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FILED

OCT 25 2007

DEPARTMENT OF REAL ESTATE

By *Jean Dumont*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-8919 SF
JASON ALAN KEITH,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 11, 2005, a Decision After Rejection was rendered herein denying the Respondent's application for real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on February 26, 2005, and Respondent has operated as a restricted licensee since that time.

On May 29, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for removal of restrictions is granted and that a real
10 estate salesperson license be issued to Respondent subject to the
11 following understanding and conditions:

12 1. The license issued pursuant to this order shall be
13 deemed to be the first renewal of respondent's real estate
14 salesperson license for the purpose of applying the provisions of
15 Section 10153.4.

16 2. Within nine (9) months from the date of this order
17 respondent shall:

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

20 (b) Submit evidence of having taken and successfully
21 completed the courses specified in subdivisions (a) (1), (2), (3)
22 and (4) of Section 10170.5 of the Real Estate Law for renewal of
23 a real estate license.

24 3. Upon renewal of the license issued pursuant to this
25 order, respondent shall submit evidence of having taken and
26 successfully completed the continuing education requirements of

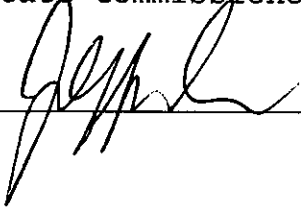
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1 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
2 real estate license.

3 This Order shall become effective immediately.

4 IT IS SO ORDERED 10/17, 2007.

5 JEFF DAVI
6 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

JASON ALAN KEITH,

Respondent.

Case No. H-8919 SF

OAH No. N2004110571

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on December 14, 2004.

Complainant Les R. Bettencourt, Deputy Real Estate Commissioner, was represented by Truly Sughrue, Counsel.

Respondent Jason Alan Keith was present and was represented by Louis Giraudo, Attorney at Law.

The matter was submitted for decision on December 14, 2004.

FACTUAL FINDINGS

1. On March 23, 2004, respondent Jason Alan Keith submitted to the Department of Real Estate an application for a real estate salesperson license. Any license issued pursuant to that application would be subject to the provisions of Business and Professions Code section 10153.4. The department denied respondent's application and he appealed.

2. a) On April 30, 1991, respondent was convicted in Orange County, on his plea of guilty, of a felony violation of Penal Code section 211 with an enhancement under Penal Code section 12022, subdivision (b), second degree armed robbery. This is a crime involving moral turpitude and that bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

b) Following conviction, imposition of sentence was suspended and respondent was placed on probation for three years. Terms of probation included 291 days in jail. With credit for time served of 194 days plus 97 days for good conduct, respondent was not required to serve any additional time. Respondent was also required to pay a restitution

fine of \$100 and to cooperate with his probation officer in a plan for psychological, drug, and alcohol treatment or counseling.

3. a) On October 18, 1996, respondent was convicted in Riverside County, on his plea of guilty, of a felony violation of Penal Code sections 664/459, first degree attempted burglary. This is a crime involving moral turpitude and that bears a substantial relationship to the qualifications, functions and duties of a real estate licensee.

b) Following conviction, respondent was sentenced to seven years in state prison.

4. Respondent was open and candid in explaining the circumstances of his past criminal conduct. Respondent freely admitted in his application that these were not the only crimes he committed; they were just the only ones for which he was caught. His crimes were committed to help support his drug habit.

5. Respondent started using drugs just before the start of his senior year in high school in 1988. Two of his friends experimented with cocaine and introduced respondent to it. Within a month he had developed a dependency and was "using cocaine all day, every day." By the end of the first semester of his senior year, respondent could no longer attend classes. He admitted his drug use to his parents, who placed him in a drug treatment center. He remained there for 35 days. Within six hours of his release, respondent resumed his drug use. He dropped out of high school.

6. Respondent's first conviction resulted from an incident that occurred on December 31, 1990. He was 20 years old. Using the threat of violence, respondent and an accomplice robbed a man using an automated teller machine, forcing him to withdraw \$300. Respondent was armed with a knife. He was arrested early the next morning. He spent eight months in county jail before he was sentenced.

7. Respondent did not use drugs for a year and a half after this incident. But then he was prescribed Vicodin for an injury. He again became drug-dependent and returned to the use of illegal drugs. Respondent's drug of choice was cocaine. Sometimes he used heroin.

8. The incident that resulted in respondent's second conviction occurred on May 12, 1996. Respondent was living in a motel in Riverside. Seeing that the door to the office was open, respondent entered and took approximately \$145 from the cash drawer. Respondent was arrested within an hour and all but \$10 was recovered from him.

9. Because this crime was his second strike, respondent received a two-year sentence for the burglary with a five-year enhancement. He was required to serve 80 percent of the sentence. Respondent served five years, nine months in state prison. Most of that time was spent at Pleasant Valley State Prison. During his first year in prison, respondent continued to use drugs, buying it from other inmates. Respondent had a friend in prison who

was serving his seventh term because of drug use. Respondent realized he could be headed down the same path. Out of "fear of spending the rest of [his] life in prison," respondent stopped using drugs. He sought counseling but none was offered at the prison. It was not until very late in his term, about one and a half months before his release, that drug counseling became available and respondent was able to participate. While in prison, respondent took a number of vocational classes, and he earned his GED.

10. Respondent was released from prison in February 2002. He was placed on three years' parole. However, he was released from parole after only about 14 months, in March or April 2003.

11. After his release from prison, respondent began weekly therapy sessions that were specifically directed to his prior drug use. One of the reasons respondent undertook this therapy was because he had no urge to use drugs after his release from prison, and this confused him. In therapy, respondent learned that there might be psychological reasons for drug addiction. With his therapist, respondent explored the emotional factors that might have led to his addiction. Respondent continued in weekly therapy for a year.

12. Respondent last used drugs in 1997. He feels he has "grown tremendously" over the past seven or eight years and he "cannot fathom anything" that might lead him back to drug use. Calling upon lessons he learned in therapy, respondent now monitors himself to make sure he stays away from things that are emotionally unhealthy for him. He realizes that his drug problems have all involved opiate derivatives – cocaine, heroin, and Vicodin – and so he makes sure to stay away from such drugs. Respondent attended some NA meetings in his early 20's, but found that the program was not for him. He found that the program was "not very empowering" and that its only goal was abstinence. He feels he has broader and "loftier" goals for himself.

13. After his release from prison respondent had a difficult time finding work because of his felony convictions. With the help of friends he got a job at Blue Print Reprographic Services, now BPS. He started in May 2002 as a delivery driver and has since worked his way up to a managerial position. He was recruited by STUDIOS Architecture, one of BPS's largest customers, to manage its in-house reprographic facility. Still a BPS employee, respondent works at STUDIOS Architecture's facility where he reports to that firm's IT manager, Robert Rhode. Rhode describes respondent as a "fantastic" employee and an "extremely honest, trustworthy person." An example of respondent's honesty occurred soon after he was placed at the firm: when Rhode was going to give respondent keys and the security code so he could work over the weekend, respondent said he would not accept them until they had "a conversation." Respondent then disclosed to Rhode his past criminal conduct; he wanted Rhode to know about it in case there were objections to his receiving the security code. Rhode found this to be an "impressive" display of honesty.

14. Respondent was married in October 2003 to a woman he met after his release from prison. Respondent's wife describes him as "kind and caring." He has openly discussed with her his criminal past. He has not used drugs since they met and she has no

fear he will resume illicit drug use. She points out that he is so diligent that he will not even take Tylenol out of concern where it might lead him. Respondent and his wife purchased a house in June 2004.

15. Respondent's sister, Shari Guggenhime, testified about her relationship with respondent and the changes she has seen in him over the past four or five years. Guggenhime said she and respondent had a close relationship until respondent "started to drift off track" about the time she went off to college. He was not doing well in school and was calling her for money. She suspected he was using drugs. Fed up, she cut off her relationship with her brother; she did not speak to him and refused to respond to letters he wrote her from prison. Finally, after he had been in prison for three or four years, she agreed to visit him. She found "the old Jason" and was able to overcome her resistance and resume her relationship with him. She was impressed that he openly discussed his criminal and drug-using past. Guggenhime feels respondent has "made a tremendous amount of progress." Since his release from prison their bond has become closer. Respondent spends time with Guggenhime's husband and children, and she "trusts him implicitly."

16. Respondent submitted a number of letters from friends, family members, and business associates. The letter-writers are all aware of respondent's past. They consistently attest to respondent's reliability, trustworthiness, work ethic, conscientiousness, dedication, and good character.

17. Respondent is interested in entering the real estate profession because he wants to be better able to provide for his family. He believes that one of his strengths is building relationships, and that this will serve him well in the profession.

18. All the money taken in respondent's two crimes has been returned. In both cases he made restitution of stolen money that had not been recovered.

19. Respondent no longer associates with those with whom he was involved during his criminal behavior. However, he does maintain contact with a friend he made in prison – a man serving a life sentence. He does so out of compassion because, while respondent has turned his own life around, he says, "it saddens me that there's no light at the end of his tunnel."

LEGAL CONCLUSIONS

1. Business and Professions Code section 480, subdivision (a), provides that a real estate license may be denied if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the profession for which application is made. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be denied if the applicant has been convicted of a felony or a crime involving moral turpitude. By reason of the matters set forth in Findings 2 a) and 3 a), cause for denial of respondent's application exists under both these sections.

2. In California Code of Regulations, title 10, section 2911, the department has established certain criteria to be evaluated in determining whether to deny issuance of a license because of a criminal conviction. Respondent has shown that, evaluated according to those criteria, he has rehabilitated himself to the extent that it would not be against the public interest to permit him to hold a real estate salesperson license on an appropriately restricted basis: more than eight years have passed since respondent's last conviction; he has made restitution of stolen money that was not recovered; he successfully completed parole and was released from it almost two years early; he has been drug-free for seven years; he has established a stable family life; and he has different social relationships than those that existed at the time of his crimes. Most importantly, respondent has shown a significant change in attitude from that which existed at the time of the crimes. Respondent has without question turned his life around and he fully deserves an opportunity to prove himself in the real estate field.

ORDER

The application of respondent Jason Alan Keith for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

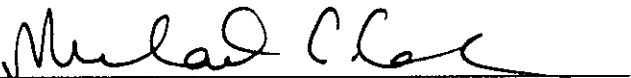
1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - (a) The conviction of respondent (including a plea of nolo contendere) of a crime that 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 the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two (2) 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 552 (Rev. 4/88) approved by the Department of Real Estate, which shall certify as follows:

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

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

4. Respondent's restricted real estate salesperson 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 two 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. The 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 10153.4, 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: January 3, 2005


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

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DEPARTMENT OF REAL ESTATE
By Anne Skann

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

In the Matter of the Application of

JASON KEITH

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}

Case No. H-8919 SF

OAH No.

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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **TUESDAY, DECEMBER 14, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

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

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: OCTOBER 7, 2004

By Truly Sughrue /s/
TRULY SUGHRUE, Counsel

FLAG

FILED

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DEPARTMENT OF REAL ESTATE

By Anne Shaw

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Application of)	No. H-8919 SF
12	JASON ALA KEITH,)	<u>STATEMENT OF ISSUES</u>
13	Respondent.)	

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against JASON ALA KEITH (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about March 23, 2004, with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the Business and Professions Code.

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II

Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about April 30, 1991, in the Superior Court, County of Orange, Respondent was convicted of a violation of Section 211 of the California Penal Code with Section 12022(B) Enhancement(Armed Robbery), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

On or about October 18, 1996, in the Superior Court, County of Riverside, Respondent was convicted of a violation of Section 644/459 of the California Penal Code (Attempted Burglary), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.


IV

The crime of which Respondent was convicted, as alleged above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 9th day of September, 2004.