

file

FILED
NOV 17 1998

DEPARTMENT OF REAL ESTATE

By Juan Aranda

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
JOSEPH MICHAEL PENNINGTON,)
Respondent.)

No. H-3014 SAC

ORDER GRANTING UNRESTRICTED LICENSE

On October 7, 1994, 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 November 23, 1994, and respondent has operated as a restricted licensee without cause for disciplinary action against him since that time.

On November 20, 1997, Respondent petitioned for the removal of restrictions attaching to his real estate salesperson license.

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1 I have considered Respondent's petition and the evidence
2 submitted in support thereof including Respondent's record as a
3 restricted licensee. Respondent has demonstrated to my
4 satisfaction that he meets the requirements of law for the
5 issuance to him of an unrestricted real estate salesperson license
6 and that it would not be against the public interest to issue said
7 license to him.

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

12 1. The license issued pursuant to this order shall be
13 deemed to be the first renewal of respondent's real estate
14 salesperson license for the purpose of applying the provisions of
15 Section 10153.4.

16 2. Within six (6) months from the date of this order
17 respondent shall:

18 (a) Submit a completed application and pay the
19 appropriate fee for a real estate salesperson license, and

20 (b) Submit evidence of having taken and successfully
21 completed the courses specified in subdivisions (a) (1),
22 (2), (3) and (4) of Section 10170.5 of the Real Estate
23 Law for renewal of a real estate license.

24 3. Upon renewal of the license issued pursuant to this
25 order, respondent shall submit evidence of having taken and
26 successfully completed the continuing education requirements of

27 ///



1 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
2 real estate license.

3 This Order shall become effective immediately.

4 DATED: 10/21, 1998.
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6 JIM ANTT, JR.
7 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

FILED
OCT 24 1994
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Application of)
JOSEPH MICHAEL PENNINGTON,)
Respondent.)

NO. H-3014 SAC

N-9408112

DECISION

The Proposed Decision dated September 23, 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 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 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 appended hereto.

This Decision shall become effective at 12 o'clock noon
on November 14, 1994.

IT IS SO ORDERED October 7, 1994.

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of))	NO. H-3014 SAC
JOSEPH MICHAEL PENNINGTON,)	OAH NO. N9408112
)	
Respondent.)	
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PROPOSED DECISION

This matter was heard on September 20, 1994, at San Francisco, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings.

The Department of Real Estate was represented by Larry A. Alamao, Counsel.

The respondent was present and represented himself.

FINDINGS OF FACT

I

Peter J. Saverien made the Statement of Issues herein in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

On or about February 16, 1994, Joseph Michael Pennington, respondent herein, applied for an unrestricted real estate salesperson license.

III

On September 30, 1992, in the Municipal Court for the Livermore-Pleasanton Judicial District, County of Alameda, State of California, respondent was convicted, upon his plea of no contest, of a misdemeanor violation of Penal Code section 496 (Receiving Stolen Property), a crime involving moral turpitude, which bears a substantial relationship to the qualifications, functions, or duties of a real estate salesperson. He was placed on 36 months court probation on conditions that included 15 weekends in jail and a \$500.00 fine.

IV

According to respondent, the circumstances giving rise to the above conviction were as follows: He drove a friend to a mall at the friend's request. At the mall, the friend made purchases using someone else's credit card. The friend told respondent that the owner of the credit card had let him use it because the owner owed him money. While in a store at the mall with his friend, respondent tried to purchase a pair of pants and shirt for himself, using his personal check to pay the \$70.00 total cost of the items. The clerk would not accept the check because respondent had no identification with him. His friend offered to put the purchase on the afore-mentioned credit card and have respondent pay him back later. Respondent accepted the offer. It turned out that his friend did not have permission to use the credit card.

V

Because respondent's conviction is relatively recent and he is still on probation, it cannot be said that he is now sufficiently rehabilitated so that it would not be against the public interest to issue him an unrestricted license. However, he is appropriately contrite, appears to have learned a lesson, was not the major perpetrator, his crime involved \$70.00 and was treated as a misdemeanor, and other than traffic violations, is his only known offense. Therefore, it would not be against the public interest to issue him a restricted license at this time.

DETERMINATION OF ISSUES

I

The facts set forth in Finding III constitute cause for denial of respondent's application for an unrestricted real estate license under Sections 480(a) and 10177(b) of the Business and Professions Code.

II

By reason of the facts set forth in Finding V, the following order is appropriate.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156 of the Business and Professions Code. The restricted license issued to the 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 the Business and Professions Code.

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 one (1) year has elapsed from the date of issuance of the restricted license.
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 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 license shall be issued subject to the requirements of Section 10153.4 of the Business and Professions Code, 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 two of the courses listed in Section 10153.2 of said Code, 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 of the Business and Professions Code, 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 issuance of the preceding restricted license.

Dated: September 23, 1994



JERRY MITCHELL

Administrative Law Judge

Office of Administrative Hearings

1 LARRY A. ALAMAO, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
AUG 17 1994
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zinn*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) No. H-3014 SAC
12 JOSEPH MICHAEL PENNINGTON,)
13 Respondent.)
14

15 The Complainant, Peter J. Saverien, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JOSEPH MICHAEL PENNINGTON (hereinafter "Respondent"),
18 alleges as follows:

19 I

20 Respondent, pursuant to the provisions of Section
21 10153.3 of the Business and Professions Code, made application to
22 the Department of Real Estate of the State of California for a
23 real estate salesperson license on or about February 16, 1994,
24 with the knowledge and understanding that any license issued as a
25 result of said application would be subject to the conditions of
26 Section 10153.4 of the Business and Professions Code.

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II

On or about July 25, 1994, in Case No. H-3014 SAC, Respondent's application for a real estate salesperson license was denied pursuant to Section 11520 of the Government Code. Respondent has requested a hearing on said application.

III

Complainant, Peter J. Saverien, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

IV

On or about September 30, 1992, in the Municipal Court, County of Alameda, Livermore-Pleasanton Judicial District, Respondent was convicted of a violation of Section 496 of the California Penal Code (Receiving Stolen Property), a crime involving moral turpitude and 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


The crime of which Respondent was convicted, as alleged in Paragraph IV above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, and for such other and further relief as
6 may be proper in the premises.


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8 PETER J. SAVERIEN
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 17th day of August, 1994.
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1 LARRY A. ALAMAO, Counsel
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3 P. O. Box 187000
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FILED
JUN - 6 1994
DEPARTMENT OF REAL ESTATE

By Laurie A. Zia

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

10 * * *

11 In the Matter of the Application of) No. H-3014 SAC
12 JOSEPH MICHAEL PENNINGTON,) STATEMENT OF ISSUES
13 Respondent.)
14 _____)

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JOSEPH MICHAEL PENNINGTON (hereinafter "Respondent"),
18 alleges as follows:

19 I

20 Respondent, pursuant to the provisions of Section
21 10153.3 of the Business and Professions Code, made application to
22 the Department of Real Estate of the State of California for a
23 real estate salesperson license on or about February 16, 1994,
24 with the knowledge and understanding that any license issued as a
25 result of said application would be subject to the conditions of
26 Section 10153.4 of the Business and Professions Code.

27 ///

II

Complainant, Charles W. Koenig, 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 September 30, 1992, in the Municipal Court, County of Alameda, Livermore-Pleasanton Judicial District, Respondent was convicted of a violation of Section 496 of the California Penal Code (Receiving Stolen Property), a crime involving moral turpitude and 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

The crime of which Respondent was convicted, as alleged in Paragraph III above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, and for such other and further relief as
6 may be proper in the premises.

7
8 
9 CHARLES W. KOENIG
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 2nd day of June, 1994.