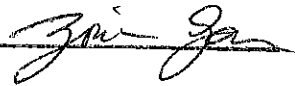


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BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-04804 SD
)	
CRISTIAN MALIK GOODSON,)	OAH No. 2016070127
)	
Respondent.)	
)	

STIPULATION AND WAIVER AND DECISION AFTER REJECTION

I, CRISTIAN MALIK GOODSON, Respondent herein, acknowledge that I have received and read the Statement of Issues filed by the Bureau of Real Estate on June 13, 2016, and the Statement to Respondent sent to me in connection with the Statement of Issues.

I hereby admit that the allegations contained in the Statement of Issues filed against me are true and correct and constitute a basis for the denial of my real estate salesperson license application.

I further acknowledge that the Real Estate Commissioner held a hearing on this Statement of Issues on August 18, 2016, before the Office of Administrative Hearings for the purpose of proving the allegations therein. I was present at the hearing and represented myself. Further, I have had an opportunity to read and review the Proposed Decision of the Administrative Law Judge.

STIPULATION AND WAIVER AND
DECISION AFTER REJECTION H-04804 SD

1 I understand that pursuant to Government Code Section 11517(c), the Real
2 Estate Commissioner has rejected the Proposed Decision of the Administrative Law Judge.
3 I further understand that pursuant to the same Section 11517(c), the Real Estate Commissioner
4 may decide this case upon the record, including the transcript, without taking any additional
5 evidence, after affording me the opportunity to present written argument to the Real Estate
6 Commissioner.

7 I further understand that by signing this Stipulation and Waiver, I am waiving
8 my right to obtain a dismissal of the Statement of Issues through proceedings under
9 Government Code Section 11517(c) if this Stipulation and Waiver is accepted by the Real
10 Estate Commissioner. However, I also understand that I am not waiving my rights to further
11 proceedings to obtain a dismissal of the Statement of Issues if this Stipulation and Waiver is not
12 accepted by the Real Estate Commissioner.

13 I hereby request that the Real Estate Commissioner in his discretion deny my
14 application for a real estate salesperson license and issue to me a restricted real estate
15 salesperson license under the authority of Section 10156.5 of the Business and Professions
16 Code.

17 I agree that by signing this Stipulation and Waiver, the conditions, limitations,
18 and restrictions imposed on my restricted license, identified below, may be removed only by
19 filing a Petition for Removal of Restrictions ("petition") with the Real Estate Commissioner,
20 and that my petition must follow the procedures set forth in Government Code Section 11522.

21 I further understand that the restricted license issued to me shall be subject to all
22 of the provisions of Section 10156.7 of the Business and Professions Code and to the following
23 limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the
24 Business and Professions Code.

25 By reason of the foregoing and solely for the purpose of settlement of the
26 Statement of Issues without further administrative proceedings, it is stipulated and agreed that
27 the Commissioner shall adopt the following Order:

STIPULATION AND WAIVER AND
DECISION AFTER REJECTION H-04804 SD

[illegible]

The conditions, limitations, and restrictions imposed on the restricted
salesperson license issued to Respondent, identified below, may be removed only by filing a
Petition for Removal of Restrictions (“petition”) with the Real Estate Commissioner, and the
petition must follow the procedures set forth in Government Code Section 11522.

1. The license shall not confer any property right in the privileges to be exercised including the right of renewal, 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.

STIPULATION AND WAIVER AND
DECISION AFTER REJECTION H-04804 SD

1 license to Respondent. Respondent shall not be eligible to apply for any
2 unrestricted licenses until all restrictions attaching to the license have
3 been removed.

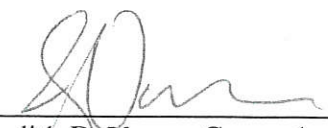
4 3. With the application for license, or with the application for transfer to a
5 new employing broker, Respondent shall submit a statement signed by
6 the prospective employing broker on a form approved by the Bureau of
7 Real Estate wherein the employing broker shall certify as follows:

8 (a) That the employing broker has read the Decision which is the
9 basis for the issuance of the restricted license; and

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

14 4. Respondent shall notify the Commissioner in writing within 72 hours of
15 any arrest by sending a certified letter to the Commissioner at the Bureau
16 of Real Estate, Post Office Box 137013, Sacramento, CA 95813-7013.
17 The letter shall set forth the date of Respondent's arrest, the crime for
18 which Respondent was arrested and the name and address of the arresting
19 law enforcement agency. Respondent's failure to timely file written
20 notice shall constitute an independent violation of the terms of the
21 restricted license and shall be grounds for the suspension or revocation of
22 that license.

23
24 DATED: 11-1-2016



Judith B. Vasan, Counsel
Bureau of Real Estate

25
26 ///

27 ///

1 I have read the Stipulation and Waiver and its terms are agreeable and
2 acceptable to me. I understand that I am waiving my rights given to me by the California
3 Administrative Procedure Act (including but not limited to Section 11506, 11508, 11509, and
4 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those
5 rights, including the right to seek reconsideration and the right to seek judicial review of the
6 Commissioner's Decision and Order by way of a writ of mandate. I can signify acceptance and
7 approval of the terms and conditions of this Stipulation and Waiver by mailing the original
8 signed Stipulation and Waiver to: Judith Vasan, Bureau of Real Estate, 320 West Fourth
9 Street, Suite 350, Los Angeles, CA 90013.

10 Respondent agrees, acknowledges and understands that by signing this
11 Stipulation and Waiver Respondent is bound by its terms as of the date of such signature and
12 that such agreement is not subject to rescission or amendment at a later date except by a
13 separate Decision and Order of the Commissioner.

14
15 DATED: 10/26/2016


CRISTIAN MALIK GOODSON
Respondent

16
17
18 I have read the Statement of Issues filed herein, the Proposed Decision of the
19 Administrative Law Judge dated September 13, 2016, and the foregoing Stipulation and Waiver
20 signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a
21 restricted salesperson license to Respondent.

22 ///

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1 Therefore, IT IS HEREBY ORDERED that the application for real estate
2 salesperson license of Respondent be denied and a restricted real estate salesperson license be
3 issued to Respondent if Respondent has otherwise fulfilled all of the statutory requirements for
4 licensure. The restricted license shall be limited, conditioned and restricted as specified in the
5 foregoing Stipulation and Waiver.

6 This Order shall become effective at 12 o'clock noon on

DEC 20 2016

7 IT IS SO ORDERED

11/18/2016

8 WAYNE S. BELL
9 REAL ESTATE COMMISSIONER

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FILED

OCT 18 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	CalBRE No. H-4804 SD
)	
CRISTIAN MALIK GOODSON,)	OAH No. 2016070127
)	
Respondent.)	

NOTICE

TO: CRISTIAN MALIK GOODSON, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated September 13, 2016, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated September 13, 2016, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on Thursday, August 18, 2016, and any written argument hereafter submitted on behalf of respondent and complainant.

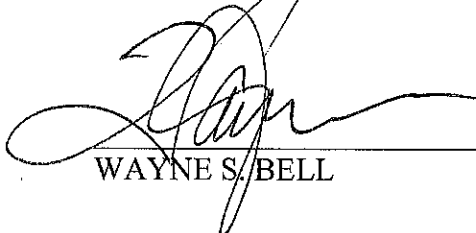
Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of Thursday, August 18, 2016, at the Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good

1 cause shown.

2 Written argument of complainant to be considered by me must be submitted within
3 15 days after receipt of the argument of respondent at the Los Angeles Office of the Bureau of Real
4 Estate unless an extension of the time is granted for good cause shown.

5 DATED: 10/12/2016.

6 REAL ESTATE COMMISSIONER

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9 WAYNE S. BELL
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BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:

CRISTIAN MALIK GOODSON,

Respondent.

Case No. H-04804 SD

OAH No. 2016070127

PROPOSED DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on August 18, 2016.

Counsel for the Bureau of Real Estate (BRE), Judith B. Vasan, represented complainant, Supervising Special Investigator Veronica Kilpatrick.

Respondent, Cristian M. Goodson, represented himself.

The matter was submitted on August 18, 2016.

FACTUAL FINDINGS

1. On June 3, 2015, respondent submitted to the BRE a "Salesperson Exam/License Application." In the application respondent disclosed that on February 5, 2015, he had been convicted of violating Penal Code section 459 (burglary), a misdemeanor.
2. Respondent passed his BRE Salesperson Examination on July 28, 2015.
3. On June 13, 2016, the BRE filed a statement of issues against respondent. Respondent timely requested a hearing and the instant hearing ensued.

Respondent's Criminal Conviction

4. On January 16, 2014, respondent pled guilty to violating Penal Code section 459 (burglary, second degree). The plea was conditioned on respondent's plea agreement. The plea agreement provided, in pertinent part:

I have not been induced to enter this plea by any promise or representation of any kind, except:

In 12 months People agree to 17(b) at sentencing if [defendant] VNL [violates no laws], maintains full time employment, [is a] full time student, or [a] combination of work and school. . . .
(Exh. 3, pg. 59.)

Pursuant to the plea agreement sentencing was delayed for 12 months and if respondent complied with the plea agreement, the charge was to be reduced to a misdemeanor, pursuant to Penal Code section 17, subdivision (b), before sentencing.

5. Respondent complied with the plea agreement and on February 5, 2015, the felony charge was reduced to a misdemeanor and respondent was sentenced for a misdemeanor conviction. As a result of the conviction respondent was placed on three years of summary probation.

6. On April 16, 2015, after a brief, six-minute chamber conference, respondent's probation was terminated and his conviction was expunged. (Exh. 3, pg. 68.)

Facts and Circumstances Underlying Respondent's Conviction

Evidence from the Police Reports¹

¹ The investigating officers' reports were received under *Lake v. Reed* (1997) 16 Cal.4th 448, which considered what kinds of hearsay evidence are admissible under Government Code section 11513 in an administrative proceeding. That opinion concluded that law enforcement officers' direct observations memorialized in the officers' reports were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and were sufficient to support factual findings. The opinion concluded that admissions by a party memorialized in such reports were also admissible under Evidence Code section 1220 and were sufficient to support factual findings. Citing Government Code section 11513, the Supreme Court concluded that other hearsay statements set forth in the officers' reports could be used to supplement or explain other evidence, but that they were not sufficient by themselves to support factual findings unless – as with the public employees records exception to the hearsay rule and the party admission exception to the hearsay rule – such hearsay would be admissible over objection in civil actions.

7. San Diego State University Police Officer Gray's report provided the following information:

SYNOPSIS:

The San Diego Police Department (SDPD) put out a radio call of a burglary that just occurred at [a residence]. I was responding to the area when I was flagged down by a witness and victim. They pointed [to] two suspects who I contacted. The suspects were . . . and Cristian Goodson . . . I detained both suspects and waited for SDPD to arrive. SDPD took over upon arrival. (Exh. 4, pg. 84.)

8. San Diego Police Officer Cooper's report provided the following information:

On 10-13-2013, Officer Tafoya and I responded to assist San Diego State Police with two suspects from a burglary that occurred at Mary Lane Dr. Upon arrival Officer Tafoya contacted the victim, while I contacted the suspects.

The two suspects had been handcuffed. I asked Cristian Goodson if I could search his person. Goodson stated[,] 'sure'. As I was starting to search Goodson he spontaneously stated, 'Officer, I need to come clean here, tonight we committed the crime of theft'. I searched Goodson and located a debit and credit card in his back pocket. It was later learned [that] these cards had the name of the victim that Officer Tafoya was interviewing. I located no other contraband on Goodson.

[¶] . . . [¶]

After taking Goodson's statement I entered the house and assisted with photographs and locating evidence. I noticed the living room smelled of urine, and there was a yellowish puddle of urine on the entertainment center and all over the ground. . . .

[¶] . . . [¶]

Goodson stated the following to me:

I was walking down the street with my friend and Jan, when Jan looked and saw an open door to a house on the street. Jan said 'Hey, guys look the door is open lets hit it'. Jan then walked into

the residence. I being his friend had no choice but to follow him in. Jan was snooping around and he and I went into a bedroom where we found a wallet. I removed the debit and credit card and Jan took the cash. I went into the other room and saw Jan urinate on the TV and all over the place. Someone came home and we tried to run. The person chased us and we ran to the parking stricter [sic]. That is when the police caught us. I am really sorry we did this. This was a dumb mistake and I'm being honest. This was entirely Jan's idea. (Exh.4, pgs. 97-98.)

9. San Diego Police Detective Wells's report provided the following information:

[REDACTED] . . . [REDACTED]

On October 13th, 2013, I was assigned as the on call detective for Eastern Division. I was called to assist with . . . a residential burglary. I met with Officers Cooper . . . and Tafoya . . . at Eastern Division. They briefed me on the investigation and informed me they had arrested Gloster and Goodson. I admonished and interviewed both suspects. See their statements below.

[REDACTED] . . . [REDACTED]

SUSPECT STATEMENT (Jan Gloster):

[REDACTED] . . . [REDACTED]

I was at a party with Cristian Goodson and Hayden. I was drinking tonight. We came across a house with an open door. We went inside to see if there was a party. Everyone was passed out. I was making a fool of myself. I went in one of the rooms and took like fifty bucks. I urinated on the floor. We heard some people coming so we ran. The officers saw us and we sat down.

We don't know people there [in the house]. Gino knows Cristian and recognized him. Gino said [,] 'You robbed my homie's house.' I have a lot of money; I don't know why I took the money. I took the cash out of the wallet. Cristian took the credit cards out himself. . . .

I was drinking shots of tequila from the bottle. It altered my thinking. Hayden took an I-Pod. I pointed it out to him. We went in through the front door and out the back gate . . . Cristian was laughing at me while I was peeing. Hayden was outside at the time (Exh. 4, pg. 90.)

[¶] . . . [¶]

Suspect Statement (Hayden Ribicic):

[¶] . . . [¶]

Ribicic told me essentially the following. We went to State around 11:30-12. Jan was already at a party. Cristian and I met up with him. I wasn't drinking. We started walking home. Jan's ride left him. We were gonna [sic] drop him off. Jan saw a house with an unlocked door. Jan said, 'Let's go in there and see what [sic] we can come up on [sic] anything.' I told him no. I'm really good friends with Cristian, not Jan. They stormed in [sic] the house. I was outside. They didn't come out for like ten minutes. I heard Jan talking to a guy. I thought they didn't steal anything at first. The guy was drunk and Jan tricked him into thinking he was on the football team. They ran out then went back in. I walked in there and was pissed off and wanted to go home. They were stuffing things in their pockets. Cristian handed me an I-Pod. I just held on to it in the house. One of the guys woke up and started screaming. I threw the I-Pod and ran for my life. We walked back to our car. Five dudes walked up so we ran and split up.

Jan coming up on stuff [sic] means trying to steal stuff. He is a very 'thiev' person. I don't like him. Jan steals alcohol at parties. I didn't see him peeing. I was outside on the street. He handed me the I-Pod in the living room. I picked up the poker chip case. I moved it to the backyard. I found it in the living room by the couch. Cristian told me to grab it. I left it in the backyard. (Exh. 4, pg. 90.)

Suspect Statement (Cristian Goodson):

[¶] . . . [¶]

We were at SDSU hanging out with some girls. Jan Gloster says, 'There's an open door over here.' He persuaded me to go inside. Everyone was asleep. Gloster was looking for alcohol and I-Pods. Gloster was trying to be funny and pees on the ground and the guy. He tried to wake the guy before peeing on him. After that I heard noises, me and my boy Hayden left running. Gloster persuaded us to go back inside. We found a wallet. Gloster handed be [sic] a debt [sic] card and credit card and I put them in my pocket. Gloster found like \$20-\$30 and takes [sic] it himself. I think Gloster took an I-Pod. We left the wallet on the bed. I was following his lead. I thought I could buy gas or Jack in the Box with the cards. We ran [sic] over a fence and into a parking lot structure. Hayden fled left while Gloster and I went right. Some males confronted us. Then the officers came. I have known Jan from working together at Abercrombie. I know Gloster steals. Hayden probably stole an I-Pod Nano

[¶ . . . ¶] (Exh. 4, pg. 91.)

10. Respondent, in his application for licensure, described the acts underlying his conviction as follows: "2 years ago I acted on a college prank with 2 other individuals. It was a mistake that I have grown and learned from." . . . (Exh. 2, pg. 43.)

In a supplemental letter respondent wrote to the bureau he provided the following, more detailed, account of the events leading to his conviction:

I Cristian Goodson, want to extend [sic] further information openly and honestly to the California Bureau of Real Estate. The incident that occurred in November 2013 was one that has [been] drastically life changing for the better. Upon [sic] one night [sic] that took place near San Diego State University where I was with two other friends ready to call it a night and go home. Me being the designated driver I look[ed] for my car in anticipation to [sic] go home and get some rest. Unfortunately, one of the other individuals I was with stumbled upon and [sic] open door to some house that previously held a party. Shortly after, the drunken individual created damage within the home and took objects that were not his. Being with him that night made me and the other friend that [sic] was with me suffer the consequences of his action[s] and [I] ended up in court facing possible conviction under violation [sic] of a [sic] PC 459 . . . I don't want this mistake of a college prank that I was involved in

at 18 to stop or delay the process of me getting my license . . . I myself am a well-educated, driven and ethical individual that [sic] was with the wrong people, at the wrong place, and at a younger age. . . . (Exh. 2, pg. 44.)

11. Respondent's hearing testimony, during direct examination, is summarized as follows: It was a Saturday night near Halloween; respondent and his buddy Hayden were in the area near San Diego State University; the two met another friend, Jan, as they were "walking the streets having fun"; respondent had a catering job the next morning so he was "looking for my vehicle" when Jan saw a house with the front door open; Jan said, "maybe there's a party"; respondent said, "No" but Jan entered the house anyway; eventually, respondent entered the house; Jan had "damaged the house" so respondent left; Jan joined respondent and Hayden outside and said he met the owner, and the owner said everything was okay; respondent and his friends went back inside the house; Jan stole a wallet, took the cash, gave respondent "credit cards," and then threw the wallet away; respondent and his friends left the area when some of the residents arrived home; ultimately, respondent was confronted by people who lived in the house; and the police came and respondent was arrested.

12. Respondent's hearing testimony during cross-examination is summarized as follows: Jan made a mess in the house, he urinated on the floor and speaker system; respondent recorded Jan peeing all over everything on respondent's cell phone; he thought the entire incident was "like a prank in a sense"; respondent had been drinking and was "under the influence" of alcohol; Jan was the alpha of the group and respondent "instinctively followed" his lead; respondent has discontinued his friendship with Jan and currently, the two have no contact; "that day was a mistake," and respondent expressed his remorse.

Respondent's Character Witnesses

13. Respondent's mother's testimony is summarized as follows: respondent has always been honest; for example, when he was six years old he was riding his bike, he broke the side mirror of a neighbor's car and immediately went to the neighbor and admitted doing so; there is nobody more "driven" than respondent; he has no personal life because he attends school full-time, works and "does internships"; additionally, he helps care for his disabled grandmother; respondent expressed remorse for his actions leading to his conviction; she has seen the police reports and believes respondent was honest with the police; and he was only 18 at the time and he is now 21.

14. Stevon Salter's testimony is summarized as follows: he has known respondent for two years; respondent is bright and intelligent; he is a "very strong young man who knows where he wants to go"; he exudes drive; he has an excellent work ethic; he expressed remorse about engaging in the conduct that led to his conviction; he did what he did to help a friend and he would not do so again; and he should be given another chance because "it's what we do after we go through such adversities" that defines us.

Character Reference Letters

15. Andrew Thomas Greer, CEO of Thomas Strafford Investments, wrote, in part:

[¶] . . . [¶]

During my working with Cristian he has shown the initiative and mindset required to not only succeed but to truly help others. He is actively seeking knowledge in the field and setting himself up to be successful. As an active student at San Diego State University, he is looking for ways to better himself while taking the steps required. While many want a better future, he is out creating a better future for himself, his family and the community. It is based on these facts alone that I can say that I truly feel the denial of Cristian[']s real estate license would not only be a loss to Cristian but would be a loss to the greater community that he looks forward to supporting. . . . (Exh. A.)

16. Michael Perry of Perry Realty Group/Big Block Realty wrote, in part:

It's my pleasure to recommend Cristian Goodson to receive his California Real Estate License. We worked together at my office from April to June of this year. I am a licensed Realtor and Cristian worked with our team and we found him to be a high character individual. Cristian has a passion for real estate that I've rarely seen. During my time working with him he displayed incredible work ethic, honesty, and dependability. No matter how small or large the task he was given he faithfully gives his all. He came to work on time and conducted his job duties with ethics, care, and integrity.

There is no denying Cristian's talent but he is also a nice, compassionate young man. He is mature beyond his years. I confidently recommend Cristian to receive [sic] his real estate license. He will truly be an exceptional colleague and an asset for consumers wishing to purchase or sell real estate. . . . (Exh. B.)

17. Dirk Watters of Watters Investments LLC wrote in part:

Please let me provide my highest professional recommendation and character reference for Cristian Goodson.

I have come to know Cristian over this past year while he worked with me at my real estate business. I have consistently been impressed by his hard work ethic, positive attitude and how well he works with others in the office.

During his employment with me he has shown a high level of commitment and works diligently to reach his goals and the goals of the organization. He possesses the determination, perseverance and integrity to overcome adversity in what is an extremely difficult field.

Additionally, Cristian has shown himself to be a knowledgeable and conscientious individual that [sic] has a well-versed understanding in [sic] a wide variety of topics. I have also asked Cristian to handle tasks I would otherwise do because of my confidence in his ability to communicate effectively and present himself in a professional manner.

In closing, Cristian is an asset to the San Diego community and consumers. Based on my experience with Cristian I unreservedly recommend that you grant him his real estate license. . . . (Exh. C.)

18. All three of the individuals who wrote character reference letters knew about respondent's conviction prior to writing the letters.

Respondent's Demeanor During the Hearing

19. Respondent was well dressed and extremely professional during the presentation of his case. He was respectful of the process and although his testimony differed in some respects from what he reportedly told the police and from his friends' statements, he readily acknowledged the wrongfulness of his conduct. Although he described the incident as a college prank in his letter to the bureau, he clearly realizes that his conduct represented much more than a prank. He became tearful at one point during his testimony and there is no question that he is sincerely sorry for exercising such poor judgment three years ago. He now has a goal/mission in life and is determined to be a productive member of society and overcome the stigma of his past.

LEGAL CONCLUSIONS

1. Respondent was convicted of a crime that is substantially related to the qualifications, functions and duties of a licensee pursuant to California Code of Regulations,

title 10, Section 2910, subdivision (a)(8). Consequently, cause exists to deny his application for a real estate salesperson license pursuant to Business and Professions Code sections 475, subdivisions (a)(2) and (3), 480, subdivisions (a) (1) and (2), and 10177, subdivision (b).

2. In addition to setting forth the criteria for determining if a criminal conviction is substantially related to the qualifications, functions and duties of a licensee, California Code of Regulations, title 10, Section 2910, subdivision (c), provides:

If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the [bureau], the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.

3. California Code of Regulations, title 10, Section 2911, provides:

The following have been developed by the Bureau pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance . . . of a license in considering whether or not to deny the issuance . . . on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the Bureau actions sought. . . .

(b) Restitution to any person who has suffered monetary losses through 'substantially related' acts or omissions of the applicant.

(c) Expungement of criminal convictions resulting from immoral or antisocial acts.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(e) Successful completion or early discharge from probation or parole.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to

deny the Bureau action sought is attributable in part to the use of controlled substances or alcohol.

(g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.

(h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.

(i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.

(j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.

(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.

(4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

[¶] . . . [¶]

Evaluation

4. Since respondent's sentencing did not occur until after the crime with which he was charged was reduced to a misdemeanor, he stands convicted of a misdemeanor, not a felony. The crime was committed in a college setting, and the night of the incident respondent and at least one of his friends (Jan) had been drinking. Jan, who was the "alpha" of the group, saw a house near the San Diego State University campus with an open front door so he convinced respondent to enter the house with him to see if there was a party going on inside. Jan then took the lead in the illegal activities that followed. Respondent, who was under the influence of alcohol, followed Jan's lead. It appears the court placed respondent on probation for three years on February 5, 2015, and then about 10 weeks later on April 16, 2015, expunged the conviction from respondent's record. It is apparent the court did not consider respondent's conduct to have been particularly egregious.

5. It has not been two years since respondent's conviction; however, it has been over two years since respondent committed the acts that formed the basis for his conviction and, ultimately the denial of his application for licensure. The first criterion, set forth in the factors to be considered in assessing rehabilitation, as set forth in California Code of Regulations, title 10, Section 2911, subdivision (a) provides: "The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the Bureau actions sought². . . ." (Emphasis added.) Respondent met this criterion since the act(s), which led to respondent's misdemeanor conviction, which in turn led to the basis for the instant denial action by the BRE, occurred on October 13, 2013, over two years ago.

6. Application of the remaining relevant criteria reveal the following: respondent's criminal conviction has been expunged; respondent received early discharge from probation; respondent's family life is stable, as revealed by his mother's testimony; respondent has been continually enrolled in school, has completed courses in real estate and has passed his real estate examination; he has discontinued any contacts with Jan; respondent's testimony, in conjunction with that of his mother, and other persons familiar with his unlawful conduct and with his subsequent attitudes and behavioral patterns, revealed that respondent's attitude/immaturity has changed from that which existed at the time of the

² This is the actual wording of the Regulation cited. It is interpreted to mean passage of not less than two years from the date of the acts which formed the basis for the denial of an applicant's application.

conduct in question; and respondent has no record of criminal conduct either before or after his February 5, 2015, conviction, which resulted from his October 13, 2013 acts.

7. Based on the foregoing facts, legal conclusions and analysis, it would not be against the public health, safety and welfare to issue respondent a restricted salesperson license.

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 10156.5 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 said Code:

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.

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.

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.

Dated: September 13, 2016.

DocuSigned by:
Roy Hewitt
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ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

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STATE JUDGE

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