

FILED

AUG 27 2007

BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

BY: Laura B. Olson

* * * * *

In the Matter of the Application of) No. H-33715 LA
MICHAEL ROSS KAPP,) L-2007030095
Respondent.)

DECISION

The Proposed Decision dated July 23, 2007, 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(2) of the Government Code, the following correction is made to the Proposed Decision:

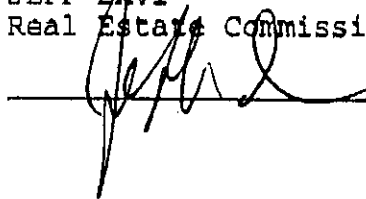
Page 5, Factual Findings, Paragraph 20, Line 1, the work "friend" is amended to read "friends".

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon
on SEP 17 2007
IT IS SO ORDERED 8-23-07

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

MICHAEL ROSS KAPP,

Respondent.

Case No.: H-33715 LA

OAH No.: L2007030095

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 June 28, 2007.

James Demus, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by James E. Prosser, Attorney at Law.

Oral and documentary evidence and evidence by way of 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

1. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Statement of Issues in her official capacity.
2. On or about February 7, 2005, pursuant to the provisions of section 10153.3 of the Business and Professions Code, Michael Ross Kapp, Respondent herein, made application to the Department of Real Estate of the State of California for a real estate salesperson license with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code section 10153.4.

Criminal Convictions

3. Respondent was born in 1972. During his youth, beginning at age nineteen in 1991 and continuing until 2000 when he was then twenty eight, Respondent engaged in a continuum of antisocial and sociopathic behavior resulting in the convictions which follow:

4. On January 11, 1991, in the Municipal Court for the County of Ventura, State of California, in Case No. 90C014001, Respondent was convicted of violating Penal Code section 148(A) (obstructing or resisting a public officer), a misdemeanor. The crime is a crime of moral turpitude and is substantially related under title 10 Chapter 6, section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

5. On September 23, 1992, in the Municipal Court for the County of Ventura, State of California, in Case No. 92C007540, Respondent was convicted of violating Penal Code section 594, subdivision (b)(4) (vandalism), a misdemeanor. The crime is a crime of moral turpitude and is substantially related under title 10, Chapter 6, section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

6. During a time that Respondent was intoxicated he attempted to steal liquor from a liquor cabinet, and he was, thus, subjected to criminal proceedings. Thereafter, on February 1, 1994, in the Municipal Court for the County of Ventura, State of California, in Case No. 93C010700, Respondent was convicted of violating Penal Code sections 664/484, subdivision (a) (attempted theft), a misdemeanor. The crime is a crime involving moral turpitude and are substantially related under title 10, Chapter 6, section 2910, California Code of Regulations; to the qualifications, functions or duties of a real estate licensee.

7. On September 27, 1999, in the Municipal Court for the County of Ventura, State of California, in Case No. 99C002751, Respondent was convicted of violating Penal Code section 148, subdivision (a) (obstructing or resisting a public officer), a misdemeanor. The crime is a crime of moral turpitude and is substantially related under title 10, Chapter 6, section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

8. On September 1, 1999, in the Municipal Court for the County of Ventura, State of California, Case No. CR40547, Respondent was convicted of violating Health and Safety Code section 12305 (illegal possession of explosives), a felony. The crime is a crime of moral turpitude and is substantially related under title 10, Chapter 6, section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

9. On April 4, 2000, Respondent was intoxicated and got into a fight with his roommate. Police responded to a call and arrested Respondent. Thereafter, on August 7, 2000, in the Superior Court of California, County of Ventura, in Case No. CR48571B, Respondent was convicted of violating Penal Code section 243, subdivision (d) (battery with

serious injury), a misdemeanor. The crime, when considered a part of a pattern of criminality as set forth in Findings 4, 5, 6, 7 and 8 is a crime of moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee.

10. Respondent did suffer one other conviction since the 2000 conviction. While productively employed as a sales representative for Stewart Title Company he drank beer, to excess, while entertaining prospective clients. Thereafter, he drove his vehicle while in a state of intoxication, was arrested and then subjected to criminal proceedings. Subsequently, on October 2, 2006, in the Superior Court of California, County of Ventura, in Case No. 2005041663, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol or drugs), a misdemeanor. The crime – six years distant from his last crime – is not a crime of moral turpitude – and the crime is not substantially related to the qualifications, functions, or duties of a real estate licensee. The crime is however, an antisocial act which presents a clear and present danger to Respondent and to others.

Disclosure

11. In response to Question 25 of the license application, to wit: "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, Respondent answered "Yes". He revealed five convictions. Respondent's failure to disclose two other convictions was not the result of intent but was the result of inadvertence and the lack of due diligence. He had incorrectly assumed, because of his prior application, that the Department had full knowledge of all his past convictions. Respondent's conduct therefore does not constitute knowingly make a false statement of fact or attempting to procure by fraud, misrepresentation or deceit. Respondent's inadvertence and lack of due diligence did, however, result in a material misstatement of fact in the application.

Prior Administrative Action

12. On January 28, 2000, the State of California, Department of Motor Vehicles (DMV), in Case NO. RD-00-0035, sought the denial of Respondent's application for a vehicle dealer's license. DMV established that grounds existed for the denial of Respondent's vehicle dealer's license under Vehicle Code sections 11705, subdivision (a)(14), 11701.1, 11703, subdivision (f), 11705, subdivision (a)(1), 11703.1, subdivision (d), 4456, subdivision (a), 4456.1, subdivision (c) and (d), and 11705, subdivision (a)(8). An Order denying Respondent's vehicle salesperson license was signed by the Director of the Department of Motor Vehicles on June 6, 2000. The Order became effective July 10, 2000.

13. On February 9, 2000, DMV, in Case No. RS-00-0117, sought the denial of Respondent's application for a vehicle salesperson's license. DMV established that grounds existed for the denial of Respondent's vehicle dealer's license under Vehicle Code section 1806, subdivision (d). An Order denying Respondent's vehicle salesperson license was signed by the Director of the Department of Motor Vehicles on June 6, 2000. The Order became effective July 10, 2000.

14. On July 29, 2002, the State of California, Department of Real Estate, in Case No. H-29624-LA, sought the denial of Respondent's real estate salesperson license. The Department established that grounds existed for the denial of Respondent's real estate license based on his criminal convictions. The Proposed Decision of December 5, 2002, denying Respondent's real estate salesperson license, was adopted by the California Real Estate Commissioner on January 7, 2003. The Order became effective January 29, 2003.

15. All adverse administrative action were the result of Respondent's past criminality and lack of sufficient rehabilitation from his criminal conduct at the time and times of the administrative action.

Rehabilitation

16. Respondent has not committed a crime of moral turpitude since 2000, seven years ago. In the interim he has engaged in rehabilitative efforts – except for his recent DUI conviction – as set forth in the following Findings.

17. As a result of the 2000 conviction the court threatened Respondent with confinement in the State Prison system, but relented, and sentenced Respondent to confinement in County Jail for five months. Respondent did complete his sentence of confinement and since, has completed all probationary requirements in each criminal case with the exception of the 2006 DUI. The confinement of Respondent was a powerful inducement to reorient his moral compass.

18. Respondent is now the father of a four year old daughter. Subsequent to his divorce he did pay full spousal support and he does provide for the financial support of his daughter. He visits with his daughter often and has a loving and caring relationship with her. Since 2000, Respondent has rekindled his relationship with his parents and now has a close relationship with his father and mother. At present, Respondent has stability of family life and does fulfill parental and familial responsibilities.

19. Respondent has been steadily and productively employed for the last seven years. After release from jail he began employment for Fidelity Title Co. as a messenger and was – because of his diligence, honesty and trustworthiness – promoted to the position of a sales representative. Thereafter, he was hired by Stewart Title Co. as a sales representative and he continues to work with diligence, honesty and trustworthiness.

20. Respondent has new and different social and business relationships than existed at the time of his wrongful conduct. During the course of his criminality he had no friend from business and many of his social friends were sociopaths. At present, Respondent has rekindled social relationships with responsible friends he has known for years, such as witness, R.A. Blossom, an architect, who testified, credibly as to Respondent's present maturity and positive change of ways. Respondent has also cultivated a number of friends in business through his work with Stewart Title Co.

21. When his work schedule permits, Respondent performs volunteer work for the Channel Coast Referee Association as a referee of youth sports and high school sports. Respondent, therefore, has conscientious and significant involvement in privately – funded programs designed to provide social benefits or to ameliorate social problems.

22. Respondent has a change in attitude from that which existed during the years of 1991 through 2000. That change was brought about by the number of factors, including the following:

- the impact of his incarceration
- the social and economic benefit of productive work
- the birth of his daughter and the responsibilities of fatherhood
- his contriteness and remorse for a previous life of crime
- the steadfast support of his father, a Real Estate Broker since 1978

The change in attitude was confirmed by credible documentary evidence of a Ventura County prosecutor and an assistant principal of Ventura High School, both knowledgeable of the change in Respondent.

In the words of the prosecutor:

“In 2000, Mr. Kapp had a decision to make – continue on the same delinquent path and ruin your future by a state prison commitment or grow up, take hold of your life, and change. It appears that he chose the latter path, but for an alcohol-impaired driving misdemeanor in 2005.”

In the words of the educator:

“During the last few years, I have noticed the greatest change and growth in Mike's life. I firmly believe that Mike has moved on. He has become a successful business man and father. He has accepted his responsibility in both of these areas and has become a successful, contributing member in the 'grown up world'.”

23. Through hard work and perseverance, and with the support of his new friends and his family, Respondent has changed for the better. He is no longer an antisocial youth. He is now a mature adult and a loving father. He is a productive member of society who is, now, professionally and socially responsible.

Applicable Authority

1. 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.

2. Business and Professions Code section 475 provides in pertinent part:

475. (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

- (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact in an application for license.
- (2) Conviction of a crime.

- - -

3. Business and Professions Code section 480 provides in pertinent part:

(a) A board may deny a license regulated by the code on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of section 1203.4 of the Penal Code.

- - -

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

- - -

- (c) 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.

4. Business and Professions Code section 10177 provides in part:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

- (a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation, or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.
- (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude; and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

- - -
- (f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or has either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with section 11340), Chapter 4 (commencing with section 11370), and Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

Causes for Denial

5. Respondent's convictions, as set forth in Findings 4, 5, 6, 7, 8 and 9, constitute grounds for denial of Respondent's application for a real estate license pursuant to Business and Professions Code sections 475, subdivision (a)2, 480, subdivision (a) and 10177, subdivision (b).

6. Respondent's failure to disclose two of the convictions does constitute grounds to deny his application pursuant to Business and Professions Code section 10177, subdivision (a), by reason of Finding 11.

7. Respondent's failure to disclose two of the convictions does not constitute grounds to deny his application for a real estate license pursuant to either Business and Professions Code section 480, subdivision (c) or Business and Professions Code section 475, subdivision (a)(1), by reason of Finding 11.

Licensing Considerations

7. California Code of Regulations, title 10, section 2911, sets forth criteria of rehabilitation that have been developed by the Department, pursuant to Business and Professions Code section 482, subdivision (a), to evaluate the rehabilitation of an applicant for issuance of a license in considering whether or not to deny the issuance on account of

crimes or acts committed by the applicant. Respondent has a sustained period of criminal conduct and, therefore, a sustained period of clear and convincing rehabilitation is necessary for licensure. By his sustained efforts set forth in Findings 17 through 23, Respondent has substantially complied with the criteria. Accordingly, licensure on a restricted status is consistent with the public interest.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to section 10153.5 of the Business and Professions Code. The restricted license issued to the Respondent shall be subjected 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 provisions of 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 the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have 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 52 (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 license is required.

4. Respondent's restricted real estate salesperson's license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

5. Pursuant to section 10154, if Respondent has not satisfied the requirements for an unqualified license under section 10153.5, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to section 10153.4 until four years after the date of the issuance of the preceding restricted license.

Dated: July 23, 2007



RICHARD J. LOPEZ

Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

gal

FILED

FEB - 8 2007

DEPARTMENT OF REAL ESTATE
BY: *Laura B. [Signature]*

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
(Direct) (213) 576-6910

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of	)	NO. H-33715 LA
	)	
MICHAEL ROSS KAPP,	)	
	)	<u>STATEMENT OF ISSUES</u>
	)	
Respondent.	)	
	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against MICHAEL ROSS KAPP, ("Respondent"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues against Respondent in her official capacity.

2.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 7, 2005, with the knowledge and

1 understanding that any license issued as a result of said
2 application would be subject to the conditions of Business and
3 Professions Code ("Code") Section 10153.4.

4 3.

5 (CRIMINAL CONVICTIONS)

6 In aggravation, on or about October 2, 2006, in the
7 Superior Court of California, Country of Ventura, in case no.
8 2005041663, Respondent was convicted of violating California
9 Vehicle Code Section 23152(a) (driving under the influence of
10 alcohol or drugs); a misdemeanor.

11 4.

12 In aggravation, on or about August 7, 2000, in the
13 Superior Court of California, County of Ventura, in case no.
14 CR48571B, Respondent was convicted of violating California Penal
15 Code Section 243(d) (battery with serious injury), a
16 misdemeanor.

17 5.

18 On or about September 1, 1999, in the Municipal Court
19 for the County of Ventura, State of California, case no,
20 CR40547, Respondent was convicted of violating California Health
21 and Safety Code Section 12305 (illegal possession of
22 explosives), a felony. The underlying facts of this crime
23 involve moral turpitude and are substantially related under
24 Title 10, Chapter 6, Section 2910, California Code of
25 Regulations, to the qualifications, functions or duties of a
26 real estate licensee.

27 ///

6.

On or about September 27, 1999, in the Municipal Court for the County of Ventura, State of California, in case no. 99C002751, Respondent was convicted of violating California Penal Code Section 148(a) (obstructing or resisting a public officer), a misdemeanor. The underlying facts of this crime involve moral turpitude and are substantially related under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

7.

On or about February 1, 1994, in the Municipal Court for the County of Ventura, State of California, in case no. 93C010700, Respondent was convicted of violating California Penal Code Sections 664/484(a) (attempted theft), a misdemeanor. The underlying facts of this crime involve moral turpitude and are substantially related under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

8.

On or about September 23, 1992, in the Municipal Court for the County of Ventura, State of California, in case no. 92C007540, Respondent was convicted of violating California Penal Code Section 594(b)(4) (vandalism), a misdemeanor. The underlying facts of this crime involve moral turpitude and are substantially related under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions

1 or duties of a real estate licensee. In aggravation, Respondent
2 was also convicted for violating two counts of Vehicle Code
3 Section 23110(a) (throwing substance at a vehicle), a
4 misdemeanor.

5 9.

6 On or about January 11, 1991, in the Municipal Court
7 for the County of Ventura, State of California, in case no.
8 90C014001, Respondent was convicted of violating California
9 Penal Code Section 148(A) (obstructing or resisting a public
10 officer), a misdemeanor. The underlying facts of this crime
11 involve moral turpitude and are substantially related under
12 Title 10, Chapter 6, Section 2910, California Code of
13 Regulations, to the qualifications, functions or duties of a
14 real estate licensee

15 10.

16 (FAILURE TO REVEAL CONVICTIONS)

17 In response to Question 25 of the license application,
18 to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
19 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
20 DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH
21 DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE", Respondent
22 failed to reveal the convictions described in Paragraphs 6 and 8
23 above.

24 11.

25 Respondent's failure to disclose the convictions, as set
26 forth in Paragraphs 6 and 8 above, in his license application,
27 constitutes an attempt to procure a real estate license by

1 fraud, misrepresentation, or deceit, or by making a false
2 statement of material fact required to be revealed in said
3 application, which is grounds for denial of the issuance of a
4 license under Business and Professions Code Sections 475(a)(1),
5 480(c) and 10177(a).

6 12.

7 (PRIOR LICENSE DISCIPLINE)

8 On or about January 28, 2000, the State of California,
9 Department of Motor Vehicles, in case no. RD-00-0035, sought the
10 denial of Respondent's application for a vehicle dealer's
11 license. As more fully set forth in the Statement of Issues for
12 the above-mentioned case, The Department of Motor Vehicles
13 established that grounds existed for the denial of Respondent's
14 vehicle dealer's license under Vehicle Code sections
15 11705(a)(14), 11701.1, 11703(f), 11705(a)(1), 11703.1, 11703(d),
16 4456(a), 4456.1(c) and (d), and 11705(a)(8).

17 This matter was set for a hearing before the Office of
18 Administrative Hearings in Los Angeles, California on June 20th
19 and 21st, 2000. Respondent withdrew his request for a hearing
20 prior to the hearing date. An Order denying Respondent's
21 vehicle salesperson license was signed by the Director of the
22 Department of Motor Vehicles on June 6, 2000. The Order became
23 effective July 10, 2000.

24 13.

25 On or about February 9, 2000, the State of California,
26 Department of Motor Vehicles, in case no. RS-00-0117, sought the
27 denial of Respondent's application for a vehicle salesperson's

1 license. As more fully set forth in the Statement of Issues for
2 the above-mentioned case, The Department of Motor Vehicles
3 established that grounds existed for the denial of Respondent's
4 vehicle dealer's license under Vehicle Code Section 11806(d).

5 This matter was set for a hearing before the Office of
6 Administrative Hearings in Los Angeles, California on June 20th
7 and 21st, 2000. Respondent withdrew his request for a hearing
8 prior to the hearing date. An Order denying Respondent's
9 vehicle salesperson license was signed by the Director of the
10 Department of Motor Vehicles on June 6, 2000. The Order became
11 effective July 10, 2000.

12 14.

13 On or about July 29, 2002, the State of California,
14 Department of Real Estate, in case no. H-29624-LA, sought the
15 denial of Respondent's real estate salesperson license. As more
16 fully set forth in the Decision for the above-mentioned case,
17 cited below, The Department of Real Estate established that
18 grounds existed for the denial of Respondent's real estate
19 license based on his criminal convictions.

20 On November 5, 2002, this matter was heard before the
21 Office of Administrative Hearings, Los Angeles, California. The
22 Proposed Decision of December 5, 2002, denying Respondent's real
23 estate salesperson license, was adopted by the California Real
24 Estate Commissioner on January 7, 2003. The Order became
25 effective January 29, 2003.

26 The crimes of which Respondent was convicted, as
27 alleged herein above in Paragraphs 5 through 9, and the

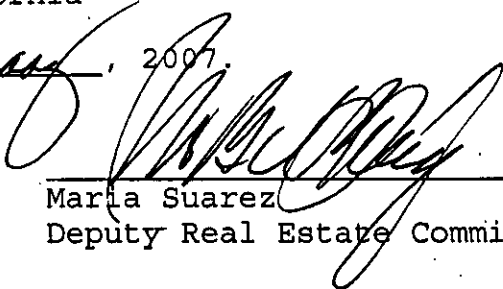
1 allegations contained in Paragraphs 12 through 14 above,
2 constitute cause for denial of Respondent's application for a
3 real estate license under Business and Professions Code Sections
4 475(a)(2); 480(a)(1); 10177(f); and 10177(b).

5 The Statement of Issues is brought under the
6 provisions of Section 10100, Division 4 of the Business and
7 Professions Code of the State of California and Sections 11500
8 and 11529 of the Government Code.

9
10 WHEREFORE, Complainant prays that the above entitled
11 matter be set for hearing and, upon proof of the charges
12 contained herein, that the Commissioner refuse to authorize the
13 issuance of, and deny the issuance of, a real estate salesperson
14 license to Respondent, MICHAEL ROSS KAPP, and for such other and
15 further relief as may be proper in the premises.

16 Dated at Los Angeles, California

17 this 24th day of February, 2007.

18
19 
20 Maria Suarez
21 Deputy Real Estate Commissioner
22
23
24

25 cc: MICHAEL ROSS KAPP
26 Maria Suarez
27 Sacto.