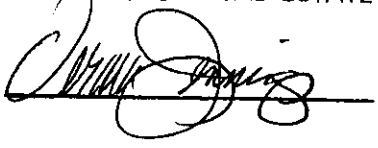


SANDI
FLAY

FILED
OCT 16 2003
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Application of)	No. H-30103 LA
))
JAMES ALLEN OERTEL,) L-2003060399
))
))
Respondent.))
))

DECISION

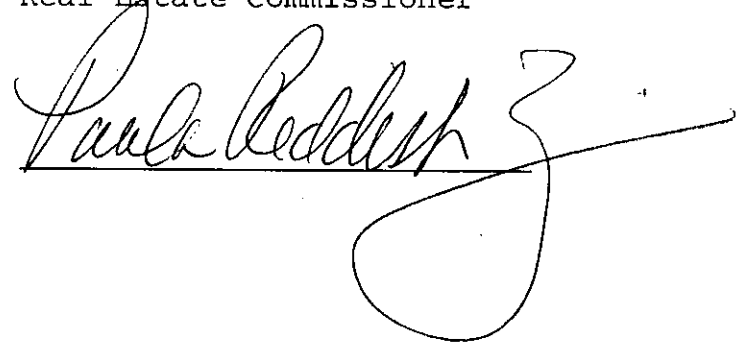
The Proposed Decision dated August 22, 2003 of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson 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 November 5, 2003.

IT IS SO ORDERED October 1, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 24 2003
DEPARTMENT OF REAL ESTATE

In the Matter of Statement of Issues Against:

JAMES ALLEN OERTEL,

Respondent.

By 

Case No. H-30103 LA

OAH Case No. L2003060399

PROPOSED DECISION

This matter was heard before Ruth S. Astle, Administrative Law of the Office of Administrative Hearings, State of California on July 30, 2003 in Los Angeles, California.

James Peel, Staff Counsel, represented the complainant.

Respondent was present and represented himself.

The matter was submitted on July 30, 2003

FACTUAL FINDINGS

1. Maria Suarez made this statement of issues in her official capacity as a Deputy Real Estate Commissioner for the State of California and not otherwise.
2. On March 14, 2002, James Allen Oertel (respondent) applied to the Department of Real Estate, State of California (Department) for a real estate salesperson license with the knowledge and understanding that any license issued as a result of that application would be subject to the conditions of section 10153.4 of the Business and Professions Code.
3. In response to Question 25 of the application, to wit, "Have you ever been convicted of any violation of law?", respondent answered "No".
4. On February 9, 1995, in the Superior Court of California, County of Riverside, respondent was convicted of violating Penal Code section 490.5 (Shoplifting), a crime involving moral turpitude that is substantially related to the qualifications, duties and functions of a real estate licensee.

5. On October 2, 1991, in the Municipal Court of Indio, Desert Branch, County of Riverside, State of California, respondent was convicted of violating Vehicle Code section 2800.1 (evading arrest) and 14601.1 (driving on a suspended license). Evading arrest is a crime involving moral turpitude and demonstrates dishonesty. Driving on a suspended license is not a crime involving moral turpitude.

6. Respondent's failure to reveal the matters set forth in Findings 4 and 5 on his application constitutes the attempted procurement of a real estate license by fraud, misrepresentation and deceit and by making a material misstatement of fact in the application, and knowingly making a false statement of fact required to be revealed in the application.

7. Respondent has a current and active contractor's license. Respondent's wife is a successful real estate agent. Respondent and his wife have been buying houses and fixing them up for resale.

8. While respondent's convictions are quite old, it is of great concern that respondent did not reveal them on his application. He wanted to keep this information from his proposed broker. Respondent presented no evidence that his proposed broker is willing to supervise him under these circumstances. Respondent did not demonstrate sufficient rehabilitation to grant him a restricted license at this time.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 4 and 5, cause for denial exists pursuant to 480(a)(1) and 10177(b) of the Business and Professions Code.

2. By reason of the matters set forth in Findings 3, 4, 5, and 6, cause for denial exists pursuant to 480 (c) and 10177(a) of the Business and Profession Code.

3. The matters set forth in Findings 7 and 8 have been considered in making the following order.

ORDER

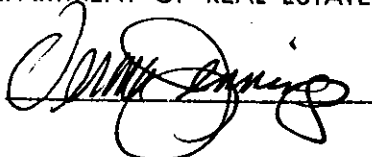
The application of James Allen Oertel for a real estate salesperson's license is hereby denied pursuant to Legal Conclusions 1 and 2, separately and jointly.

DATED: 4/22/03

Ruth S Astle
RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

FILED
JUL - 1 2003
DEPARTMENT OF REAL ESTATE

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

By 

In the Matter of the Application of

JAMES ALLEN OERTEL

}
}

Case No. H-30103 LA

OAH No. L-2003060399

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 **Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on July 30, 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.

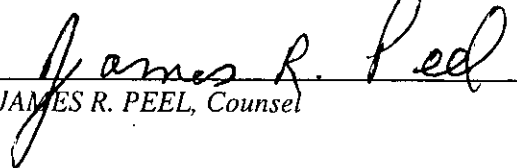
The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: July 1, 2003

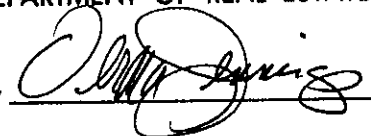
DEPARTMENT OF REAL ESTATE

By 
JAMES R. PEEL, Counsel

cc: James Allen Oertel
Ranald Ross Wyder
Sacto./OAH

Acc. Pay

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

FILED
MAY - 6 2003
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-30103 LA
12 JAMES ALLEN OERTEL,) STATEMENT OF ISSUES
13 Respondent.)
14

15
16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for Statement of Issues
18 against JAMES ALLEN OERTEL (Respondent) is informed and alleges
19 in her official capacity as follows:

20 I

21 On or about March 14, 2002, Respondent applied to the
22 Department of Real Estate of the State of California for a real
23 estate salesperson license with the knowledge and understanding
24 that any license issued as a result of that application would be
25 subject to the conditions of Section 10153.4 of the Business and
26 Professions Code.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

In response to Question 25 of said application, to wit,
"Have you ever been convicted of any violation of law?",
Respondent answered "No".

III

On or about February 9, 1995, in the Superior Court of
California, County of Riverside, Respondent was convicted of
violating Penal Code Section 490.5 (Shoplifting), a crime
involving moral turpitude and substantially related to the
qualifications, duties and functions of a real estate licensee.

IV

On or about October 2, 1991, in the Municipal Court of
Indio, Desert Branch, County of Riverside, State of California,
Respondent was convicted of violating Vehicle Code Sections
2800.1 (Evading Arrest) and 14601.1 (Driving on a Suspended
License), crimes involving moral turpitude and substantially
related to the qualifications, functions or duties of a real
estate licensee.

V

Respondent's convictions in the matters referred to in
Paragraphs III and IV are cause under Sections 480(a)(1) and
10177(b) of the Business and Professions Code for denying
Respondent's application for a real estate license.

///
///
///

VI

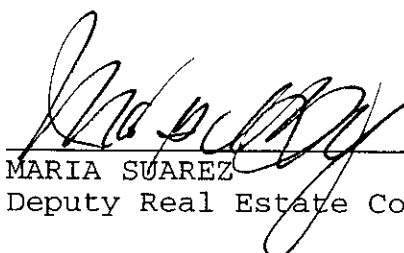
1
2 Respondent's failure to reveal the matters set forth in
3 Paragraphs III and IV in said application constitutes the
4 attempted procurement of a real estate license by fraud,
5 misrepresentation or deceit, or by making a material misstatement
6 of fact in said application, or knowingly making a false
7 statement of fact required to be revealed in said application,
8 which is cause for denying Respondent's application for a real
9 estate license under Sections 480(c) and 10177(a) of the Business
10 and Professions Code of the State of California.

11
12 The Statement of Issues is brought under the provisions
13 of Section 10100, Division 4 of the Business and Professions Code
14 of the State of California and Sections 11500 through 11528 of
15 the Government Code.

16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///

1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, 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 JAMES ALLEN OERTEL and for such other and
6 further relief as may be proper in the premises.

7 Dated at Los Angeles, California,
8 this 30th day of April, 2003.

9
10
11
12 
13 _____
14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
16
17
18
19
20
21
22
23

24 cc: James Allen Oertel
25 Ranald Ross Wyder
26 Maria Suarez
27 Sacto.
 CW