FILED
APR 27 2000
DEPARTMENT OF REAL ESTATE
By

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of RAYMOND JOSEPH SWEARINGEN Respondent.	No. H-26242 LA

ORDER DENYING REMOVAL OF RESTRICTIONS

On October 24, 1995, a Decision was rendered herein denying the application of RAYMOND JOSEPH SWEARINGEN (Respondent) for a real estate salesperson license, effective November 28, 1995, but granting Respondent the right to the issuance of a restricted real estate salesperson license which was issued to him on December 6, 1995.

On December 14, 1999, Respondent petitioned for removal of the restrictions attached to his present restricted real estate salesperson license.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to

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STD. 113 (REV. 3-95)
OSP 98 10924

demonstrate to my satisfaction that he has undergone sufficient rehabilitation to warrant the removal of the restrictions attached to his present restricted real estate salesperson license at this time. This determination has been made in light of Respondent's history of acts and conduct which are substantially related to the qualifications, functions and duties of a real estate licensee. That history includes:

I

In his petition for reinstatement of license Respondent was asked if he had ever been a defendant in any civil court litigation. He answered "No", failing to reveal that on August 8, 1995, in Bank of America National Trust, et al. vs R.J. Swearingen, a Judgement and Writ of Possession of Real Property was issued against him in Case No. 95U19335. This misrepresentation is evidence of a lack of rehabilitation and is cause to deny Respondent's petition pursuant to Section 10177(a) of the Code.

II

On or about September 28, 1993, a judgment was entered against Respondent in the amount of $24,316.00 in Case No. 93KO1762, Jeanette Diggs v. Ronald Joseph Swearingen. After the death of Diggs in 1997 this judgment was assigned to Mary Coleman and Sean Butler. Respondent has failed to provide evidence that all or any part of this judgment has been paid. This is further evidence of a lack of rehabilitation and is cause to deny his petition pursuant to Section 2911(i) of Chapter 6, Title 10, California Code of Regulations.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of restrictions to his present license is denied.

This Order shall become effective at 12 o'clock noon on May 17, 2000.

DATED: April 24, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

RAYMOND JOSEPH SWEARINGEN
2149 E. Vine Ave.
West Covina, California 91791

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DEPARTMENT OF REAL ESTATE
By

In the Matter of the Application of

RAYMOND JOSEPH SWEARINGEN,

Respondent.

No. H-26242 LA

L-9507187

DECISION

The Proposed Decision dated October 6, 1995, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied, 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 November 28, 1995.

IT IS SO ORDERED 10-24, 1995.

JIM ANTT, JR.
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:	
	No. H-26242 LA
RAYMOND JOSEPH SWEARINGEN,	L-9507187
Respondent.	

PROPOSED DECISION

This matter came on regularly for hearing before Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings on September 14, 1995 at Los Angeles, California.

Complainant was represented by Elliott MacLennan, Staff Counsel.

Respondent was present and represented himself.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge makes the following Findings of Fact:

* * * * *

1. Peter F. Hurst made the Statement of Issues in his official capacity of Deputy Real Estate Commissioner of the State of California.

2. Respondent submitted his application, date December 21, 1994, with the Department, for licensure as a real estate salesperson. The application was denied and this hearing ensued.

3. On May 7, 1991, in the United States District Court for the Central District of California, Respondent was convicted on his plea of guilty to six counts of violating 26 U.S.C. Section 7206(2), aiding and abetting in the preparation of false income tax returns, a crime involving moral turpitude and substantially related to the functions, duties and qualifications of a Department licensee.

Respondent was sentenced to prison for one year and one day, was fined $15,000, was placed on probation for four years upon completion of his prison term and was ordered to perform 400 hours of community service as part of his probation.

The facts and circumstances of the crime were not established with particularity, but Respondent was candid in admitting his culpability in preparing false tax returns over a three year period for two people (six returns in all), from 1984 to 1986.

4. Respondent made a most favorable impression at the hearing. He sincerely expressed deep regret for his conduct and made no excuses for it. Since his release from prison he has earnestly gone about demonstrating his rehabilitation. He has volunteered his time to provide entertainment to children at McLaren Hall (he is a musician). He has become active in his church. He has sought and gained employment with a Department licensee who has full knowledge of Respondent's past. He is recently married and has five grown children. When one of his daughters tragically lost her life, he undertook to and is doing an excellent job of raising her two children.

5. Respondent presented additional extrinsic evidence of his rehabilitation. His potential future employer, Walter Reynolds, testified with great credibility concerning Respondent's sincerity and integrity. Respondent was forthright about his conviction with Mr. Reynolds and asked for a chance to learn the real estate business. Mr. Reynolds has found Respondent to be reliable and trustworthy and he would be willing to supervise Respondent in the event of licensure.

* * * * *

DETERMINATION OF ISSUES

1. Cause exists for the denial of Respondent's application for licensure as a real estate salesperson pursuant to the Business and Professions Code Sections 480 and 10177(b), by reason of the conviction set forth in Finding 3.

2. In light of evidence of rehabilitation, the public interest would not be adversely affected by the issuance to Respondent of a real estate salesperson's license, conditioned as set forth below.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's application for a real estate salesperson's license is denied; provided, however, a restricted salesperson's 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 issued under authority of Section 10156.6 of said Code.

1. Said restricted license may be suspended without hearing by order of the Real Estate Commissioner in the event that Respondent is convicted, including a conviction by plea of nolo contendere, to a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee.

2. Said restricted license may be suspended without 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 report in writing to the Department of Real Estate as the Real Estate Commissioner shall directed by separate written order issued while the restricted license is in effect, such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem appropriate to protect the public interest.

4. 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 of a restricted license until two (2) years have elapsed from the effective date of this order.

5. Respondent shall within eighteen (18) months of the issuance of the restricted 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 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 present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of the restricted 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 Respondent of lifting of the suspension.

6. Respondent shall submit with his application for a restricted license under an employing broker -- or his application for transfer to a new employing broker -- a statement signed by the prospective employing broker which shall certify:

(a) That he or she has read the decision of the Commissioner which granted the right to a restricted license;

(b) That he or she will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

* * * * *

Date: 10-6-95

RALPH B. DASH
Administrative Law Judge

SACTO. FILE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA
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FILED
AUG 28 1995
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of	)	
	)	
RAYMOND JOSEPH SWEARINGEN,	)	Case No. H-26242 LA
	)	OAH No. L-9507187
Respondent.	)	
	)	

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **September 14, 1995,** at the hour of **1:30 p.m.,** or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you.

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 subpenas 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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: August 28, 1995.

DEPARTMENT OF REAL ESTATE

Robert E Bahn for
Elliott MacLennan

ELLIOTT MAC LENNAN, Counsel

cc: Raymond Joseph Swearingen
Walter M. Reynolds
Sacto.
OAH

RE 500 (Mac 12/92vj)

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ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

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STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of RAYMOND JOSEPH SWEARINGEN, Respondent.	No. H-26242 LA STATEMENT OF ISSUES

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against RAYMOND JOSEPH SWEARINGEN ("respondent") is informed and alleges in his official capacity as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 24, 1995, subject to the conditions of Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

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II

On or about May 6, 1991, in the United States District Court, Central District of California, Case No. CR-91-213 AWT, respondent was convicted by a plea of guilty to one count of violation of 26 U.S.C. Section 7206(2) (aiding and abetting in the preparation of false income tax returns), a felony crime by its facts and circumstances and substantially related under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

III

The crime of which respondent was convicted, as described in Paragraph II above, constitutes cause for denial of his application for a real estate license under Sections 480(a) and 10177(b) of the Code.

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.

Dated at Los Angeles, California
this 6th day of July, 1995.

Deputy Real Estate Commissioner

cc: Raymond Joseph Swearingen
Walter M. Reynolds
Sacto.
DR

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