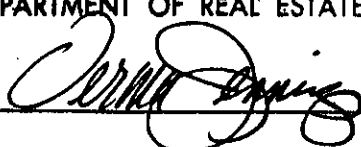
23 DATED: 3/29/09.

24 JEFF DAVI  
25 Real Estate Commissioner

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FILED  
JUL 17 2003  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of ) No. H-29850 LA  
FREDERIC W. DUMAS, ) L-2003010658  
Respondent. )

DECISION AFTER RECONSIDERATION

On May 23, 2003, a Decision was rendered herein by the Real Estate Commissioner which denied the application of Respondent Frederic W. Dumas for a real estate broker license. Said Decision was to become effective on June 17, 2003, and was stayed by separate Order to July 17, 2003. On June 16, 2003, respondent petitioned for reconsideration of the Decision of May 23, 2003.

I have considered the petition of Respondent and have concluded that good cause has been presented for reconsideration of the Decision of May 23, 2003, for the limited purpose of determining whether the action therein imposed should be reduced.

1 It is hereby ordered that the Order of the Decision  
2 shall be as follows:

3 ORDER

4 Respondent's application for a real estate broker  
5 license is denied, provided, however, a restricted real estate  
6 broker license shall be issued to Respondent pursuant to  
7 Section 10156.5 of the Business and Professions Code. The  
8 restricted license issued to Respondent shall be subject to  
9 all of the provisions of Section 10156.7 of the Business and  
10 Professions Code and to the following limitations, conditions  
11 and restrictions imposed under authority of Section 10156.6  
12 of said Code:

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

18 (a) The conviction of Respondent (including a plea  
19 of nolo contendere) of a crime which is substantially related  
20 to Respondent's fitness or capacity as a real estate licensee;  
21 or  
22

23 (b) The receipt of evidence that Respondent has  
24 violated provisions of the California Real Estate Law, the  
25 Subdivided Lands Law, Regulations of the Real Estate  
26 Commissioner or conditions attaching to this restricted  
27 license.

1                   2.   Respondent shall not be eligible to apply for the  
2 issuance of an unrestricted real estate license nor for the  
3 removal of any of the conditions, limitations or restrictions  
4 attaching to the restricted license until two (2) years have  
5 elapsed from the date of issuance of the restricted license to  
6 Respondent.

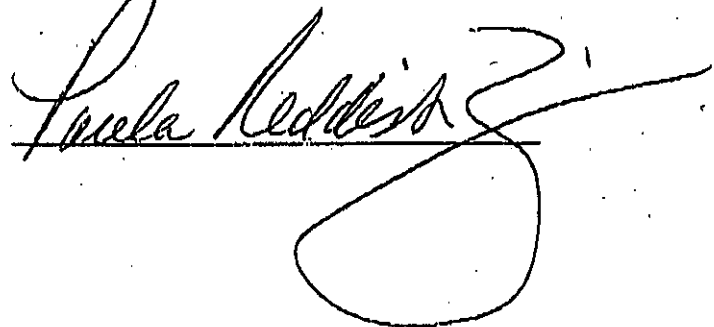
7                   Petition for reinstatement of a revoked real estate  
8 license is controlled by Section 11522 of the Government Code.  
9 A copy of Section 11522 is attached hereto for the information  
10 of respondent.

11                   If and when application is made for a real estate  
12 license through a petition for reinstatement, all competent  
13 evidence of rehabilitation presented by the respondent will  
14 be considered by the Real Estate Commissioner. A copy of the  
15 Commissioner's Criteria of Rehabilitation is attached hereto.

16                   This Decision shall become effective at 12 o'clock  
17 noon on August 6, 2003.

18                   IT IS SO ORDERED July 17, 2003  
19

20                   PAULA REDDISH ZINNEMANN  
21                   Real Estate Commissioner

22                   *Paula Reddish*  
23                     
24  
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26  
27

REC'D  
Flag

FILED  
JUN 16 2003

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Application of	)	No. H-29850 LA
	)	L-2003010658
FREDERIC W. DUMAS,	)	
	)	
Respondent.	)	

ORDER STAYING EFFECTIVE DATE

On May 23, 2003, a Decision was rendered in the above-entitled matter to become effective June 17, 2003.

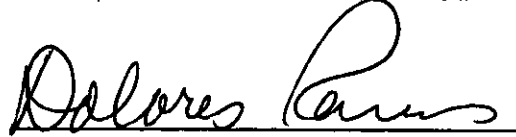
IT IS HEREBY ORDERED that the effective date of the Decision of May 23, 2003 is stayed for a period of 30 days.

The Decision of May 23, 2003 shall become effective at 12 o'clock noon on July 17, 2003.

DATE June 16, 2003.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

By:

  
DOLORES RAMOS  
Regional Manager

By 

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Application of ) No. H-29850 LA  
FREDERIC W. DUMAS, ) L-2003010658  
Respondent. )

DECISION

The Proposed Decision dated April 18, 2003, 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.

Pursuant to Section 11517(b)(3) of the Government Code of the State of California, the Proposed Decision, at page 3, Conclusions of Law, paragraph 1, line 1, "salesperson" is amended to read, "broker"; at page 4, Conclusions of Law, paragraph 2, line 2, "salesperson" is amended to read, "broker".

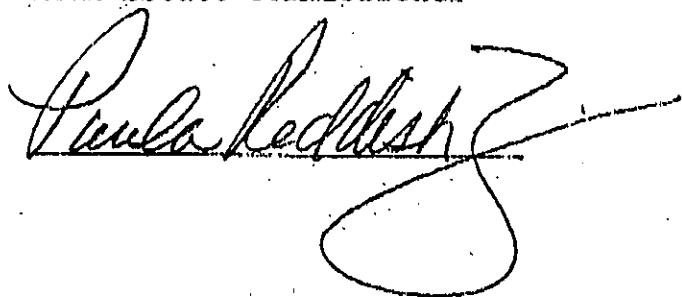
The application for a real estate broker license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real 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 June 17, 2003.

IT IS SO ORDERED

May 23, 2003

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner





BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

FREDERIC W. DUMAS,

Respondent.

Case No. H-29850 LA

OAH No. L2003010658

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on April 2, 2003.

James Peel, Counsel, represented the complainant.

Respondent appeared in person and represented himself.

Oral and documentary evidence and evidence by way of stipulation and official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes, and orders as follows:

FACTUAL FINDINGS

- - -

PARTIES AND JURISDICTION

1

The Complainant, Maria Suárez, a Deputy Real Estate Commissioner of the State of California, brought the Statement of Issues in her official capacity.

2

On or about September 13, 2002, respondent applied to the Department of Real Estate of the State of California for a real estate broker license.

These proceedings are brought under the provisions of §10100, Division 4 of the Business and Professions Code of the State of California and §§11500 through 11528 of the Government Code. All prehearing requirements have been met. Jurisdiction for this proceeding does exist.

- - -

FINDINGS  
RE  
ACCUSATION

On March 5, 1993, in the Municipal Court of South Bay Judicial District, County of Los Angeles, State of California, respondent was convicted of violating §484 of the Penal Code (Petty Theft), a crime involving moral turpitude and substantially related to the qualifications, functions or duties of a real estate licensee. In sum respondent, with an associate, shoplifted some clothing from a Bullock's Department Store.

In response to Question 20 of said application, to wit, "Have you ever been convicted of any violation of law?", respondent answered "No" and failed to disclose the matter set forth in Finding 4.

More particularly, the application includes the following directive:

- Carefully read and provide detailed answers to questions #19-24. You must provide a yes or no response to all questions.

- "Convicted" as used in Question 20 includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere, or a forfeiture of bail in municipal, superior or federal court. All convictions must be disclosed whether or not the plea or verdict was set aside, the

conviction against you dismissed, or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under §1203.54 of the California Penal Code or §781 of the Welfare and Institution Code.

Question 20 inquires specifically as follows:

Have you ever been convicted of any violation of law? Convictions expunged under Penal Code §1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense.

Despite the clear command of that language to disclose all convictions respondent failed to disclose the conviction set forth in Finding 4 when he knew, in fact, he had suffered that conviction.

### FINDINGS IN THE PUBLIC INTEREST

6

Respondent did timely complete all court imposed requirements resulting from the conviction. He has suffered no other conviction. Consistent with respondent's petition the conviction was expunged pursuant to *Penal Code §1203.4*.

7

Respondent was issued a California Barber's License on March 11, 1999 and works under that license. In August, respondent completed the requirements of a Bachelor of Arts Degree and received same from the Cal State – University, Dominguez Hills. Additionally, respondent has experience as an assistant coach for youth sports, and as a youth mentor at Greater First Baptist Church.

8

The crime occurred approximately nine years ago. Certain of the circumstances of the crime – shoplifting from a Bullocks Department Store – involves dishonest conduct. The passage of time from that conduct combined with the activities set forth in Finding 6 is, *per se*, rehabilitative. However, the conduct set forth in Finding 5 – failure to disclose the conviction despite the clear command to do so in the application – is dishonest conduct. That dishonest conduct is recent. That recent act demonstrates a lack of integrity and trustworthiness.

### CONCLUSIONS OF LAW

1

Cause exists for denial of respondent's application for a real estate salesperson license for violation of *Business and Professions Code §§480(a) and 10177(b)* by reason of Finding 4.

3

Respondent's failure to disclose the conviction set forth in Finding 4 constitutes the attempted procurement of a real estate salesperson license by misrepresentation, fraud, or deceit, or by making a material misstatement of fact in said application which is separate cause to deny respondent's real estate application for violation of *Business and Professions Code* §§475(a)(1), 480(c) and 10177(a) by reason of Finding 5.

The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment: *Fahmy v. MBC* (1995) 38 Cal.App. 4<sup>th</sup> 810, 817; *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng.Rep. 1385. Certain of that public interest is set forth in the rationale of *Harrington v. Department of Real Estate* 214 Cal.App. 3<sup>rd</sup> 394:

... Furthermore, appellant's lack of candor in completing his license application is itself sufficient to sustain a finding that appellant does not yet appreciate the need to speak honestly about and to accept responsibility for one's actions. As the ALJ accurately noted, "One's character trait for honesty and integrity is an important qualification to be a real estate salesperson inasmuch as clients rely on the licensee's integrity in representing them, disclosing important facts about the properties he is privy to and holding monies in a fiduciary capacity." The public exposing itself to a real estate licensee has reason to believe the licensee must have demonstrated a degree of honesty and integrity in order to have obtained a license. (*Golde v. Fox, supra*, 98 Ca.App.3<sup>rd</sup> at p.178). Neither the trial court nor the ALJ abused its discretion in concluding appellant failed to demonstrate successful rehabilitation.

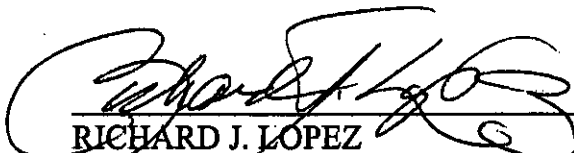
Applications for a real estate license are signed under penalty of perjury. Applicants certify that all statements are true and complete. The information contained in the application is used by the Department to determine whether the applicant possesses the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of a real estate licensee. Therefore, complete and accurate disclosure of the requested information is essential for the Department to evaluate applicants. Accordingly, the order which follows is consistent with the rationale of *Harrington, supra* and is consistent with the public interest.

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ORDER

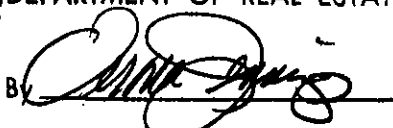
The application of Frederic W. Dumas for the issuance of a real estate broker license  
is hereby denied.

Dated: 18 April 2003

  
RICHARD J. LOPEZ  
Administrative Law Judge  
Office of Administrative Hearings

RJL:rfm

Handwritten initials/signature in top left corner.

**FILED**  
MAR 11 2003  
DEPARTMENT OF REAL ESTATE  
By 

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

*In the Matter of the Application of*

**FREDERIC W. DUMAS**

*Respondent*

} (Large closing curly brace grouping the case and OAH numbers)

Case No. H-29850 LA

OAH No. L-2003010658

**NOTICE OF HEARING ON APPLICATION**

*To the above named respondent:*

**You are hereby notified** that a hearing will be held before the Department of Real Estate at **Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California**, on **April 2, 2003**, 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.

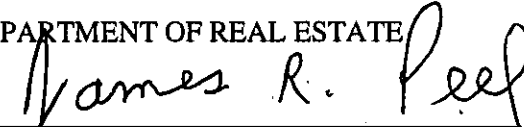
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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.


*Dated:* March 11, 2003

Frederic W. Dumas  
Sacto./OAH

DEPARTMENT OF REAL ESTATE  
By   
**JAMES R. PEEL, Counsel**

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Page

1 JAMES R. PEEL, Counsel (SBN 47055)  
2 Department of Real Estate  
3 320 West Fourth Street, Ste. 350  
4 Los Angeles, California 90013-1105  
5  
6 Telephone: (213) 576-6982  
7 -or- (213) 576-6913 (Direct)  
8

FILED  
DEC 26 2002  
DEPARTMENT OF REAL ESTATE  
By 

9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA  
11 \* \* \*

12 In the Matter of the Application of ) No. H-29850 LA  
13 FREDERIC W. DUMAS, )  
14 Respondent. )  
15

16 The Complainant, Maria Suarez, a Deputy Real Estate  
17 Commissioner of the State of California, for Statement of Issues  
18 against FREDERIC W. DUMAS (Respondent) is informed and alleges in  
19 her official capacity as follows:

20 I

21 On or about September 13, 2002, Respondent applied to  
22 the Department of Real Estate of the State of California for a  
23 real estate broker license.

24 //  
25 //  
26 //  
27 //

1 II

2 In response to Question 20 of said application, to wit,  
3 "Have you ever been convicted of any violation of law?",  
4 Respondent answered "No" and failed to disclose the matter set  
5 forth in Paragraph III.

6 III

7 On or about March 5, 1993, in the Municipal Court of  
8 South Bay Judicial District, County of Los Angeles, State of  
9 California, Respondent was convicted of violating Section 484 of  
10 the Penal Code (Petty Theft), a crime involving moral turpitude  
11 and substantially related to the qualifications, functions or  
12 duties of a real estate licensee.

13 IV

14 The matter described in Paragraph III constitutes cause  
15 for denial of his application for a real estate broker license  
16 under Sections 480(a) and 10177(b) of the California Business and  
17 Professions Code.

18 V

19 Respondent's failure to disclose the matter set forth  
20 in Paragraph III, above, in said application, constitutes the  
21 attempted procurement of a real estate broker license by  
22 misrepresentation, fraud, or deceit, or by making a material  
23 misstatement of fact in said application, or by knowingly making  
24 a false statement of fact required to be revealed in said  
25 application, which is cause to deny Respondent's real estate  
26  
27



1 license application under Sections 475(a)(1), 480(c) and 10177(a)  
2 of the California Business and Professions Code.

3  
4 The Statement of Issues is brought under the provisions  
5 of Section 10100, Division 4 of the Business and Professions Code  
6 of the State of California and Sections 11500 through 11528 of  
7 the Government Code.

8 WHEREFORE, the Complainant prays that the above-  
9 entitled matter be set for hearing and, upon proof of the charges  
10 contained herein, that the Commissioner refuse to authorize the  
11 issuance of, and deny the issuance of, a real estate broker  
12 license to Respondent, FREDERIC W. DUMAS, and for such other and  
13 further relief as may be proper in the premises.

14 Dated at Los Angeles, California,  
15 this 23<sup>rd</sup> day of December, 2002.

16  
17  
18   
19 MARIA SUAREZ  
20 Deputy Real Estate Commissioner  
21  
22  
23

24 cc: Frederic W. Dumas  
25 Maria Suarez  
26 Sacto.  
27 JN