

FLAG

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 27 2005

DEPARTMENT OF REAL ESTATE
By Anna Khan

* * *

In the Matter of the Application of)	
MOHAMMED EID)	NO. H-4110 SAC
Respondent.)	OAH NO. L2004110356

DECISION

The Proposed Decision dated January 10, 2005, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon
on FEBRUARY 14, 2005

IT IS SO ORDERED 6-25, 05.

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
against:

MOHAMMED EID

Respondent.

Case No. H-4110 SAC

OAH No. N2004110356

PROPOSED DECISION

On December 30, 2004, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Truly Sughrue, Counsel, represented complainant.

Mohammed Eid, respondent, appeared in his own behalf.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Charles W. Koenig (Koenig), Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Statement of Issues against respondent. Koenig acted in his official capacity.

2. On or about December 31, 2003, respondent filed an application for a real estate salesperson's license with the Department. The application was made pursuant to the provisions of Business and Professions Code section 10153.3 and any license issued will be subject to the provisions of Section 10153.4. The Department denied the application and respondent requested a hearing.

3. On or about April 27, 1995, in the Superior Court, County of Sacramento, State of California, in the matter entitled People v. Mohammed Eid, respondent was convicted on his plea of nolo contendere of a violation of Health and Safety Code section 11364.7, subdivision (a), (deliver, offer for sale, etc. drug paraphernalia), a misdemeanor. Respondent's crime is substantially related to the qualifications, functions and duties of the

licensed activity pursuant to the criteria enumerated in California Code of Regulations, title 10, section 2910, subdivision (a)(8). The conviction has been set aside pursuant to Penal Code section 1203.4 but may still be considered in regard to his application for a real estate license.

The facts and circumstances of respondent's crime are that respondent was the manager of a store that offered for sale various items of drug paraphernalia including baggies, pipes and scales.

4. On or about April 26, 2001, in the Superior Court, County of Sacramento, State of California, in the matter entitled People v. Mohammed Eid, respondent was convicted on his plea of guilty of a violation of Welfare and Institutions Code section 10980, subdivision (c)(2), (fraud to obtain aid), a felony. Respondent's crime involves moral turpitude and is substantially related to the qualifications, functions and duties of the licensed activity pursuant to the criteria enumerated in California Code of Regulations, title 10, section 2910, subdivision (a)(1), (2), (4) and (8). Respondent is still on probation for this crime.

The facts and circumstances of respondent's crime are that respondent was the manager of a store which employed his brother and other relatives. Respondent signed a document falsely stating the number of hours his brother worked each week so the brother could collect welfare payments.

5. Respondent is married, has 6 children and supports them. He has a bachelor's degree in microbiology and immunology from the University of California, Berkeley, and attended medical school for one year. He works as a store manager but would like to sell real estate.

Respondent does not acknowledge his guilt or accept responsibility for either crime.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application for a real estate salesperson's license was established for violation of Business and Professions Code section 480, subdivision (a), as found in Finding 3.

Respondent's criminal conviction is substantially related to the qualifications, functions and duties of the licensed activity pursuant to California Code of Regulations, title 10, section 2910, subdivision (a) (8) commission of an unlawful act with the intent of conferring a financial or economic benefit.

2. Cause for denial of respondent's application for a real estate salesperson's license was established for violation of Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), as found in Finding 4.

Respondent's criminal conviction is substantially related to the qualifications, functions and duties of the licensed activity pursuant to California Code of Regulations, title 10, section 2910, subdivision (a): (1) fraudulently obtaining funds belonging to another person; (2) uttering of a false statement; (4) the use of a falsehood or misrepresentation to achieve an end; and (8) commission of an unlawful act with the intent of conferring a financial or economic benefit.

ORDER

The application of respondent Mohammed Eid for a real estate salesperson's license is denied pursuant to Legal Conclusions 1 and 2, separately and for both of them.

Dated: January 10, 2005


LEONARD L. SCOTT

Administrative Law Judge
Office of Administrative Hearings

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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By *Anne Murray*

In the Matter of the Application of

MOHAMMED EID

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Case No. H-4110 SAC

OAH No. N-

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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **THURSDAY, DECEMBER 30, 2004**, at the hour of **10:30 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: DECEMBER 1, 2004

By *Truly Sughrue*
TRULY SUGHRUE, Counsel

TS/as

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TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

By James Shannon

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-4110 SAC
MOHAMMED EID,)	<u>STATEMENT OF ISSUES</u>
Respondent.)	

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against MOHAMMED EID (hereinafter "Respondent"), is informed and alleges 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 December 31, 2003, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section 10153.4 of the Business and Professions Code.

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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 April 27, 1995, in the Superior Court, County of Sacramento, Respondent was convicted of a violation of Section 11364.7(A) of the California Health and Safety Code (Deliver/Etc. Drug Paraphernalia), 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 April 26, 2001, in the Superior Court, County of Los Angeles, Respondent was convicted of a violation of Section 10980(C)(2) of the California Welfare and Institutions Code (Fraud to Obtain Aid), 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

The crimes of which Respondent was convicted, as alleged 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 under other provisions of law.

7
8 
9 CHARLES W. KOENIG
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 3rd day of September, 2004.