

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
JUL 13 2011
DEPARTMENT OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

JOHN SANCHEZ,

Respondent.

No. H-2173 FR

ORDER GRANTING UNRESTRICTED LICENSE

On April 2, 2008, a Decision was rendered herein denying Respondent's application for a 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 April 28, 2008, and Respondent has operated as a restricted licensee since that time.

On May 10, 2010, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of

///

1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

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

6 1. The license issued pursuant to this order shall be deemed to be the first
7 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
8 of Section 10153.4.

9 2. Within twelve (12) months from the date of this order Respondent shall:

10 (a) Submit a completed application and payment of the appropriate fee for a
11 real estate salesperson license, and

12 (b) Submit evidence of having taken and successfully completed the courses
13 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
14 for renewal of a real estate license. The continuing education courses must be completed either
15 (i) within the 12 month period preceding the filing of the completed application, or (ii) within the
16 12 month period following the date of this Order.

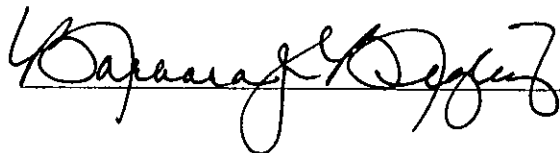
17 3. Upon renewal of the license issued pursuant to this order, Respondent
18 shall submit evidence of having taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
20 license.

21 This Order shall become effective immediately.

22 IT IS SO ORDERED

7/12/11

23 BARBARA J. BIGBY
24 Acting Real Estate Commissioner

25 
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

JOHN SANCHEZ,

Respondent.

Case No. H-2173 FR

OAH No. 2007110275

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on January 9, 2008.

Michael B. Rich, Counsel, represented complainant.

Respondent John Sanchez was present and represented himself.

Submission of the matter was deferred to January 18, 2008, for receipt of further evidence, which was received, marked for the record, and considered. The matter was submitted on January 18, 2008.

FACTUAL FINDINGS

1. John W. Sweeney made the statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. John Sanchez (respondent) made application to the Department of Real Estate (Department) for a real estate salesperson license on January 30, 2006, with the knowledge and understanding that any license issued as a result of the application would be subject to the conditions of Business and Professions Code section 10153.4.

3. On March 4, 1996, in the Municipal Court of Kern County, State of California, respondent was convicted of violating Penal Code section 488 (petty theft), a misdemeanor and a crime involving moral turpitude, which is substantially related to the qualifications, duties and function of a real estate licensee.

Respondent was placed on three years probation on the condition that he serve one day in jail and pay an \$80 fine. Respondent met all the terms and conditions of this probation.

4. On March 25, 1997, in the Municipal Court of Kern County, State of California, respondent was convicted of violating Penal Code section 12031, subdivision (a) (1) (unlawful carrying of loaded firearm in vehicle), a misdemeanor and a crime involving moral turpitude, which is substantially related to the qualifications, duties and functions of a real estate licensee.

Respondent was placed on three years probation on the condition that he serve three days in jail (three days credit for time served) and pay a \$100 fine. Respondent met all the terms and conditions of this probation:

5. On August 30, 2002, in the Superior Court of Kern County, State of California, respondent was convicted of violating Vehicle Code section 14601.1, subdivision (a) (driving on a suspended license), a misdemeanor. This is not a crime involving moral turpitude on its face or by its facts and circumstances and cannot be used as a basis to deny respondent a license.

6. On December 4, 2002, in the Superior Court of Kern County, State of California, respondent was convicted of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence of alcohol) and 14601.1, subdivision (a) (driving on a suspended license) and 40508, subdivision (a) (failure to appear), misdemeanors. None of these crimes involve moral turpitude on their face or by their facts and circumstances and cannot be used as a basis to deny respondent a license.

7. On January 6, 2004, in the Superior Court of Kern County, State of California, respondent was convicted of violating Health and Safety Code section 11378 (possession for sale of methamphetamine), a felony and a crime involving moral turpitude, which is substantially related to the qualifications, duties and functions of a real estate licensee.

Respondent was sentenced to two years in prison and five years parole. He was released from prison a year early for good behavior and released from parole on February 20, 2006.

8. Respondent presented three Penal Code section 1203.4 dismissals for his petty theft, firearm possession, and driving under the influence convictions. This establishes that he met all the terms and conditions of those probations and those probations were terminated successfully.

9. Respondent took advantage of his incarceration to change the direction of his life. He participated in a drug rehabilitation program sponsored by Walden House. He participated in voluntary group counseling two times a day and participated in a 12-step program in prison.

10. Respondent attended vocational training and became a professional truck driver. He has a Class "A" license. He worked for Ampac Transportation and Swift Trucking.

11. Respondent is presently employed by Dove Capital Real Estate Loans. He has been processing loans under their CFL license. On February 26, 2007, respondent took an ethics pledge which he takes very seriously. He has completed one loan. Respondent presented a letter from Daniel Granillo of Dan the Real Estate Man. He is a broker in Bakersfield, California. He has known the respondent for over 25 years. He has seen respondent change and is willing to supervise him if respondent gets a license.

12. Respondent admits that he had a problem with drugs, particularly methamphetamine. He presented a letter (unsigned) from Cisco M. Castro, Registered Addiction Specialist. He has known respondent for 20 years. Mr. Castro has counseled and mentored respondent and continues to meet with respondent weekly. Mr. Castro has witnessed the change in respondent and finds respondent motivated, mature and practical.

13. Respondent attends church at Community Christian Center.

14. Respondent has demonstrated sufficient rehabilitation to justify a restricted license. It would not be against the public interest to grant respondent a conditional restricted license.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3, 4, and 7, cause for denial exists pursuant to Business and Professions Code section 10177, subdivision (b)¹ (conviction of a substantially related crime under title 10, California Code of Regulations, section 2910).

2. By reason of the matters set forth in Finding 5 and 6, cause for denial does not exist pursuant to Business and Professions Code section 10177, subdivision (b). The crimes set forth in these findings are not felonies and do not involve moral turpitude on their face or by their facts and circumstances.

3. The matters set forth in Findings 8 through 14 have been considered in making the following order. Respondent has demonstrated sufficient rehabilitation to justify the granting of a restricted license.

ORDER

Respondent John Sanchez's application for a real estate salesperson license is denied; provided, however, a conditional restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5. The restricted license issued to the respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

¹ Business and Professions Code section 480, subdivision (a) cannot be used as an independent cause for denial pursuant to *Petropoulos v. DRE* (2006) 142 Cal.App. 4th 554.

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 which 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 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

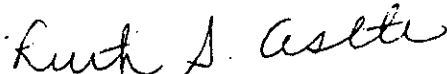
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Business and Professions Code section 10153.4, 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 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 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. Said 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: February 20, 2008



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

1 MICHAEL B. RICH, Counsel
State Bar No. 84257
2 Department of Real Estate
P.O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
SEP 25 2007

DEPARTMENT OF REAL ESTATE

By H. Mar

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12) NO. H- 2173 FR
13)
14) JOHN SANCHEZ,)
Respondent.)
)

15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JOHN SANCHEZ (hereinafter "Respondent"), is informed and
18 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 January 30, 2006, 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
25 10153.4 of the Business and Professions Code.

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

Complainant, JOHN W. SWEENEY, 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 March 4, 1996, in the Municipal Court, County of Kern, State of California, in case number BM522364B, Respondent was convicted of violating Section 488 of the California Penal Code (Petty theft), a misdemeanor and 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 March 25, 1997, in the Municipal Court, County of Kern, State of California, in case number BM533982B, Respondent was convicted of violating Section 12031(a)(1) of the California Penal Code (Unlawfully carry loaded firearm in a vehicle in a public place or on a public street), a misdemeanor and 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.

V

On or about August 30, 2002, in the Superior Court, County of Kern, State of California, in case number BM624860A, Respondent was convicted of violating Section 14601.1(a) of the

1 California Vehicle Code (Knowingly drive when driving privilege
2 suspended under Section 14601, 14601.2 or 14601.5), a
3 misdemeanor and a crime involving moral turpitude which bears a
4 substantial relationship under Section 2910, Title 10,
5 California Code of Regulations, to the qualifications,
6 functions, or duties of a real estate licensee.

7 VI

8 On or about December 4, 2002, in the Superior Court,
9 County of Kern, State of California, in case number BM619453A,
10 Respondent was convicted of violating Section 23152(a) of the
11 California Vehicle Code (Unlawfully driving a vehicle while
12 under the influence of alcohol), Section 14601.1(a) of the
13 California Vehicle Code (Knowingly drive when driving privilege
14 suspended under Section 14601, 14601.2 or 14601.5), and Section
15 40508(a) of the California Vehicle Code (Willfully violating
16 written promise to appear in court), misdemeanors and crimes
17 involving moral turpitude which bear a substantial relationship
18 under Section 2910, Title 10, California Code of Regulations, to
19 the qualifications, functions, or duties of a real estate
20 licensee.

21 VII

22 On or about January 6, 2004, in the Superior Court,
23 County of Kern, State of California, in case number BF104013A,
24 Respondent was convicted of violating Section 11378 of the
25 California Health and Safety Code (Unlawful possession for sale
26 of controlled substance, to wit: methamphetamine), a felony and
27 a crime involving moral turpitude which bears a substantial

1 relationship under Section 2910, Title 10, California Code of
2 Regulations, to the qualifications, functions, or duties of a
3 real estate licensee.

4 VIII

5 The crimes of which Respondent was convicted, as
6 alleged in Paragraphs III, IV, V, VI, and VII, above,
7 individually and collectively, constitute cause for denial of
8 Respondent's application for a real estate license under
9 Sections 480(a) and 10177(b) of the California Business and
10 Professions Code.

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

17
18
19
20
21
22

JOHN W. SWEENEY
Deputy Real Estate Commissioner

23 Dated at Fresno, California,
24 this 18th day of September, 2007.

25
26
27