

FILED

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

MAY 14 2009

DEPARTMENT OF REAL ESTATE

\* \* \*

In the Matter of the Application of )  
LARRY JAMES NELSON, )  
Respondent. )

By K. Henry  
NO. H-5121 SAC

OAH NO. 2009010471

DECISION

The Proposed Decision dated April 16, 2009, 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.

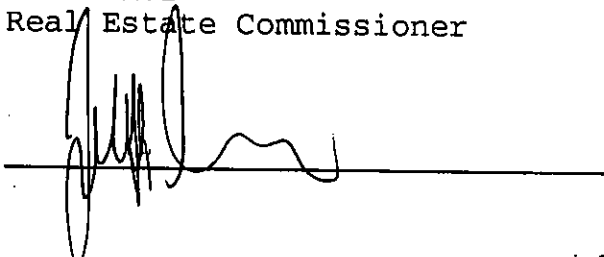
If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon

on JUN 3 2009

IT IS SO ORDERED

5/14/09  
JEFF DAVIS  
Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

LARRY JAMES NELSON,

Respondent.

Case No. H-5121 SAC

OAH No. 2009010471

**PROPOSED DECISION**

Gary A. Geren, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on February 2, 2009, in Sacramento, California.

Timothy Fama, Legal Intern, Department of Real Estate (Department), represented the complainant.

Larry James Nelson (respondent) represented himself.

**FACTUAL FINDINGS**

1. Complainant, Joe M. Carrillo, Deputy Real Estate Commissioner, State of California, made the Statement of Issues, while acting in his official capacity.
2. On February 13, 2008, respondent applied for a real estate salesperson's license. The Department denied respondent's application because of his criminal convictions and his failure to disclose each conviction on his application.

*Respondent's Convictions*

3. On August 28, 1991, in the Municipal Court, County of San Joaquin, State of California, respondent was convicted of violating California Penal Code section 602, subdivision (1), trespassing, a misdemeanor.

Respondent was ordered to pay fines, fees, and restitution. Respondent was also ordered to serve 100 days in jail. The imposition of the sentence was suspended and a respondent was placed on conditional probation for period of two years.

The facts and circumstances surrounding respondent's conviction are contained in his Conviction Detail Report. Therein respondent provides the following accounting:

I got in a fight with a couple of guys over some girls, the fight spilled over to their grandmother's house where the police were called. Nobody was injured.

4. August 16, 1993, in the Municipal Court, County of San Joaquin County, State of California, respondent was convicted of violating California Penal Code section 12031, subdivision (a), carrying a loaded firearm, a misdemeanor.

Respondent was ordered to pay fines, fees, and restitution. He was placed on formal probation for a period of three years.

The facts and circumstances surrounding respondent's conviction are contained in his Conviction Detail Report. Therein respondent provides the following accounting:

I was being threatened by one of my neighbors, when I left my house I took my gun to protect myself. Once outside, an argument took place. It got louder the police were called. When they arrived they searched both parties and I was in possession of a firearm.

5. On December 15, 1994, in the Municipal Court, County of Sacramento, State California, respondent was convicted of violating California Penal Code section 12031, subdivision (a), carrying a loaded firearm, a misdemeanor.

Respondent was ordered to pay fines, fees, and restitution. He was ordered to serve 90 days in jail and was placed on formal probation for a period of three years.

The facts and circumstances surrounding respondent's conviction are contained in his Conviction Detail Report. Therein respondent provides the following accounting:

On the above date [November 22, 1994] I was living in Sacramento with a couple of friends. One evening some friends of mine came by. They were going to go into town and get something to eat and pick up some marijuana. I asked if I could catch a ride with them. Little but I know the car they had was a stolen car. Once we got into Sacramento, a police officer tried to pull us over. The driver of the car [name deleted] refused to pull over and led the police on a chase through town. Once we were pulled over, (I was scared to death) the other two guys in the car got out and started to run, so I did the same. We were caught a short distance later. Needless to say, this was the worst day of my life. We were all charged with multiple crimes. Because I was just a passenger in the car, they said they would drop all charges if I've pled guilty to the weapons charge. I pled guilty and was sentenced to three months in jail. Luckily, nobody was injured.

6. On June 11, 1996, in the Municipal Court, County of San Joaquin, State of California, respondent was convicted of violating California Penal Code section 484, theft, a misdemeanor.

Respondent was ordered to pay fines, fees, and restitution. He was ordered to spend one day in jail and was placed on formal probation for a period of three years.

The facts and circumstances surrounding respondent's conviction are contained in his Conviction Detail Report. Therein respondent provides the following accounting:

I stole a pair of tennis shoes for Mervyns in Lodi, probably to get money for drugs. Nobody was injured.

7. On June 14, 1999, in the Municipal Court, County of San Joaquin, State of California, respondent was convicted of four separate violations of California Vehicle Code section 14601.1, subdivision (a), driving on a suspended or revoked license a misdemeanor.

Respondent was sentenced to pay fines, fees, and restitution. Respondent was also placed on informal probation for a period of three years.

The facts and circumstances giving rise to respondent's convictions are not set forth in the record, other than as set forth in the Conviction Detail Report which asks, "Do you wish to offer an explanation as to why you committed this crime?" Respondent answered, "No excuse. I just kept driving without a license."

#### *Failure to Disclose Convictions on Application*

8. On respondent's application for a real estate salesperson license, the following language appears on the printed form at Part D, Background Information, in a box for added emphasis:

Carefully read and provide detailed answers to questions #1-4. You must provide a yes or no response to all questions.

"Convicted" as used in Question 2 includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere, or a forfeiture of bail in municipal, superior or federal court. All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed, or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

Question 2 on the application states as follows:

2. HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY CONVICTION.

Question 4 on the application states as follows:

4. DETAILED EXPLANATION OF ITEMS 1-3. COMPLETE ONE LINE FOR EACH VIOLATION AND PROVIDE EXPLANATION BELOW. IF YOU ARE UNABLE TO PROVIDE THIS INFORMATION, A DETAILED EXPLANATION MAY SUFFICE. INDICATE WHETHER EACH CONVICTION WAS A MISDEMEANOR OR FELONY AT THE TIME THE CONVICTION OCCURRED. IF THE CONVICTION STATUS HAS BEEN SUBSEQUENTLY CHANGED OR REDUCED, NOTE THAT FACT IN THE AREA PROVIDED FOR ADDITIONAL INFORMATION.

\* CODE SECTION VIOLATION (i.e. 484)

\*\*CODE VIOLATED (i.e. Penal Code)

\*\*\* DISPOSITION (i.e. probation, parole, fine, length of term, etc.)

Included as part of Question 4 is a chart with columns to provide information concerning court of conviction, arresting agency, date of conviction, type of conviction, code section violated, code violated, disposition and case number. The license application includes an example of how to complete the chart. There are blank lines in the chart for additional information.

In response to Question 2 of the license application, to wit: "Have you ever been convicted of any violation of law?" respondent checked "YES." Respondent disclosed his convictions forth in Factual Findings 4 through 6 and the details surrounding them. He did not disclose his convictions set forth in Factual Finding 7.

Respondent testified in this matter. He provided a cogent and reasonable explanation for his failure to disclose all of his convictions. From May 1987 through June 1999, respondent suffered convictions for fourteen criminal offenses. Respondent persuasively testified that he read and understood the application and made his best effort to complete the application completely. In answering questions regarding his convictions he relied on the information that was contained in his Department of Justice Criminal History Transcript that he obtained. He rationally explained that the information concerning the Vehicle Code violations described in Factual Finding 7 was not listed on the Criminal History Transcript, but rather were maintained in records held by the Department of Motor Vehicles, a fact of which respondent was unaware until the Department inquired about the missing convictions. While the Department alleges in its Statement of Issues that respondent failed to disclose four convictions for driving on a suspended license, respondent testified that, in fact, he

suffered eight such convictions. By admitting to convictions that the Department was unaware, respondent provided meaningful evidence of the fact that he has not deliberately withheld past convictions.

### *Rehabilitation*

9. The common denominator underlying all of respondent's convictions is that at the time he committed his crimes he was addicted to drugs and alcohol. Respondent testified in a candid and forthright fashion about his addictions. Nor, did he attempt to diminish his culpability for committing his crimes. Throughout his testimony, he showed great insight, recognizing that his drug addiction was something that he needed to confront in order to live a more productive, law-abiding life, and committing himself to a course of rehabilitation. Respondent persuasively testified that he has moved well past his ways that led him to commit his crimes.

Respondent's new-beginning started after he enrolled in a six-month long residential treatment program on May 19, 1997; he has been "clean and sober" since that day (a period of almost twelve years). He has been an active member of Alcoholics Anonymous and over the past four years he has acted as a sponsor for five other alcoholics. He attends one to two meetings per week and he has been his AA chapter's Secretary, Steering Committee Chairperson, and for the last two and one-half years, its Maintenance Chairperson.

Respondent now enjoys a stable family life. He's been married for two and one-half years and he is the father to a two and one half year-old daughter. He is purchasing the home where he and his family reside and he is current on his mortgage payments. He has an "excellent" credit rating, with a score in the mid 700s.

Respondent is an active member in his church, working on the Greeting Team and Ushering Team for the last six years. Following hurricane Katrina, respondent completed a church mission in which he led six different rebuilding projects in an area damaged by the hurricane.

Because respondent had not violated his probation, the court granted respondent an early termination, so that he could enroll in the local electrician union's apprenticeship program, which respondent completed by attending classes two nights per week over a five-year period. Respondent completed his apprenticeship program on May 31, 2004. On August 16, 2004, respondent was certified as a General Journeymen Electrician, after passing his apprenticeship examination with a score of 86%. Respondent has worked for Collins Electrical, a commercial electrical contractor, for the past ten years, the last five years as a foreman. As a foreman, he is entrusted by his employer with a company truck, cell phone, and credit card.

Respondent has obtained his General Education Diploma and he has completed courses at Delta Junior College.

Respondent is current on his payments to pay off his fines under the payment plan established by the court. Respondent produced documentary evidence that supported his consistent payment history.

Respondent also provided letters of commendation attesting to his good character. Theodore B. Hutz, broker/owner, Fortune Real Estate, states:

I have been personally acquainted with Mr. Larry Nelson for over 11 years. I have seen tremendous growth in him as a human being, I know this because I have sponsored him within AA for more than 10 years. Mr. Nelson has a continuing involvement with AA, he attends meetings, holds commitments, and helps others. During that time, he has rebuilt his life, maintained abstinence from all drugs and alcohol, been gainfully employed, completed an apprenticeship program, excelled as a Journeymen, been promoted to Foremen, got married, became a father, is fiscally responsible, belongs to a church, etc. I have been extremely impressed with Mr. Nelson.

On a business note: If he were to acquire a Real Estate License I would be proud to have him work with my office. He is honest, dependable and of good moral character.

Efrain Rivera writes:

I have known Larry James Nelson for over three years. I first met him at First Baptist Church. Since then, I have come to know Mr. Nelson on a personal level and can attest to his honesty, integrity, and overall good character. He is a strong member of the community, a loving husband and father, and a good friend.

Professionally, he has worked 10 years for Collins Electrical, a large local company. Over the years he has proven himself as an asset to the company and risen to the position of foreman. His strong leadership skills and his ability to manage responsibility have earned him the admiration, trust, and respect of his superiors and his peers, and he is held in high regard.

Having been in the real estate industry for the past 10 years, I know the importance of being ethical, trustworthy, and professional and the role these traits play in the success of an agent. Therefore, I can honestly say Mr. Nelson possesses the qualities needed to be successful in this field, and I would not hesitate to give my highest recommendation to any broker who is searching for a qualified agent in our office.

Dr. Bradley C. Stahl, Associate Pastor, First Baptist Church, states:

I have known Larry Nelson for over nine years, as his pastor and his personal friend. Our interactions go beyond the weekly times we see each other at church, however. Our families have done things together, we recreationally play softball together, and we have served together on a short-term mission trip helping the victims of Hurricane Katrina. As I led this trip, I was personally encouraged by Larry's initiative and servant heart. He gave up his own vacation time and paid his own way to serve these people devastated by this natural disaster. His work ethic on the trip was an example to everyone!

Larry's generosity and kindness go way beyond a trip like this, though. On a weekly basis he serves others at our church. Whether it's leading a small group, leading the Usher/Greeting team, or doing announcements for our worship service, Larry is always willing to help. Obviously, I would not call a Larry to do these duties and represent our church if I did not know him to be a person of honesty, integrity, and one of high morals and values. He is a model for others in our church in his relationship with his wife and daughter, as well. I would entrust my children into his care if the need arose.

Obviously, I think very highly of Larry. I know he will be a great leader and worker in your organization. If I can answer any other questions for you, please don't hesitate to call.

Respondent has shown great initiative in improving his education and training. For example, on November 17, 2007, respondent completed the Competent Person Training for the Cal-OSHA Excavation Standard; on September 3, 2008, he successfully completed the Adult Basic CPR and First Aid courses administered by the American College of Emergency Physicians; on October 18, 2008, respondent successfully completed a 30 hour Occupational Safety and Health Training Course in Construction Safety and Health; and respondent submitted four additional certificates establishing that he completed other occupational and supervisor training programs.

Respondent's wife, Lori Nelson, testified in this matter. She persuasively testified that she assisted respondent in completing his real estate application by obtaining all records available from the San Joaquin County courts, from both the Stockton and Lodi branches, as well as obtaining his Criminal History Transcript. She persuasively corroborated respondent's testimony that his failure to disclose his Vehicle Code convictions was not a deliberate act by her or respondent, but was a merely matter of an honest oversight.

Ms. Nelson described respondent as having a "huge heart." He is a "hard worker" and a good provider for her and her child. She testified that she could have gotten "at least 100 people to swear to [respondent's] good character." She has been with respondent for a total of five and one-half years and she considers him to be an "honest man." She has attended AA meetings with respondent and describes the speeches he gives as "moving." Ms. Nelson



admires respondent's recovery from addiction and she testified that he "inspires her to be a better person." Since meeting respondent in November of 2003, she has not seen him consume any drugs or alcohol.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be denied to an applicant who has been convicted of a felony or a crime involving moral turpitude.

### *Moral turpitude*

2. Respondent's conviction for theft (Factual Finding 6) involved moral turpitude because it involved dishonesty. (*People v. Castro* (1985) 38 Cal.3d 301, 306; *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 400-401 ["...there is widespread agreement that convictions of crimes involving fraudulent intent and intentional dishonesty for personal gain establish moral turpitude as a matter of law."].)

### *Substantial relationship*

3. California Code of Regulations, title 10, section 2910, subdivision (a), sets forth criteria for determining whether a criminal conviction is substantially related to the qualifications, functions or duties of a real estate licensee.<sup>1</sup> Pursuant to subdivisions (a)(1),

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<sup>1</sup> California Code of Regulations, title 10, section 2910 states:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

(2) Counterfeiting, forging or altering on of an instrument or the uttering of a false statement.

(3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state or local government.

(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

(5) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code.

(9), and (10), and Factual Findings 3-7, the record established that a substantial relationship exists between respondent's convictions, as his convictions stand inapposite to the qualifications, functions and duties expected of a real estate salesperson.

*Cause for denial*

4. Cause exists to deny respondent's license application under Business and Professions Code section 10177, subdivision (b), for respondent's convictions as set forth at Factual Findings 1-7 and Legal Conclusions 1-3.

*Failure to Disclose Convictions*

5. Pursuant to California Business and Professions Code sections 480, subdivision (c) and 10177, subdivision (a), an applicant may be denied the issuance of a salesperson's license for his or her failure to disclose each conviction. However, as set forth in Factual Findings 8 and 9, respondent's failure to disclose his convictions was a matter of mere oversight, and as a consequence, does not provide legal cause to deny him the issuance of a salesperson's license.

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(6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.

(7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

(9) Contempt of court or willful failure to comply with a court order.

(10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

(11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

(b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.

(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or act 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.

## Rehabilitation

6. When legal cause exists for the Department to deny an applicant a license, the licensee may demonstrate rehabilitation such that a license should still be issued.

7. Rehabilitation is a "state of mind" and the law looks with favor upon one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058). Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940).

The Department has enacted a non-exhaustive list of rehabilitation criteria at California Code of Regulations, title 10, section 2911, against which to weigh and evaluate an applicant's evidence of rehabilitation.<sup>2</sup>

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<sup>2</sup> California Code of Regulations, title 10, section 2911 states:

The following criteria have been developed by the department pursuant to section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement 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 departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)
- (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 departmental 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.

With these factors in mind, respondent made a compelling case that he has attained a level of rehabilitation such that he would not pose a threat to the public's welfare. Furthermore, respondent established that the Department's issuing him a restricted salesperson's license would strike the appropriate balance between protecting the public and allowing respondent to pursue a career in real estate. (Factual Finding 9.)

## ORDER

1. Respondent's application for a real estate salesperson license is denied. 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 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:

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(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 is reflective of an inability to conform to societal rules when considered in light of the conduct in question.

2. 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.

3. 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 (2) years have elapsed from the date of issuance of the restricted license to respondent.

4. 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

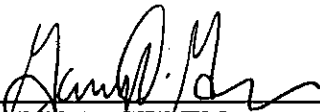
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

5. Respondent's restricted real estate salesperson license is 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 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.

6. 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 (4) years after the date of the issuance of the preceding restricted license.

DATED: April 16, 2009

  
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GARY A. GEREN  
Administrative Law Judge  
Office of Administrative Hearings

FILED

DEC 31 2008

DEPARTMENT OF REAL ESTATE

By R. Henry

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Application of )

NO. H- 5121 SAC

LARRY JAMES NELSON, )

STATEMENT OF ISSUES

Respondent. )

The Complainant, JOE M. CARRILLO, in his official capacity as a Deputy Real Estate Commissioner of the State of California, for this Statement of Issues against

LARRY JAMES NELSON, (hereinafter "Respondent"), is informed and alleges as follows:

1

On or about February 13, 2008, Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license.

2

In response to Question 1 of Part D of the application described in Paragraph 1 above, to wit: "Have you ever been convicted of a misdemeanor or felony? Convictions expunged under Penal Code Section 1203.4 must be disclosed, however, you may omit traffic citations which do not constitute a misdemeanor or felony. If yes, complete Item 6," requiring Respondent to disclose all convictions other than minor traffic citations not constituting a

1 misdemeanor or felony offense. To this question Respondent answered "Yes," but concealed  
2 and failed to disclose the convictions set forth in Paragraphs 3 through 6, below.

3 3

4 On or about June 14, 1999, in the Municipal Court, County of San Joaquin, Lodi  
5 Branch, State of California, in case number 237206, Respondent was convicted of violating  
6 Section 14601.1(a) of the California Vehicle Code (driving on a suspended or revoked license),  
7 a misdemeanor and crime involving moral turpitude which bears a substantial relationship under  
8 Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties  
9 of a real estate licensee.

10 4

11 On or about June 14, 1999, in the Municipal Court, County of San Joaquin, Lodi  
12 Branch, State of California, in case number 222296, Respondent was convicted of violating  
13 Section 14601.1(a) of the California Vehicle Code (driving on a suspended or revoked license),  
14 a misdemeanor and crime involving moral turpitude which bears a substantial relationship under  
15 Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties  
16 of a real estate licensee.

17 5

18 On or about June 14, 1999, in the Municipal Court, County of San Joaquin, Lodi  
19 Branch, State of California, in case number 243868, Respondent was convicted of violating  
20 Section 14601.1(a) of the California Vehicle Code (driving on a suspended or revoked license),  
21 a misdemeanor and crime involving moral turpitude which bears a substantial relationship under  
22 Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties  
23 of a real estate licensee.

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On or about June 14, 1999, in the Municipal Court, County of San Joaquin, Lodi Branch, State of California, in case number TP91254, Respondent was convicted of violating Section 14601.1(a) of the California Vehicle Code (driving on a suspended or revoked license), a misdemeanor and 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.

Respondent's failure to reveal in the application the convictions described in Paragraphs 3 through 6 above, constitutes the attempted procurement of a real estate license by fraud, misrepresentation, deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

On or about August 28, 1991, in the Municipal Court, County of San Joaquin, Lodi Judicial District, State of California, in case number LM002988, Respondent was convicted of violating Section 602(l) of the California Penal Code (trespassing), a misdemeanor and 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.

On or about December 16, 1993, in the Municipal Court, Lodi Judicial District, County of San Joaquin, State of California, in case number LM007939A, Respondent was convicted of violating Section 12031(a) of the California Penal Code (carrying a loaded firearm) and Section 853.7 of the California Penal Code (failure to appear), misdemeanors and crimes involving moral turpitude which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

On or about December 15, 1994, in the Municipal Court, County of Sacramento, State of California, in case number 94F09761, Respondent was convicted of violating Section 12031(a) of the California Penal Code (carrying a loaded firearm), a misdemeanor and 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.

On or about June 11, 1996, in the Municipal Court, Lodi Judicial District, County of San Joaquin, State of California, in case number LM014214A, Respondent was convicted of violating 484 of the California Penal Code (theft), a misdemeanor and 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.

The crimes of which Respondent was convicted, as alleged in Paragraphs 3 through 6 and Paragraphs 8 through 11, above, individually and collectively, constitute 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.

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

  
JOE M. CARRILLO  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 22 day of December, 2008.