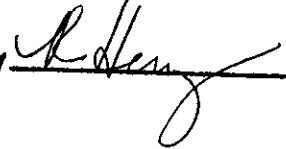


BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

FEB 10 2010

DEPARTMENT OF REAL ESTATE

By 

In the Matter of the Accusation of)

JUSTIN BHAGAT THIND,)

Respondent.)

NO. H-2391 FR

OAH NO. 2009060833

DECISION

The Proposed Decision dated January 6, 2010, 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 the conviction of a crime.

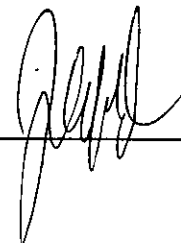
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on

MAR - 2 2010

IT IS SO ORDERED 2-3-2010

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JUSTIN BHAGAT THIND,

Respondent.

Case No. H-2391 FR

OAH No. 2009060833

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on December 9, 2009.

Kenneth C. Espell, Counsel, represented complainant John Sweeney, a Deputy Real Estate Commissioner of the Department of Real Estate.

Respondent Justin Bhagat Thind was present and represented himself.

The matter was submitted for decision on December 9, 2009.

FACTUAL FINDINGS

1. Respondent Justin Bhagat Thind is presently licensed and has license rights under the Real Estate Law (Bus. & Prof. Code, div. 4, pt. 1) as a restricted real estate salesperson. The restricted license was issued pursuant to a stipulation and waiver effective August 26, 2006, in DRE Case No. H-32867 LA.

2009 Criminal Convictions

2. On January 21, 2009, respondent was convicted in Marin County of a felony violation of Penal Code section 71 (threatening an officer/employee of a public/private institution). The offense is substantially related to qualifications, functions or duties of a real estate licensee.

Imposition of sentence was suspended and respondent was placed on formal probation for three years. As terms and conditions of probation respondent was required to serve 180 days in county jail, complete 40 hours of community service, pay \$425 in fines, pay restitution to the victims as directed, participate in treatment and therapy as directed by his probation officer, and submit to chemical testing.

Respondent served 20 days in jail, and then completed six months of house arrest with electronic monitoring on October 26, 2009. He has completed 24 of the 40 hours of community service. He has paid his fines and fees in full. He files a written report with his probation officer monthly, and meets in person with his probation officer in his San Mateo County case, discussed below.

3. On February 2, 2009, respondent was convicted in San Mateo County of a felony violation of Penal Code section 71 (threatening an officer/employee of a public/private institution) and a misdemeanor violation of Penal Code section 653m, subdivision (a) (making telephonic threats to inflict injury). Each offense is substantially related to the qualifications, functions or duties of a real estate licensee.

Imposition of sentence was suspended and respondent was placed on formal probation for three years. As terms and conditions of probation respondent was required to serve six months in county jail, pay restitution to victims as directed by his probation officer, abstain from the use of alcohol or drugs, and submit to chemical testing. Respondent was prohibited from associating with animal rights organizations, and from communicating with his victims during probation.

4. Each of the three threatening offenses took place in early September 2007. Respondent, an avid animal rights advocate, made threatening telephone calls to researchers on animals in educational institutions. Respondent did not know the people he threatened, and because he was under the influence of methamphetamine and/or alcohol at the time he committed his offenses, he does not remember what he said to each of them. He deeply regrets his conduct.

Matters in Aggravation

5. On May 28, 1996, respondent was convicted in Ventura County of a misdemeanor violation of Business and Professions Code section 4149 (possession of a hypodermic needle). The conviction was set aside pursuant to Penal Code section 1203.4 in 2007.

6. On January 20, 1994, respondent was convicted in Ventura County of a misdemeanor violation of Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol or drugs) and a felony violation of Health and Safety Code section 11377, subdivision (a) (possession of a controlled substance). In 2007, the felony offense was reduced to a misdemeanor and set aside pursuant to Penal Code section 1203.4.

Respondent's Evidence

7. Respondent is 34 years old. He has had a lifelong problem with substance abuse, and a more recent problem with alcohol abuse. He started using methamphetamine at

age 16, and started abusing alcohol in 2006. He has had periods of sobriety following treatment followed by relapses to using methamphetamine. His most recent date of sobriety is March 12, 2008, about 20 months prior to hearing. Respondent had been sober for a period of time prior to committing the offenses in September 2007, but he had relapsed at the time of their commission.

8. Respondent completed a 30-day residential treatment program in Los Angeles (Alternatives, Inc.) in March 2008. He moved into a sober living facility in Los Angeles (La Fuente House), where he remained until July 2008.

Respondent returned to Santa Cruz County after the sober living facility to be with his partner. There he continued in a Proposition 36¹ program run by Janus of Santa Cruz starting August 12, 2008. This is an 18-month aftercare program, which focus on relapse prevention through therapy, Alcoholics Anonymous meetings, and random testing for drugs and alcohol.

In the first phase of the Janus program, respondent completed 30 three-hour group sessions and three one-hour individual sessions. He was required to attend three AA meetings per week, and was subject to random drug testing. Outpatient Program Manager Sophie Affonso attests that respondent successfully completed this phase of the program on November 20, 2008.

Respondent has continued with Janus aftercare program, and just completed one full year in November 2009. (He missed some time due to incarceration.)

Respondent has regularly attended meetings of Alcoholics Anonymous during the past 20 months. The first year he attended five AA meetings per week. He now attends three AA meetings a week. He has a sponsor in Santa Cruz who is a good fit for him.

As part of his aftercare agreement, respondent participated in weekly therapy sessions with Dana Blumrosen, M.F.T., (October 1, 2008 to December 17, 2008, January 7 2009, to his incarceration April 2, 2009; May 6, 2009 to June 11, 2009.) He started weekly sessions with a different therapist, Jenny Butah, M.F.T., on June 18, 2009, and has continued treatment with her since then. Therapist Butah reports in a letter dated July 20, 2009, that their sessions focus on sobriety maintenance, anxiety, and communication issues. Respondent has been punctual and cooperative in all his therapy sessions with Blumrosen and Butah.

9. Respondent has been unemployed since September 2007. He has not used his real estate license since that time.

¹ This pertains to an uncharged drug-related criminal conviction in Los Angeles County.

10. Respondent has applied to San Jose State University to enter its master's program in communications. He intends to enroll in Cabrillo Community College for the Spring 2010 semester.

11. Respondent's father, David Thind, testified at hearing. Mr. Thind has been a successful commercial real estate broker in Los Angeles for 35 years. His daughter works with him and his dream is to also work in real estate with his son. He would like to retire in a few years and move to northern California and work with respondent in real estate.

Mr. Thind has seen a marked difference in his son in the last two years. Respondent has had problems with methamphetamine since a teenager, and Mr. Thind has supported his son through multiple rehabilitation facilities and in seeking professional help. He has seen his son change in his attitude toward life and towards others in a positive fashion. He also supports his son in furthering his education.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 10177, subdivision (b), and Business and Professions Code section 490, subdivision (a), the Commissioner may suspend or revoke a real estate license if the licensee has been convicted of a felony, or a crime that bears a substantial relationship to the licensed activity. Respondent's felony and misdemeanor convictions are substantially related to the qualifications, functions, or duties of a real estate licensee as they involved the doing of an unlawful act with the intent or threat to do substantial injury to another. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).) Each felony and misdemeanor conviction provides cause to suspend or revoke respondent's restricted real estate salesperson license pursuant to Business and Professions Code section 10177, subdivision (b), and Business and Professions Code section 490, subdivision (a).

2. In California Code of Regulations, title 10, section 2912, the department has established criteria to be used in evaluating the rehabilitation of a licensee who has committed a criminal offense. The burden is on respondent to show that he is sufficiently rehabilitated so that it would be appropriate to allow him to retain a restricted real estate salesperson license. Respondent committed two serious felony offenses and a serious misdemeanor offense while licensed with the department. He committed each offense while under the influence. Respondent remains on formal criminal probation in two separate counties. When a person is on criminal probation or parole, rehabilitation efforts are accorded less weight, "[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion" (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) The convictions are less than two years old. And, in aggravation, respondent committed criminal offenses arising out of his lifelong problem with substance abuse in 1994 and 1996. Commissioner therefore has good reason to be concerned about respondent's fitness to conduct licensed activities.

The purpose of this proceeding is not to further punish respondent for his criminal conduct (*Donaldson v. Department of Real Estate* (2005) 134 Cal.App.4th 948, 958, fn. 10), but to ensure that real estate salespersons will be honest, truthful, and worthy of the fiduciary responsibilities they bear (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402). Respondent is to be commended for the steps he is taking to address his substance abuse problem, and to his credit, he appears serious in his intent to rehabilitate himself. At this time, however, it is too early in respondent's rehabilitation from a serious substance abuse problem to have any confidence that respondent will be able to conduct licensed activities in a manner consistent with public protection. The protection of the public compels the revocation of respondent's restricted salesperson license.

ORDER

All licenses and licensing rights of respondent Justin Bhagat Thind under the Real Estate Law are revoked.

DATED: 1-6-10



MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

1 KENNETH C. ESPELL, Counsel (SBN 178757)
2 Department of Real Estate
3 P. O. Box 187007
Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789
5 -or- (916) 227-0868 (Direct)

FILED

MAY 19 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation of) H-2391 FR
11)
12 JUSTIN BHAGAT THIND,) ACCUSATION
13)
14 Respondent.)

15 The Complainant, JOHN SWEENEY, in his official capacity as a Deputy Real
16 Estate Commissioner of the State of California, for cause of Accusation against JUSTIN
17 BHAGAT THIND (hereinafter "Respondent"), is informed and alleges as follows:

18 1

19 PRIOR DISCIPLINE

20 On or about August 26, 2006, the Department issued to Respondent a restricted
21 real estate salesperson license which was and is subject to the conditions set forth in the
22 Stipulation and Waiver between the Respondent and the Department in DRE case number
23 H-32867 LA.

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2 Respondent is presently licensed and/or has license rights under the Real Estate
3 Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code") as a
4 restricted real estate salesperson.

5 3

6 On or about February 2, 2009, in the San Mateo County Superior Court, State of
7 California, case number SC067073, Respondent was convicted of violating Section 653 m (a) of
8 the California Penal Code (Making Annoying Telephone Calls), a misdemeanor which bears a
9 substantial relationship under Section 2910, Title 10, California Code of Regulations
10 (Regulations"), to the qualifications, functions, or duties of a real estate licensee and was
11 convicted of violating California Penal Code Section 71 (Threatening a School Official), a
12 felony which bears a substantial relationship under Section 2910 of the Regulations to the
13 qualifications, functions, or duties of a real estate licensee.

14 4

15 On or about January 21, 2009, in the Marin County Superior Court, State of
16 California, case number SC159461A, Respondent was convicted of violating Section 71 of the
17 California Penal Code (Threatening a School Official), a felony which bears a substantial
18 relationship under Section 2910 of the Regulations to the qualifications, functions, or duties of a
19 real estate licensee.

20 5

21 The facts alleged in Paragraphs 3 and 4, above, constitute cause under Sections
22 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of
23 Respondent under the Real Estate Law.

24 MATTERS IN AGGRAVATION

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26 On or about May 28, 1996, in Ventura County Superior Court, State of
27 California, case number 96C004188, Respondent was convicted for violating Section 4149 of

1 California Business and Professions Code (Possession of a Hypodermic Needle and Syringe), a
2 misdemeanor.

3 7

4 On or about January 20, 1994 in Ventura County Superior Court, State of
5 California, case number CR42525, Respondent was convicted for violating Section 23152 (a) of
6 California Vehicle Code (DUI) and 11377 (a) of the California Health and Safety Code
7 (Possession of a Controlled Substance) both misdemeanors.

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

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14 
15 JOHN SWEENEY
Deputy Real Estate Commissioner

16 Dated at Fresno, California,
17 this 12th day of May, 2009.
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