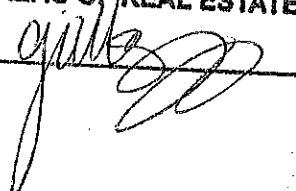


**FILED**

APR - 8 2016

**BUREAU OF REAL ESTATE**

By 

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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|------------------------------------|---|-----------------------|
| In the Matter of the Accusation of | ) | CaIBRE No. H-39898 LA |
| WILLIAM JON PARENT,                | ) | OAH No. 2015090401    |
| Respondent.                        | ) |                       |

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DECISION

The Proposed Decision dated March 3, 2016 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 corrections are made to the Proposed Decision.

Order, Page 9, Paragraph No. 6, Line 3, "Box 137000, Sacramento, CA 95813-7000" is amended to read "Box 137013, Sacramento, CA 95813-7013".


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

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 APR 28 2016

IT IS SO ORDERED 4/6/2016

REAL ESTATE COMMISSIONER



WAYNE S. BELL

BEFORE THE  
BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

WILLIAM JON PARENT,

Respondent.

No. H-39898 LA

OAH No. 2015090401

**PROPOSED DECISION**

Thomas Y. Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on February 4, 2016, in Los Angeles, California.

Veronica Kilpatrick, complainant, was represented at the hearing by Judith B. Vasan, Staff Counsel.

William Jon Parent, respondent, was self-represented.

Oral and documentary evidence was received. The record was closed, the hearing was completed, and the matter was submitted for decision on February 4, 2016.

**FACTUAL FINDINGS**

1. Complainant brought the accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. Respondent filed a timely Request for Hearing.
2. On December 24, 2001, the Bureau of Real Estate (Bureau) issued respondent real estate broker license no. 01226793. The license is set to expire on October 25, 2018. (Exhibit 2.)
3. On September 3, 2014, respondent was convicted, on a plea of nolo contendere, in the Superior Court of California, County of Los Angeles, case no. PA080380, of violating Health and Safety Code section 11366 (maintaining a place for unlawfully selling, giving away, or using any controlled substance), a felony. The court ordered that respondent: (i) serve five days in county jail, with credit for three days in custody and two days of good time or work time; (ii) pay fines and assessments totaling \$465, plus the costs of probation in a sum to be determined by a probation officer; (iii) perform 30 days of

community labor; (iv) be placed on three years' formal probation; (v) register as a convicted narcotics offender; and (vi) cooperate with his probation officer on a plan for a drug treatment program. (Exhibit 3.)

4. The facts and circumstances underlying the conviction are that from approximately mid-2010 respondent and his adult son grew marijuana plants in the garage at a house in Northridge, California. Respondent owned the house, but allowed his son to live there and to collect rent from a tenant, to help the son defray college costs. Respondent and his son had medical marijuana cards that, under Health and Safety Code section 11362.77, subdivision (a), permitted each of them to grow up to six mature marijuana plants. The garage however had 48 mature plants and smaller ones under cultivation. Based on an anonymous tip, police obtained a warrant, searched the premises, and discovered cultivation equipment and the plants, part of an elaborate marijuana cultivation operation. (Exhibit 4.)

5. A Felony Advisement of Rights, Waiver, and Plea Form (plea form) filed in the court on September 3, 2014, the date of conviction, provided that "after 18 months [defendant, respondent] can request reduction order 17b [that is, under Penal Code section 17, subdivision (b)] to misdemeanor . . . ." (Reduction order). (Exhibit B.)

6. On January 29, 2016, respondent served on the Los Angeles District Attorney a petition for a Reduction order, stating, "Defendant requests that the felony sentence be recalled and that he/she be resentenced to a misdemeanor pursuant to Penal Code § 1170.18(a)-(e)." (Exhibit C.) At the time of this hearing, the petition had been submitted to the court but not filed and was not on the court's calendar, so that there was no hearing date pending in the Superior Court.

7. In cooperation with his probation officer, respondent agreed to and completed a program for drug treatment. A January 28, 2016 letter from a behavioral therapist, the Program Director at Behavioral Management Group in Northridge, California, states that respondent is remorseful and not likely to re-offend. The therapist states that respondent will likely complete the program in April 2016. (Exhibit D.)

8. Respondent is registered as a convicted narcotics offender, in compliance with the order of the court.

9. Respondent went into the business of cultivating marijuana because he believed it could generate profits from supplying medicinal relief to customers. His belief was based in part on family experience. Respondent's son, who lived in the house where he helped his father with cultivation, had suffered from a brain tumor years before. Marijuana provides his son relief from pain related to the tumor.

10. Before cultivation, respondent engaged in limited due diligence. He consulted a lawyer, but obtained no written opinion or direction regarding the legalities of the enterprise he was contemplating.

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11. Respondent's main effort in trying to establish his place in the supply chain was directed toward distributors. Respondent sought a binding agreement with a business that supplied marijuana legally to patients. Thus on February 16, 2010, respondent and the owner of a marijuana dispensary signed an agreement under which respondent would be a supplier to the dispensary. The agreement, however, lacked details, such as how much marijuana respondent would supply and the dispensary would accept. The agreement also lacked information on costs and other crucial terms. (Exhibit J.) Respondent could conclude no binding agreement, with this or another business, because he had not yet grown or harvested salable produce.

12. Respondent continues to own expensive equipment for indoors cultivation. Deteriorating outdoors, the equipment is essentially useless and of little value. Respondent neglects the equipment because he has no plans to grow marijuana. He was surprised by how difficult it is to grow salable produce. Despite great efforts, he found it impossible to keep his first and only crop pest-free. Pests, bugs and mold, rendered the crop unmarketable. He found that without a track record of successful growing he had no negotiating power with other businesses.

13. Respondent expressed remorse, but in a qualified way. His failed foray into the cultivation business and related conviction taught respondent he must not anticipate liberalization of laws. Rather he understands, in the unlikely event he returns to a business involving marijuana, or any new business, that he must follow all pertinent laws scrupulously, as carefully as he follows the multitude of laws and regulations governing his decades of successful real estate practice.

14. Respondent has for decades made a solid living from his real estate practice, with which he continues to support his wife and children. Though he has a broker license, he is not the broker of record in his office. He makes his living mostly as a residential listing or selling agent. Respondent has had no serious complaints from his clients and no discipline against his license. He understands that he must advise his clients so that they are able and encouraged to abide by the multitude of laws affecting real estate transactions. Respondent considers his very different experience with the marijuana cultivation business and its end in criminal court a result of aberrant behavior on his part, which he is resolved not to repeat. It did not directly affect how he conducted his licensed activities.

15. Respondent continues to believe, as he testified, that there are "gray areas" or ambiguities in the laws and law enforcement relating to marijuana. Since respondent's conviction, there has been more liberal treatment of both users and growers. As support for his view, respondent cited Proposition 47, an initiative California voters approved in November 2014. The new law reduced penalties for crimes deemed not violent and not serious, among them some crimes relating to marijuana. Respondent's petition for a Reduction order (Finding 6) cites a part of the new law, Penal Code section 1170.18.

16. The Bureau incurred in this case reasonable investigation costs of \$497.80, and reasonable prosecution costs of \$284.80, a total of \$782.60. (Exhibit 5.)

## LEGAL CONCLUSIONS

1. The Bureau has the burden of showing by "clear and convincing proof to a reasonable certainty" that license discipline is warranted. (*Ettinger v. Medical Board of Quality Assurance* (1982) 135 Cal.App.3d 853, 855.)

2. Business and Professions Code section 490, subdivision (a), provides:

In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

3. The Bureau's criteria for evaluating whether conduct bears a substantial relationship to the qualifications, functions, or duties of a licensee are set out in California Code of Regulations, title 10, section 2910, providing in pertinent part:

(a) When considering whether a license should be . . . suspended or revoked on the basis of the conviction of a crime, . . . the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Bureau within the meaning of Section[] . . . 490 of the Code if it involves:  
[] . . . []

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another. [] . . . []

(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.

4. Cause exists under Business and Professions Code section 490, subdivision (a), to discipline respondent's license based on his conviction for a crime substantially related to the qualifications, functions, or duties of a real estate licensee. In cultivating marijuana beyond legally permitted quantities, respondent disobeyed laws regarding the proper use of real property, the stock in trade of a licensee. By means of his illegal use of real property, respondent sought an economic benefit for himself. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).)

5. A separate basis for license discipline is set out in Business and Professions Code section 10177, providing in pertinent part:

The commissioner may suspend or revoke the license of a real estate licensee, . . . who has done any of the following . . . : [¶] . . . [¶]

(b) Entered a plea of guilty . . . to, or been found guilty of, or been convicted of, a felony . . . .

6. Cause exists to discipline respondent's license under subdivision (b) of Business and Professions Code section 10177. Respondent's misconduct resulted in a felony conviction and, as set out in Conclusion 4, it bears a substantial relationship to the qualifications, functions, and duties of the real estate profession.

7. Whether and to what extent license discipline is properly imposed depends on whether respondent is rehabilitated from the crime. The burden of proof shifts to respondent to demonstrate his rehabilitation by a preponderance of the evidence. (*In re Glass* (2014) 58 Cal.4th 500, 520.)

8. As pertinent to rehabilitation here, California Code of Regulations, title 10, section 2912 provides:

The following criteria have been developed by the Bureau pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the Bureau. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the Bureau.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.

(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.

(g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

(h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.

(i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

9. An important signal that respondent's rehabilitation is ongoing is that less than two years have elapsed since his conviction. (Cal. Code Regs., tit. 10, § 2912, subd. (a).)

10. Other factors show respondent is partially rehabilitated.



A. Most weight should be given to respondent's change in attitude. (Cal. Code Regs., tit. 10, § 2912, subd. (m).) Respondent's attitude has not greatly changed, but this is because he had no particularly ill intent in entering the cultivation business. (Finding 9.) Nevertheless respondent learned that even when the laws seem to be loosening so that conduct may be decriminalized, anticipating change by engaging in conduct still prohibited cannot be condoned. Respondent's neglect of expensive cultivation equipment evidences his resolve to stay on the right side of current legislation. He has no other convictions. (Cal. Code Regs., tit. 10, § 2912, subd. (m)(5).) Respondent understands that any business of any kind which he conducts should respect the law and maintain the same standards he has long upheld in his real estate practice. (Findings 13 and 14.)

B. As indicated in Finding 14, respondent has that "[s]tability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction" addressed by California Code of Regulations, title 10, section 2912, subdivision (j). This sort of stability has contributed to the stability and respect for law in respondent's real estate practice.

C. Other criteria do not apply directly or strictly, but the circumstance that pertinent criminal laws are losing strictness, as respondent contended, deserves some weight in showing rehabilitation.

(i) Respondent's rehabilitation may be evaluated based upon how lightly or harshly the court treated him, as respondent urged. And indeed, the more lenient the treatment, the less effort toward rehabilitation is needed. The court's note in the plea form, Finding 5, indicates that the court was lenient from the start. The court stated that respondent could seek a Reduction order after 18 months, before the end of his probation. Respondent has sought such an order, though at time of hearing the court had not yet provided a date for hearing.

(ii) Respondent is correct that the law he violated has been subject to change over time, like other laws relating to marijuana. They have become less and less strict over the years. Thus in 2003, the Legislature enacted, and there went into effect on January 1, 2004, California Health and Safety Code sections 11362.7 through 11362.83. The new statutes broadened Proposition 215, a 1996 initiative that, enacted as Health and Safety Code section 11362.5, allowed cultivation of marijuana for personal use prescribed by a physician, despite that the Food and Drug Administration had not tested marijuana for safety or medicinal efficacy. Respondent believed that this trend would continue beyond Health and Safety Code section 11362.77, whose subdivision (a), as respondent was aware, allowed him and his son to "maintain no more than six mature or 12 immature marijuana plants" each. Respondent was wrong to engage in unlawful activity ahead of the trend, but not wrong about the trend itself.

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(iii) Marijuana is a controlled substance under Health and Safety Code section 11054, subdivision (d)(13). Respondent has abandoned its cultivation, given the current state of pertinent law, with which respondent is familiar. (Finding 12.)

11. The court's note on the September 3, 2014 plea form, allowing respondent to seek reduction of his sentence to a misdemeanor after 18 months, is an indication that respondent's crime may be considered less serious than many other felonies. It was also a non-violent crime. The court's note on the plea form preceded by about two months voters' approval of Proposition 47 and the resulting statutory liberalization of penalties for crimes, including some crimes relating to marijuana. Proposition 47, and more specifically Penal Code section 1170.18, are another indication that respondent's crime should not be considered serious.

12. The liberalization of the laws relating to his misconduct might have discouraged respondent from remorse, or encouraged his desire to test or defy those laws again. Instead, respondent has taken the sober course and is unwilling to act ahead of what is strictly allowed under present law. Respondent is rehabilitated enough that public protection will be served by restrictions on his license.

13. Business and Professions Code section 10106, subdivision (a), authorizes the Bureau's recovery of reasonable costs in these circumstances.

#### ORDER

All licenses and licensing rights of respondent, William Jon Parent, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Bureau 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 three years have elapsed from the effective date of this Decision.

4. Under Business and Professions Code section 10106, subdivision (a), respondent shall reimburse the Bureau of Real Estate its costs in the amount of \$782.60, on such terms as the Bureau may direct.

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 notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

Dated: March 3, 2016

DocuSigned by:  
*Thomas Lucero*  
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THOMAS Y. LUCERO  
Administrative Law Judge  
Office of Administrative Hearings