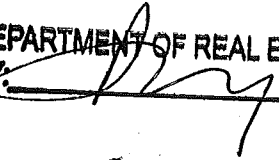


FILED

MAY 10 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

| | | |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of |) | |
| |) | |
| JASON DAVID GATES, |) | NO. H-37543 LA |
| |) | L-2011110908 |
| |) | |
| Respondent. |) | |
| _____ |) | |

DECISION

The Proposed Decision dated April 112 2012, 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(c)(2) of the Government Code, the following correction is made:

Page 1, Paragraph 3, "Jackson David Gates" shall read: "Jason David Gates".

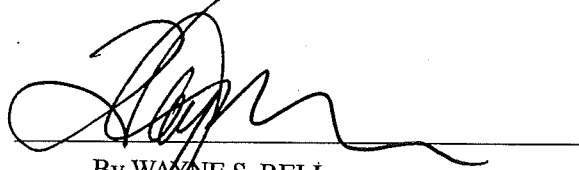
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon on May 30, 2012.

IT IS SO ORDERED 5/8/2012

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JASON DAVID GATES,

Respondent.

Case No. H-37543LA

OAH No. 2011110908

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on March 27, 2012.

Diane Lee, Staff Counsel represented Robin Trujillo, (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

JASON
Jackson David Gates (Respondent) was present and represented himself.

Oral and documentary evidence was received, and the matter argued.

The case was submitted for decision on March 27, 2012.

FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in her official capacity.
2. Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code), as a conditional real estate salesperson. His salesperson license expires on May 24, 2015.

3. On October 10, 2008, in the California Superior Court, County of Los Angeles, in case number 8LG05714, Respondent, upon his nolo contendere plea, was convicted of violating Penal Code section 148, subdivision (a) (1), resisting a peace officer, a misdemeanor. The court suspended the imposition of sentence and placed Respondent on summary probation for a period of 3 years subject to certain terms and conditions including serving 2 days in the county jail, with credit for time served, and paying fines and fees of \$155.00.

4. The facts and circumstances concerning Respondent's 2008 conviction are as follows. Respondent arrived home drunk late on the evening in question. Concerned about the safety their children, Respondent's wife took their two children to Respondent's sister's house which was located to the rear of his house. Respondent went to his sister's house and demanded to see his children. His sister refused to allow him to see them. Respondent forced his entry into the sister's house and pushed her to the floor. His sister called the police and pressed charges against Respondent. Respondent resisted efforts of the police to take him into custody.

5. On May 12, 2010, in the California Superior Court, County of Los Angeles, in case number 0LG04904, Respondent, upon his nolo contendere plea, was convicted of violating Penal Code section 594.1, subdivision (a) (1), vandalism, a misdemeanor. The court placed Respondent on summary probation for a period of 3 years upon certain terms and conditions including serving 8 days in the county jail, paying \$285.00 in fines and fees, not harassing his former spouse, and completing a domestic violence counseling program. Respondent was also ordered to pay \$500.00 in restitution to a woman's shelter. Respondent has completed the counseling program and paid the \$500.00. Respondent remains on probation until May 2013.

6. Respondent's 2010 conviction involved a situation where Respondent had a confrontation with his wife. In the course of that encounter Respondent destroyed personal property of his wife.

7. Respondent participated in Alcoholics Anonymous for six months during which time he had a sponsor. He no longer attends AA meetings. Respondent admitted that he presently has a drink as recently as a week ago. He can't remember when he was most recently drunk.

7. Respondent and his wife were divorced in October 2011. Since that time and with assistance Respondent gained from the Domestic Violence Program he attended, their relationship has improved. Respondent's wife testified on Respondent's behalf in this proceeding. She stated that she has observed Respondent gain in maturity following these changes. She now trusts Respondent with their children and they jointly care for them.

8. The person who led the Domestic Violence – Batterer’s Program attended by Respondent submitted the following statement:

Mr. Gates has completed all his program requirements. Mr. Gates demonstrates the ability to resolve domestic disputes in a non-abusive manner and understands any future acts of violence carry serious consequences.

9. Respondent’s mother testified on his behalf. She owns the real estate company where Respondent works. She is aware of Respondent’s criminal convictions. She believes that Respondent’s conduct and maturity have improved as a result of the counseling he has obtained. She believes that Respondent has now grown up. She indicated that he is good at his work and she is in a position to closely monitor his performance to insure that future problems do not arise.

LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. Respondent’s criminal convictions set forth in Factual Findings 3 through 6 are substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Business and Professions Code section 490 and 10177, subdivision (b) as more specifically set forth in California Code of Regulations, title 10, section 2910, subsections (a) (8), and (10) in that they involved doing unlawful acts with the threat of doing substantial injury to the person or property of another; and demonstrated a pattern of repeated and willful disregard of law.

3. Cause exists pursuant to the provisions of Business and Professions Code sections 490 and 10177, subdivision (b), to suspend or revoke all licenses all the licenses and license rights of the Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) by virtue of Respondent’s criminal convictions set forth in Factual Findings 3 through 6.

4. The Department, in California Administrative Code, title 10, section 2912, has adopted criteria for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for the revocation or suspension of the license has been initiated on account of a crime committed by the licensee. Two years are required to have past from the time of the Respondent’s

latest criminal conviction. In the present case it has been barely two years since Respondent's most recent conviction. Respondent has paid the restitution ordered by the court. His convictions have not been expunged. Respondent is on probation until 2013. Respondent is not abstaining from the use of alcohol. Respondent and his wife have divorced and their relationship has positively improved. Respondent is endeavoring to apply what he learned in the counseling course he was ordered to complete. Respondent's employer (his mother) is willing to closely monitor his work. Taking all of foregoing into consideration a close case is presented concerning the disposition of this matter. Under the circumstances, a probationary license is appropriate for the protection of the public.

ORDER

All licenses and licensing rights of Respondent Jason David Gates under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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 that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

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

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker,

a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

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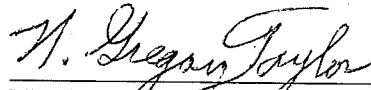
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7. Respondent's original real estate salesperson license was issued subject to the provisions of Section 10153.4 of the Business and Professions Code, and the restricted real estate salesperson license issued to Respondent shall be similarly limited, to wit: Respondent shall, within eighteen (18) months of the issuance of Respondent's original real estate salesperson license under the provisions of Section 10153.4 of the Business and Professions Code, 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 present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of Respondent's original real estate salesperson license. Said suspension shall not be lifted until Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the Respondent of lifting of the suspension.

Dated: April 11, 2012.



N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings