

FILED
NOV 25 2003
DEPARTMENT OF REAL ESTATE

By K. Kiedersholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	DRE No. H-30001 LA
)	
BRET DAVID SWANSON,)	OAH No. L-2003040099
)	
Respondent.)	

STIPULATION AND WAIVER

AND

DECISION AFTER REJECTION

The California Department of Real Estate ("Department") filed a Statement of Issues against BRET DAVID SWANSON ("Respondent") on March 13, 2003. On June 25, 2003, a hearing was held and evidence was received, the record was closed, and the matter was submitted.

On July 17, 2003, the Proposed Decision of the Administrative Law Judge was issued, and determined, among other

1 things, that Respondent's application for a real estate
2 salesperson license should be granted.

3 On August 28, 2003, the Commissioner rejected the
4 Proposed Decision of July 17, 2003.

5 The parties wish to settle this matter without further
6 proceedings.

7 IT IS HEREBY STIPULATED by and between Respondent and
8 his attorney of record, Frank M. Buda, Esq., and the Department,
9 acting by and through Elliott Mac Lennan, Counsel for the
10 Department of Real Estate, as follows for the purpose of
11 settling and disposing of the Statement of Issues filed by the
12 Department.

13 1. It is understood by the parties that the Real
14 Estate Commissioner may adopt the Stipulation and Waiver as her
15 decision in this matter, thereby imposing the penalty and
16 sanctions on Respondent's application for a real estate license
17 as set forth in the below "Decision and Order". In the event
18 the Commissioner in her discretion does not adopt the
19 Stipulation and Settlement, the Stipulation shall be void and of
20 no effect; the Commissioner will review the transcript and the
21 evidence in the case, and will issue her Decision after
22 Rejection as her Decision in this matter.

23 2. By reason of the foregoing and solely for the
24 purpose of settlement of the Statement of Issues without further
25 administrative proceedings, it is stipulated and agreed that the
26 following shall be adopted as the Commissioner's Decision:
27

FACTUAL FINDINGS

1
2 1. Maria Suarez, Deputy Real Estate Commissioner of
3 the State of California (hereafter, "Department") filed Statement
4 of Issues No. H-30001 LA in her official capacity on March 13,
5 2003. Respondent filed a timely Notice of Defense.

6 2. On September 17, 2001, Respondent signed a
7 Salesperson's License Application and submitted it to the
8 Department.

9 3. On August 1, 1995, in the San Bernardino County
10 Municipal Court District, Victorville Division, State of
11 California in Case No. FV102665, Respondent was convicted upon a
12 guilty plea of one count of Health and Safety Code Section
13 11379.(6)(a) (manufacture controlled substance -
14 methamphetamine).

15 4. On August 1, 1995, in the San Bernardino County
16 Municipal Court District, Victorville Division, State of
17 California in Case No. FV102625, Respondent was convicted upon a
18 guilty plea of one count of Health and Safety Code Section
19 11379.(6)(a) (manufacture controlled substance -
20 methamphetamine).

21 5. On August 1, 1995, the court sentenced Respondent
22 to three years in prison for both crimes, the sentences to run
23 concurrently for each conviction. The court also fined
24 Respondent \$300 for each conviction.
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1 6. Respondent failed to disclose the crime set forth
2 in Paragraph 4, on his real estate license application. Both
3 cases were consolidated for hearing on their plea agreements and
4 for sentencing. A single plea agreement was given to a single
5 judge on the same day for both cases. Respondent testified that
6 he believed his disclosure of the crime in Paragraph 3 also
7 included the crime in Paragraph 4. Accompanying his application
8 he provided a letter disclosing the details of both crimes.

9 7. The convictions involve moral turpitude and are
10 substantially related to the qualifications, functions, and
11 duties of a real estate salesperson.

12 8. Respondent has severed relationships with people
13 who contributed to his criminal behavior. He has undertaken
14 considerable efforts to remain clean and sober which include
15 helping others similarly situated from the making the mistakes
16 that resulted in his criminal sanctions. If he receives a
17 license, he intends to work in the field of residential sales.

18 9. Respondent has been married for nineteen years and
19 has one child.

20 10. Respondent submitted several letters in support of
21 his application including one from Superior Court Judge Eric M.
22 Nakata, the former prosecutor in the instant convictions.

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LEGAL CONCLUSIONS

1 1. Cause to deny Respondent's application for a real
2 estate salesperson's license pursuant to Business and Professions
3 Code Sections 480(a) and 10177(b) was established by reason of
4 Findings 3, 4 and 7.
5

6 2. Cause to deny Respondent's application for a real
7 estate salesperson's license pursuant to Business and Professions
8 Code Sections 480(c) and 10177(a) was not established by reason
9 of Findings 5 and 6.

10 3. The Department's criteria of rehabilitation are
11 found in Title 10, California Code of Regulations, Section 2911.
12 The evidence established Respondent's convictions occurred eight
13 years ago, and Respondent completed his prison sentence in 1997
14 and his parole in 1999.

15 The uncontroverted evidence is that in the past
16 Respondent used drugs, including marijuana, and manufactured
17 methamphetamine between 1990 and 1994 but no longer uses drugs,
18 and has been clean and sober for nearly eight years. Respondent
19 took steps to rehabilitate himself, including teaching a
20 religious-based drug education program and facilitating a support
21 group at his church, the High Desert Church in Victorville,
22 California, and in his home. The letters Respondent submitted
23 support a conclusion that Respondent is a very different person
24 today from the one who committed a series of criminal acts while
25 an addict. It would not be against the public interest to issue
26
27

1 a restricted license to Respondent.

2 ORDER

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

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

17
18 (a) The conviction of Respondent (including a plea of
19 nolo contendere) of a crime which is
20 substantially related to Respondent's fitness or
21 capacity as a real estate licensee; or

22
23 (b) The receipt of evidence that Respondent has
24 violated provisions of the California Real Estate
25 Law, the Subdivided Lands Law, Regulations of the
26 Real Estate Commissioner or conditions attaching
27 to this restricted license.

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

6 3. With the application for license, or with the
7 application for transfer to a new employing broker, Respondent
8 shall submit a statement signed by the prospective employing
9 real estate broker on a form RE 552 approved by the Department
10 of Real Estate which shall certify as follows:

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

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

19 4. Respondent shall, within eighteen (18) months of
20 the issuance of the restricted license, submit evidence
21 satisfactory to the Commissioner of successful completion, at an
22 accredited institution, of two of the courses listed in Section
23 10153.2, other than real estate principles, advanced legal
24 aspects of real estate, advanced real estate finance or advanced
25 real estate appraisal. If Respondent fails to timely present to
26 the Department satisfactory evidence of successful completion of
27 the two required courses, the restricted license shall be

1 automatically suspended effective eighteen (18) months after the
2 date of its issuance. Said suspension shall not be lifted
3 unless, prior to the expiration of the restricted license,
4 Respondent has submitted the required evidence of course
5 completion and the Commissioner has given written notice to
6 Respondent of lifting of the suspension.

7 5. Pursuant to Section 10154, if Respondent has not
8 satisfied the requirements for an unqualified license under
9 Section 10153.4, Respondent shall not be entitled to renew the
10 restricted license, and shall not be entitled to the issuance of
11 another license which is subject to Section 10153.4 until two
12 (2) years after the date of the issuance of the preceding
13 restricted license.

14
15 10-16-03

16 DATED


15 
16 ELLIOTT MACLENNAN, Counsel
17 DEPARTMENT OF REAL ESTATE

17 * * *

18 I have read the Stipulation and Waiver and Decision
19 After Rejection, and have discussed it with my counsel. Its
20 terms are understood by me and are agreeable and acceptable to
21 me. I willingly and voluntarily agree to enter into this
22 Stipulation.

23
24 10-28-03

25 DATED

24 
25 BRET DAVID SWANSON
26 Respondent

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1 I have reviewed the Stipulation and Waiver as to form
2 and content and have advised my client accordingly.

3
4 10-27-03

5 DATED

6 Frank M. Buda

7 FRANK M. BUDA
8 Attorney for Respondent

9 * * *

10 DECISION AND ORDER

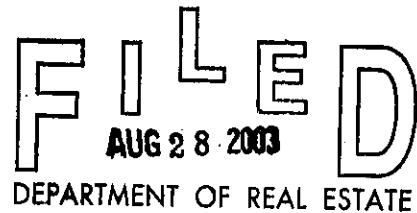
11 The foregoing Stipulation and Waiver is hereby adopted
12 by the Real Estate Commissioner as her Decision and Order.

13 This Decision shall become effective at 12 o'clock
14 noon on DEC 15, 2003.

15 IT IS SO ORDERED November 24, 2003.

16 PAULA REDDISH ZINNEMANN
17 Real Estate Commissioner

18 Paula Reddish Zinnemann
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5 By Kriederholz

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Application of) No. H-30001 LA
12 BRET DAVID SWANSON,) L-2003040099
13 Respondent.)
14 _____)

15 NOTICE

16 TO: BRET DAVID SWANSON, Respondent and Frank M. Buda, Esq., his
17 attorney

18 YOU ARE HEREBY NOTIFIED that the Proposed Decision
19 herein dated July 17, 2003, of the Administrative Law Judge is
20 not adopted as the Decision of the Real Estate Commissioner.

21 A copy of the Proposed Decision dated July 17, 2003, is
22 attached hereto for your information.

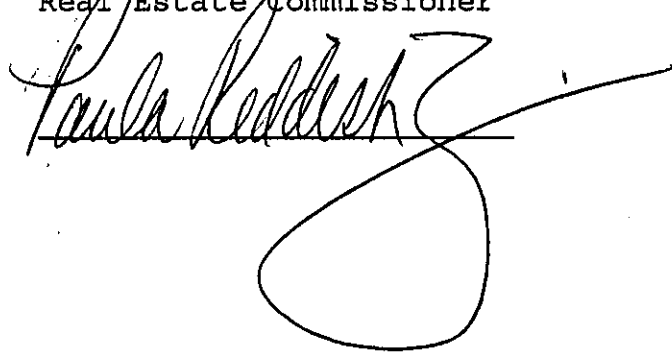
23 In accordance with Section 11517(c) of the Government
24 Code of the State of California, the disposition of this case
25 will be determined by me after consideration of the record
26 herein including the transcript of the proceedings held on
27 June 25, 2003, and any written argument hereafter submitted
on behalf of respondent and complainant.

1
2 Written argument of respondent to be considered by me
3 must be submitted within 15 days after receipt of the transcript
4 of the proceedings of June 25, 2003, at the Los Angeles office
5 of the Department of Real Estate unless an extension of the time
6 is granted for good cause shown.

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

12 DATED: August 26, 2003

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14 PAULA REDDISH ZINNEMANN
15 Real Estate Commissioner
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A large, stylized handwritten signature in dark ink, appearing to read "Paula Reddish Zinnemann", is written over a horizontal line. Below the signature is a large, loopy flourish.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 21 2003
DEPARTMENT OF REAL ESTATE

In the matter of the Statement of Issues of:)

BRET DAVID SWANSON,)

Respondent)

Case No. H-30001 LA

OAH No. L-2003040099

By K. Mendenhall

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on June 25, 2003, in Los Angeles, California.

Elliott Mac Lennan, Counsel, represented complainant Maria Suarez.

Frank M. Buda, Attorney at Law, represented respondent.

The Department seeks to deny respondent's application for licensure on the basis of his criminal convictions and on the alleged failure to fully disclose the convictions. Respondent asserts he made full disclosure of the convictions and argues licensure is appropriate.

Oral and documentary evidence was presented at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Respondent filed an application for licensure as a real estate salesperson on September 17, 2001. The Department denied the application and issued the Statement of Issues. Respondent filed a timely notice of defense and the instant proceedings followed.

3. On August 1, 1995, in the Superior and Municipal Court of California, Victorville Division, County of San Bernardino, State of California, in case number FVI-02665, respondent was convicted, following his plea of guilty, of violating Health and Safety Code sections 11379.6(a) (manufacturing a controlled substance other than PCP), 11379(a) (sale of a controlled substance), and 11378 (possession for sale of a controlled substance). Respondent's conviction stems from his actions on December 30, 1993, involving methamphetamine.

4. On August 1, 1995, in the Superior and Municipal Court of California, Victorville Division, County of San Bernardino, State of California, in case number FVI-02625, respondent was convicted, following his plea of guilty, of violating Health and Safety Code section 11379.6(a). Respondent's conviction stems from his actions on April 2, 1994, again involving methamphetamine.

5. The facts and circumstances surrounding both convictions are similar. Respondent was arrested each time after police officers found evidence of drug manufacturing in respondent's garage.

6. Both cases, numbers FVI-02625 and FVI-02665, were consolidated for hearing on the plea agreements and for sentencing. Respondent signed a "declaration by Defendant and Court Re Findings re Plea of Guilty Under Penal Code Section 859a," applying to both cases, which was submitted to the Court. The Court sentenced respondent to three years in state prison for each conviction and ordered the sentences to run concurrently. The Court also ordered respondent to pay \$300 in fees and fines for each case.

7. Respondent's convictions are for crimes involving moral turpitude and substantially related to the qualifications, functions, and duties of a real estate licensee.

8. Respondent complied with the terms of his sentence. He was in prison until February 9, 1997, and on parole until February 4, 1999. He paid the fines and fees.

9. a. The application for licensure filed by respondent contains the following question, number 25: "Have you ever been convicted of any violation of law? Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense." Affirmative responses require details regarding the court, arresting agency, date of conviction, type of conviction, code section violated, code violated, disposition, and case number.

b. Respondent answered Question number 25 in the affirmative and provided required details regarding the court, arresting agency, date of conviction, and disposition. With respect to the code and section violated, he listed Health and Safety Code section "11379.6A," failing to list Health and Safety Code sections 11379(a) and 11378. In a space on the application for additional information, respondent referred to an arrest on "12-30-93." He listed the disposition as 3 years in state prison and 3 years parole, neglecting to list the fines. He listed only one case, number FVI 02665.

c. Respondent submitted a letter with his application, which contained the following statements:

"In 1990, I began experimenting with [Methamphetamine] and bad decisions followed. In December of 1993, I was arrested for possession and manufacturing of a controlled substance. I served four days in the county jail. I was released and went right back to drug abuse. In April 1994, I was arrested again for the same offense. I was convicted on August 1, 1995. I was sentenced to 3 years in State Prison. Both charges were run con-current. I was released on February 9, 1997. I completed 3 years of parole, ending on February 4, 1999."

d. At the hearing, respondent explained he thought the two cases had been combined into one before the sentencing judge, who then ordered one sentence. He believed that by listing one case number in his application he was referring to both cases.

10. Respondent did not knowingly make a false statement of fact in his application or attempt to procure a real estate license by fraud, misrepresentation, deceit, or by making a material misstatement of fact in the application. Rather, he sought to fully disclose his convictions. He truthfully answered question number 25, provided pertinent details in question number 27, and provided additional pertinent details in the application and in the statement submitted with the application. Taken together, these provide the material information required in the application. Respondent's failure to give the case number of the conviction set forth in factual finding number 4 and his genuine confusion regarding the meaning of the term concurrent sentences, particularly in the existing circumstances where a single plea agreement was presented to a single judge on the same day, does not constitute an attempt by respondent to procure a license by fraud, misrepresentation, deceit, or by making a material misstatement of fact.

11. On July 15, 2002, respondent appeared at an interview with Deputy Commissioner Ernesto M. Estanislao. Respondent discussed his arrests and convictions with the Deputy, explaining why he thought there had been only one conviction. Deputy Estanislao reported that respondent was cooperative during the interview, was forthright about his convictions, appeared sincere in accepting responsibility for the crimes, and showed remorse.

12. Respondent had been abusing drugs at the time of his arrests. He manufactured methamphetamine for his own use and to sell in order to support his drug use. The arrests made him question his lifestyle and future. He realized he was hurting himself and his family. The self-examination process continued in prison where he accepted Jesus Christ as his savior. His life has been different ever since. He has not used methamphetamines or any other controlled substances since early 1995. He has disassociated from those in his former substance abuse life.

13. He expressed sincere remorse for his misconduct and for the pain he had caused his family.

14. Respondent has been married to the same woman, Mary, for 19 years. They have an eighteen-year-old daughter. They are a close family and engage in many activities together.

15. The family regularly attends High Desert Church ("HDC"). Respondent leads a bible study group and plays drums in a church group. Respondent submitted 3 letters from others who attend church with him and who attest to his good character and involvement in church activities: Lowell H. Bamford; HDC Worship Pastor Jeff Crandall; and HDC Senior Pastor Tom Mercer.

16. Respondent has talked to members of his congregation on multiple occasions about his past substance abuse and convictions in efforts to keep others from committing the same mistakes.

17. Respondent's wife described his attitude in 1993 and 1994 as "a mess." He was often out of the house. After the arrests, he revealed to her the extent of his abuse problems and vowed to change. She has since witnessed the change. Respondent is now a hard-working and spiritual man. His life revolves around his family and his church.

18. Barry Thomas, a former real estate salesperson and respondent's brother in law, has known respondent since the 1980s. He has also witnessed respondent's transformation. He remembers the period before the convictions in which respondent was less involved in family life. But after the second arrest, respondent began to work hard to regain the trust and confidence of the family. By his actions, respondent expressed regret and remorse for his misbehavior. Thomas now considers respondent a man of the highest honesty and integrity.

19. Steve Mortimore, another brother-in-law, wrote a letter on behalf of respondent in which he described him as family-oriented, professional, honest, and possessing integrity and generosity.

20. George Beardsley, a former real estate broker, local elected official, and retired school administrator, has known respondent all of his adult life. Respondent regularly attended a bible study group lead by Beardsley before leading his own bible study group. Respondent provided compelling testimony to Beardsley's group regarding the evil of drug abuse.

21. Respondent has been employed by William Smith Construction since March 1997. In April 2001, respondent became a foreman for the concrete, framing, and remodeling contractor. In 2002 respondent's duties have included substituting for the company's owner, William R. Smith, Jr. ("Smith"), and performing other administrative duties. Respondent has enjoyed success and increasing responsibilities despite having disclosed his convictions. Smith wrote two letters attesting to his trust and confidence in respondent.

22. The desires for less physical work and for more challenging opportunities motivate respondent to pursue a career in real estate. His friend of twenty-five years, real estate broker James D. Phillips, who is aware of the convictions, is willing to hire respondent as a salesperson. The broker describes respondent as enthusiastic, honest, caring, God-fearing, and a family man.

23. Superior Court Judge Eric M. Nakata, the former prosecutor in the cases that led to respondent's convictions, wrote a letter on his behalf. Judge Nakata has kept in contact with respondent through respondent's employer, who is a friend. He knows respondent as a family man who attends church. He describes respondent as a perfect example of what a person can do if he is determined to change his life.

LEGAL CONCLUSIONS

1. Cause exists pursuant to Business and Professions sections 480(a) and 10177(b) to deny respondent's application because he was convicted of crimes involving moral turpitude and substantially related to the qualifications, functions, and duties of a real estate licensee, by reason of factual finding numbers 3 through 7.

2. Business and Professions Code section 480(c) provides that "a board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license." Respondent did not knowingly make a false statement of fact in his application, by reason of factual finding numbers 9 and 10, and, therefore, cause for denial of the license application does not exist pursuant to this provision.

3. Section 10177(a) provides, in pertinent part, that the commissioner may deny a license application if the applicant "procured or attempted to procure, a real estate license ... by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license" As set forth in factual finding numbers 9 and 10, respondent did not attempt to procure his licensure by fraud, misrepresentation, deceit, or by making a material misstatement in his application. Therefore, cause for denial of the license application does not exist pursuant to this provision.

4. Respondent presented significant evidence of mitigation and rehabilitation, as set forth in factual finding numbers 8, and 11 through 23. In brief, the person who was convicted almost 8 years ago was a different person. Respondent has stopped his substance abuse and has led an exemplary life. He has told others about his mistakes to prevent them from making the same errors. He has provided leadership to others in his church. He has discharged sensitive work duties in a responsible manner. He has demonstrated honesty and integrity in every facet of his life. In light of this evidence, it is appropriate to grant respondent an unrestricted license.

ORDER

Respondent's application for a real estate salesperson license is granted.

not adopted
DATED: 2/12/03



SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

Sacto
gls

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

FILED
APR 16 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

BRET DAVID SWANSON,

By K. K. Riederholz

Case No. H-30001 LA

OAH No. L-2003040099

Respondent

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 **320 W. Fourth Street, Ste. 630, Los Angeles, California** on **June 25, 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 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: **APR 16 2003**

By Elliott Mac Lennan
ELLIOTT MAC LENNAN, Counsel

cc: Bret David Swanson
Fairway Realty Inc.
Sacto/OAH/LM

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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or (213) 576-6982 (Office)

FILED
MAR 13 2003
DEPARTMENT OF REAL ESTATE

By K. Kuderhult

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)	No. H-30001 LA
BRET DAVID SWANSON,)
Respondent.)
)
)

STATEMENT OF ISSUES

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against BRET DAVID SWANSON, is informed and alleges in her official capacity as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on September 17, 2001, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section

1 10153.4 of the California Business and Professions Code)
2 ("Code").

3 2.

4 In response to Question 25 of said license
5 application, to wit: "Have you ever been convicted of any
6 violation of law? Convictions expunged under Penal Code Section
7 1203.4 must be disclosed. However, you may omit minor traffic
8 citations which do not constitute a misdemeanor or felony
9 offense." Respondent checked the box denoting "Yes", disclosing
10 the conviction set forth in Paragraph 3. However, Respondent
11 failed to disclose the conviction set forth in Paragraph 4.

12 3.

13 On August 1, 1995, in the San Bernardino County
14 Municipal Court District, Victorville Division, State of
15 California, in Case No. FV102665 respondent was convicted upon a
16 guilty plea to one count of violating Section 11379.6(a) of the
17 California Health and Safety Code (manufacture controlled
18 substance - methamphetamine), a felony crime.

19 4.

20 On August 1, 1995, in the San Bernardino County
21 Municipal Court District, Victorville Division, State of
22 California, in Case No. FV102625 respondent was convicted upon a
23 guilty plea to one count of violating Section 11379.6(a) of the
24 California Health and Safety Code (manufacture controlled
25 substance - methamphetamine), a felony crime.
26
27

5.

Respondent's failure to reveal the conviction set forth in Paragraph 4, in his application, constitutes an attempt to procure a real estate license by fraud, misrepresentation or deceit or by making a material misstatement of fact on his application, which is cause for denial of respondent's application for a real estate salesperson's license under Sections 480(c) and 10177(a) of the Code.

6.

The crimes set forth in Paragraphs 3 and 4 above, involve, by their facts and circumstances, moral turpitude and are 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.

7.

These crimes constitutes cause for denial of respondent's application for a real estate license under Sections 480(a) and 10177(b) of the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the Government Code of the State of California.


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

8 Dated at Los Angeles, California

9 this *10th* day of *March* 2003 .

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12 Deputy Real Estate Commissioner
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25 cc: Bret David Swanson
26 Fairway Realty Inc./James D. Phillips
27 Maria Suarez
Sacto
LM