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SEP 12 1994

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Accusation of) No. H-1714 SA
)
)
STEVEN RUSSELL JONES,) L-63435
)
)
Respondent.)
_____)

DECISION

The Proposed Decision dated July 22, 1994, 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.

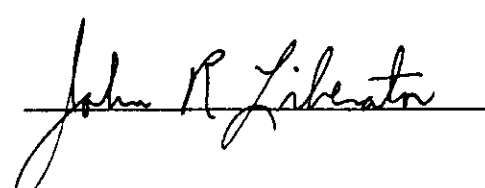
The Decision suspends or revokes one or more real estate licenses on grounds of conviction of a crime and knowingly making a false statement of fact required to be revealed in an application for license.

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 October 4, 1994.

IT IS SO ORDERED August 15, 1994

JOHN R. LIBERATOR
Interim Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	
	)	No. H-1714 SA
Steven Russell Jones,	)	OAH No. L-63435
	)	
Respondent.	)	

PROPOSED DECISION

This matter was heard by Theresa Fay-Bustillos, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on June 10, 1994. Complainant Department of Real Estate of the State of California (hereinafter "Department") was represented by Marjorie Mersel, Staff Counsel. Respondent Steven Russell Jones was present throughout the hearing and represented himself.

At the hearing, the Department moved to amend page 2, paragraph IV, line 13 of the Accusation to read as follows: "(Grand Theft Person), a felony and a crime involving moral turpitude..." Respondent stipulated to the amendment and the Administrative Law Judge granted the Department's motion.

Oral and documentary evidence was received and the matter submitted. Based upon clear and convincing evidence to a reasonable certainty, the Administrative Law Judge finds as follows:

FINDINGS OF FACT

1. The Accusation was made by Thomas McCrady solely in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. On January 27, 1993, Respondent submitted an application for a real estate salesperson's license to the Department. On February 2, 1993, Respondent was issued a real estate salesperson's license, No. 01153594, which expires on February 1, 1997.

3. On his application, Respondent answered "No" to the following question: "Have you ever been convicted of any violation of law? (You may omit any traffic violation where the disposition was a fine and the amount was \$100 or less.)." Respondent's answer is untrue. He misrepresented that he had no convictions, when in fact, he has been convicted as set forth below in Finding No. 4.

4. (A) (1) On July 26, 1991, in the Superior Court of the County of Los Angeles, State of California, in the case entitled People v. Steven Russell Jones, Case No. BA039733-01, Respondent was convicted upon his plea of guilty of violating Cal. Penal Code §487.2, (grand theft person), a felony.

(B) Proceedings were suspended and Respondent was placed on probation for two years under the following terms and conditions: That he pay a \$300.00 fine plus penalty assessments; pay \$13.85 in restitution; serve 180 days in the Los Angeles County Jail; perform 300 hours of community service; seek and maintain training, schooling or employment as approved by the probation officer; maintain residence as approved by the probation officer and commit no further violations and obey all further orders of the Court.

(C) On July 21, 1992, the Court permanently stayed the condition of jail time; reduced the conviction from a felony to a misdemeanor pursuant to Cal. Penal Code §17; terminated probation pursuant to Cal. Penal Code §1203.3; and set aside the conviction, entered a plea of not guilty and dismissed the case pursuant to Cal. Penal Code §1203.4.

(D) Respondent has satisfied all of the terms of his probation.

(E) The conviction for grand theft is substantially related to the functions, qualifications or duties of a real estate licensee.

5. The facts underlying the conviction are as follows: Respondent was in the midst of final examinations at USC. He ordered pizzas from Dominos to be delivered to his home. Under stress, he lost control and hit the Domino's pizza delivery person and took pizzas without paying for them. Respondent had on many occasions, previously paid for Domino's pizzas by check. On this occasion, the delivery person refused to take Respondent's check due to a change in Domino's policy. Respondent did not have the cash to pay for the pizzas, he got into an argument with the delivery person which led to the physical altercation.

6. (A) Respondent testified forthrightly at the hearing. He admitted he made a mistake when he completed the application. He completed it in haste and did not carefully read the definition of a conviction that was to be revealed. He was embarrassed and remorseful for his conduct which led to the criminal conviction and for the misrepresentation on the application.

(B) Nonetheless, Respondent knowingly misrepresented the criminal conviction. The instructions on the application are clear. Respondent is a bright, college educated individual, who should have read the instructions more carefully. His haste does not excuse the misrepresentation.

7. Respondent has been almost completely rehabilitated from both the conviction and the misrepresentation based on the following:

(A) It has been more than two years since the criminal conviction. Respondent has paid the fine and restitution and successfully completed probation. The conviction was reduced from a felony to a misdemeanor and dismissed by the court.

(B) Respondent is industrious. Since becoming licensed he has worked full time as a loan officer for Ocean West Funding. He has worked there successfully and received many letters of appreciation from clients.

(C) In 1992, he graduated from the University of Southern California (hereinafter "USC") with a bachelor of science degree (B.S.) in business administration. Since becoming licensed, he has taken many real estate seminars and participates in the USC Real Estate Alumni & Friends organization.

(D) Since 1991, he has been an active member of Delta Sigma Pi, a business fraternity at USC. He has been involved in many community activities, such as, AIDS Walk LA, a beach clean-up in honor of national environment day, and organizing clothing and food donation drives for the Los Angeles Mission. He participated in these activities in addition to the community service he performed as part of his probation.

(E) Most importantly, Respondent has been changing his attitude. Since the misrepresentation he has grown professionally and matured. His professionalism was very apparent at the hearing. He values the camaraderie in the real estate office and is dedicated to his profession.

(F) He has no prior history of discipline with the Department and no other convictions.

8. When Respondent applied for a license, he was still young and immature; he had only recently graduated from college. He had not yet had the opportunity to work in the business field and to mature personally and professionally. He was not yet completely rehabilitated from the criminal conviction.

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of the issues:

DETERMINATION OF THE ISSUES

1. Cal. Bus. & Prof. Code §10177(a):

(A) Respondent misrepresented that he had no history of criminal convictions on his application. However, simply establishing the misrepresentation is not enough, it also must be material. Madrid v. Department of Real Estate, 152 Cal.App.3d 454, 458-59 (Second Dist., Div. Five 1984). In this case, the misrepresentation is material, because if Respondent had included the conviction on his application, it would have been denied pursuant to Cal. Bus. & Prof. Code §480(a)(1). The crime of grand theft person is substantially related to the qualifications, functions or duties of a Departmental licensee (Cal. Code Regs. tit. 10, §2910(a)(1)), and Respondent was not yet rehabilitated from the criminal conviction when he applied.

(B) Good cause exists to suspend or revoke Respondent's license pursuant to Cal. Bus. & Prof. Code §10177(a) by reason of Respondent's material misrepresentation on his application, as set forth in Finding Nos. 2 - 5 and 8.

2. Cal. Bus. & Prof. Code §498:

(A) Good cause exists to suspend, revoke or otherwise restrict Respondent's license based upon Cal. Bus. & Prof. Code §498 in that Respondent secured his license by knowingly misrepresenting a material fact, that he had no criminal convictions on his application, as set forth in Finding Nos. 2 - 6 and 8; and Determination No. 1.

3. Cal. Bus. & Prof. Code §10177(b):

(A) Respondent was convicted of a felony. The reduction a year later from a felony to a misdemeanor, pursuant to Cal. Penal Code §17, does not deprive the Department of a basis for discipline. Moreover, the crime of grand theft person under Cal. Penal Code §487.2 also is a crime of moral turpitude. In re Rothrock, 25 Cal.2d 588, 592 (1944).

(C) Good cause exists to suspend or revoke Respondent's license pursuant to Cal. Bus. & Prof. Code §10177(b) by reason of Respondent's conviction of a felony and of a crime of moral turpitude, as set forth in Finding Nos. 4 - 5.

4. Cal. Bus. & Prof. Code §490:

(A) Good cause exists to suspend or revoke Respondent's license pursuant to Cal. Bus. & Prof. Code §490 by reason of Respondent's conviction of a crime that is substantially related, as set forth in Finding Nos. 4 - 5; Cal. Code Regs. tit. 10, §2910(a)(1).

5. Cal. Bus. & Prof. Code §482 - Rehabilitation:

(A) Respondent has been impressively rehabilitated from both his conviction and his misrepresentation pursuant to Cal. Code Regs. tit. 10, §2912(a), (b), (c), (d), (f), (j), (k) and (l), as set forth in Finding No. 7. Thus, complete revocation is not warranted. Respondent should be permitted to apply for a restricted license to ensure that the misrepresentation and conviction were isolated incidents unlikely to recur.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Steven Russell Jones under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to Respondent pursuant to Cal. Bus. & Prof. Code §10156 if Respondent makes application therefor 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 Cal. Bus. & Prof. Code §10156.7 and to the following limitations, conditions, and restrictions imposed under authority of §10156.6 of said Code:

1. 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, pending final determination made after formal hearing.

2. 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 of Respondent or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee, pending final determination made after formal hearing.

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 has elapsed from the effective date of this Decision.

4. 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 Cal. Bus. & Prof. Code §10170 et.seq., 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.

5. Respondent shall, within six months from the effective date of the restricted license, 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 the restricted license until Respondent passes the examination.

6. Respondent shall submit with any application for license under an employing broker -- or any application or notification of transfer to a new employing broker, under Cal. Code Regs. tit. 10, §2752 -- a statement signed by the prospective employing broker which shall certify:

a. That the broker has read this decision which granted the right to the restricted license; and

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b. That the broker will carefully review all
transaction documents prepared by the restricted licensee and
otherwise exercise close supervision over the performance by the
restricted licensee of activities for which a real estate license
is required.

Dated: July 22, 1994

Theresa Fay-Bustillos, pmh
Theresa Fay-Bustillos
Administrative Law Judge
Office of Administrative Hearings

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Flay

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED

MAY 17 1994

In the Matter of the Accusation of)

Case No. H-1714 SA

STEVEN RUSSELL JONES,)

OAH No. L-63435

Respondent.)

DEPT OF REAL ESTATE
[Signature]

NOTICE OF HEARING ON ACCUSATION

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 June 10, 1994, at the hour of 1:30 p.m., or as soon thereafter as the matter can be heard, upon the Accusation 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.

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. 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: May 17, 1994.

DEPARTMENT OF REAL ESTATE

cc: Steven Russell Jones
Ocean West Enterprises Inc.
Sacto.
OAH

[Signature: Marjorie P. Meszel]
MARJORIE P. MERSEL, Counsel

SACTO
Flas

1 MARJORIE P. MERSEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937

F I L E D

FEB -3, 1994

DEPARTMENT OF REAL ESTATE
BY 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-1714 SA
12 STEVEN RUSSELL JONES,) A C C U S A T I O N
13 Respondent.)
14 _____)

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against STEVEN RUSSELL JONES (hereinafter "Respondent") is
18 informed and alleges as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 On or about February 2, 1993, Respondent was issued a
25 real estate salesperson license following Respondent's application
26 therefor filed on or about January 27, 1993, and has continuously
27 thereafter been and is presently licensed and/or has license

1 rights under Real Estate Law (Part 1 of Division 4 of the Business
2 and Professions Code).

3 III

4 In response to Question 25 of said application, to wit:
5 "Have you ever been convicted of any violation of law? (You may
6 omit any traffic violation where the disposition was a fine and
7 the amount was \$100 or less.)", Respondent marked the answer box
8 denoting "No".

9 IV

10 On or about July 26, 1991, in the Superior Court of
11 California, County of Los Angeles, Respondent pled guilty to and
12 was convicted of the crime of violating Penal Code Section 487.2
13 (Cocaine For Sale), a felony and a crime involving moral turpitude
14 which bears a substantial relationship to the qualifications,
15 functions or duties of a real estate licensee.

16 V

17 Respondent's criminal conviction, as alleged above, is
18 cause under Sections 490 and 10177(b) of the Business and
19 Professions Code for suspension or revocation of the license and
20 license rights of Respondent under the Real Estate Law.

21 VI

22 Respondent's failure to reveal the conviction against
23 him, as set forth in Paragraphs III and IV, above, in said
24 application constitutes the procurement of a real estate license
25 by fraud, misrepresentation or deceit, or by making a material
26 misstatement of fact in said application, which is cause for
27 suspension or revocation of Respondent's real estate license or

1 license rights under Section 498 and/or 10177(a) of the Business
2 and Professions Code of the State of California.

3

4 WHEREFORE, Complainant prays that a hearing be conducted
5 on the allegations of this Accusation and, that upon proof
6 thereof, a decision be rendered imposing disciplinary action
7 against the license and license rights of Respondent STEVEN
8 RUSSELL JONES under the Real Estate Law (Part 1 of Division 4 of
9 the Business and Professions Code) and for such other and further
10 relief as may be proper under other applicable provisions of law.

11 Dated at Santa Ana, California

12 this 3rd day of February, 1994.

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14

THOMAS McCRADY

15

THOMAS McCRADY

Deputy Real Estate Commissioner

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cc: Steven Russell Jones
Ocean West Enterprises Inc.
Sacto.
BSV

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