

**FILED**

JAN 21 2022

BUREAU OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of:	)	DRE No. H-05233 SD
	)	
EDUL J AZEEZ, II,	)	OAH No. 2021090161
	)	
Respondent.	)	

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DECISION

The Proposed Decision dated December 8, 2021, 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.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision. On page 17, end of paragraph 10, reads as, "Once the license is issued, a three-year probation period will begin". It shall be amended to read "Once the license is issued, a two-year probation period will begin".

The application for a real estate license is denied, but the right to a restricted real estate license is granted to Respondent.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of

Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on FEB 10 2022.

IT IS SO ORDERED 1.18.22

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

**In the Matter of the Application (Statement of Issues) Of:**

**EDUL J. AZEEZ, II, aka SEAN AZEEZ, Respondent**

**Agency Case No. H-05233 SD**

**OAH No. 2021090161**

**PROPOSED DECISION**

Marion J. Vomhof, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by video/telephone conference on November 9, 2021, due to the ongoing COVID-19 pandemic.

Judith Vasan, Staff Counsel, represented complainant, Veronica Kilpatrick, Supervising Special Investigator, Department of Real Estate (department), State of California.

Robert Jason Booher, Attorney at Law, represented Edul J. Azeez, II aka Sean Azeez, respondent.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on November 9, 2021.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On July 17, 2020, the department received respondent's application for a real estate salesperson license. In his application, respondent disclosed his felony conviction for voluntary manslaughter.

2. On August 28, 2020, the department notified respondent that additional information would be required to process his request and that his application had been forwarded to the department's Licensing Background Review Unit.

3. On June 30, 2021, complainant, in her official capacity, filed a statement of issues against respondent. The statement of issues alleged that respondent's application should be denied because his conviction was substantially related to the qualifications, functions, or duties of a real estate licensee.

4. On October 29, 2021, respondent filed a response to the statement of issues, requesting that he be issued a real estate salesperson license and granted alternative or further relief as may be appropriate. This hearing followed.

### **Respondent's Conviction**

5. On April 23, 2010, in the Superior Court of California, County of San Diego, respondent was convicted, on his plea of guilty, of violating Penal Code section 192, subdivision (a), voluntary manslaughter, a felony. Respondent was sentenced to 11 years in prison, with credit for 399 days served. He was ordered to pay fees, fines of \$2,200, and restitution of \$3,502.

In a September 22, 2020, Conviction Detail Report he sent to the department, respondent provided the following details of the incident:

In 1995 being young, dumb, naive boys. [sic] 4 acquaintances and myself made a grave mistake by going out one I'll [sic] fated night to do some car racing, this event turned into a much more wreckless [sic] and dangerous situation when stealing car parts for one of the acquaintances [sic] car came into the equation. This very dumb decision resulted in the owner coming out while the others were attempting to enter the owners [sic] vehicle. Startled and scared they wildly ran back to my car, as I drove off speedily, fish-tailing [sic], one of the acquaintances (un-beknownst [sic] to us) had a gun and shot one random blind shot from the moving car that hit the owner and killed him. I never intended to harm anyone, and regret ever involved [sic] in something like that. I was able to talk to and apologize to the victims [sic] family and let them know how remorseful I was for being involved. Having no knowledge of the gun but being a part of the crime and knowing some of the accomplices, got me Voluntary Manslaughter a lesser included offense that I plead guilty to.

Should [sic] have never happened . . I regret being part of such a bad situation, bad choices!

## **Respondent's Testimony**

6. Respondent's testimony is summarized as follows: The incident occurred on November 14, 1995, when respondent was 21 years old. Respondent was driving his vehicle, with four passengers--BW, KB, AT, and AF. Respondent knew BW and KB; AT and AF were acquaintances of AW and KB and respondent did not know them well. Respondent did not want to harm the victim. He said, "they needed some part for a vehicle" and were able to get into the victim's vehicle. "[T]hey were rummaging through the vehicle when the owner came out of his house. They ran back after getting something and jumped in the car." As respondent was attempting to drive away, he "heard yelling in the back" and then a gunshot. He heard, "What did you do?" AT, who was on the right rear passenger side of the vehicle, had "hung out of the car" and shot the victim. Respondent said, "No one knew he had a gun." The next morning BW or KB called respondent and told him to check the news. He did so and heard that the victim had died. AT "told everyone not to say anything."

7. After the event, respondent "felt empty." He knows that he should have come forward, but he did not. AT threatened him, so respondent kept quiet. Thereafter, respondent needed to start over and wanted to go to college, so he decided to move to San Francisco. He continued in college, working two to three jobs to pay for school and rent. In 2004 he completed classes and passed the real estate licensing exam before moving back to San Diego. He later relocated to Culver City.

8. In 2009, BW "came forward and told the whole story." Respondent said this "was kind of a relief." Respondent was living in Culver City at the time and the police interviewed him about the incident. He was cooperative with the investigation. The police officers were "kind and cordial," and allowed him to turn himself in after Mother's Day. Respondent was arrested on May 9, 2009.

9. AT pled guilty to first-degree murder and was sentenced to 25 years to life. Respondent and two others were charged with first-degree murder under the felony murder rule;<sup>1</sup> and each pled guilty to, and was convicted of, voluntary manslaughter. Respondent was sentenced to 11 years in prison.

While in prison, respondent tried to help other inmates to understand computers, and focused on what he could do to get out of prison. He obtained an associate degree in business and technology, completed a vocational autobody class, obtained a welding certificate, and completed an alternative to violence program with a teaching certificate.

Respondent served eight years and was released from prison in December 2017. He was released from parole on January 10, 2020. He paid restitution to the victim's fund during his first year out of prison. Respondent's mother initially reached out to the victim's family and asked if respondent could reach out, and they agreed. Respondent wrote a letter of apology to the family, stating that he was truly sorry and remorseful for his part in the incident that resulted in the victim's death. He wrote that the incident is something that would continue to haunt him for the rest of his life. He continued to communicate with the family for a while but then stopped when it began to feel awkward.

10. In 2018 he obtained a Nationwide Mortgage Licensing System (NMLS) license. He is seeking his real estate salesperson license as many of the companies he

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<sup>1</sup> California's "felony murder rule" allows a defendant to be charged with first-degree murder for a killing that occurs during a dangerous felony, under certain circumstances, even if the defendant is not the killer.

has worked with have changed to real estate brokerage firms and now require that he hold a real estate license, along with the NMLS license. Respondent passed the real estate exam in 2004, but did not pursue licensure. There are presently two companies "waiting to hear" about the status of his application/license.

11. Respondent met his wife Lynn in 1992 or 1993. They married in 2007 and have one daughter, who was born in 2010 while he was in custody. Respondent has a good relationship with his daughter, and is close with his mother and sister. He said, "My family stuck with me."

Respondent's mother has worked in a youth ministry program with three to five different churches. Respondent was involved with his church and community prior to and after the 1995 incident. After his release, he decided that he needed to get active again. He has helped pass out food and clothing at a women's shelter and participated in a food drive. At his church, he helps with volleyball and other outdoor activities and serves as a chaperone for children's activities. He participated in Operation Home Front, where he explained veteran's administration (VA) benefits to veterans and helped them find housing. Respondent has "strong ties to the community."

### **Character Reference Letters**

12. Respondent provided the following letters of support from family and friends. It is noted that these letters were written in 2009 and 2010, in connection with respondent's criminal sentencing.

13. The letters from members of his wife's family, who have known him since 1995 when the two began dating, referenced respondent's loyalty and devotion toward his family and friends. His mother-in-law wrote that he "has a kind and devoted wife, and two loving families who can help him get through any problem in



life." His sister-in-law described him as a caring, loving, and kind-hearted man, who was always taking care of his family. She wrote that "he has the support of his entire family." Respondent's brother-in-law described him as a man of integrity, honest, and highly accountable for his actions.

14. Friends of respondent, all who have known him for over 20 years, described him as giving and generous of his time and energy. One friend wrote that respondent has been instrumental in guiding him in his personal development, and he "emulates a positive outlook on life." A close friend, who was best man at respondent's wedding, wrote that respondent puts others before himself; he is "dependable and a man of his word." Another friend wrote that respondent "portrays characteristics of a good Samaritan," he "has a big and gracious heart." He is "trustworthy and loyal; kind-hearted and God-fearing."

15. Respondent's mother wrote that he "got mixed up with the wrong crowd," but she said, "I am not making excuses for him and he should be punished." She asked that the judge be lenient with respondent's sentence; she wrote he "took a wrong turn and has since learned from his mistake." She has had health problems and respondent was a great help to her. Friends of respondent's mother wrote that respondent takes good care of his mother, and they described him as honest, caring, and trustworthy.

16. Respondent provided several letters from friends of his wife who have known respondent since he and his wife met, and have become friends of the couple. The letters described respondent as a dedicated family man, who cares for his mother and sister. One friend wrote that respondent had "impeccable integrity" and "was always improving himself." Another friend wrote, respondent "was brought up in a

loving and supportive family, where ethics, values, faith and responsibility have been taught and lived.”

## **Certificates**

17. Respondent provided the following certificates and documents:
  - Alternatives to Violence Project, Certificates of Achievement and Completion, Workshops and Advanced Courses, dated April 2012, November 2012, February 2014, March 2016, and January 2017.
  - Auto Body Basic and Level 1, Certificate of Completion, May 26, 2016, and Certificate of Achievement, November 2, 2016; Chuckawalla Valley Adult School.
  - Certificates for participation in: Detailing, May 31, 2016; Estimating Collision Damage, May 31, 2016; Collision Repair and Safety, March 30, 2016, and May 31, 2016; Vehicle Construction, May 31, 2016; Corrosion Protection, May 31, 2016; and Welding, March 30, 2016; Chuckawalla Valley Adult School, Vocational Education Programs.
  - Palo Verde College, Associate in Arts, Liberal Arts, Emphasis in Business and Technology, December 2016.
  - Certificates of Participation in volleyball, basketball, and soccer in Chuckawalla Valley State Prison (CVSP) Recreation Activities Programs; October 2010, September 2011, and May 2013.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that he or she is qualified to hold the license. The standard of proof is a preponderance of the evidence.

### **Applicable Law**

2. Business and Professions Code section 480, subdivision (a)(1), provides:

Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the

preceding seven years from the date of application.

However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

3. Business and Professions Code section 481 provides:

(a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense.

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482 .

4. Business and Professions Code section 10177, subdivision (b)(1), authorizes the commissioner to deny the application if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession of a real estate licensee and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal.

5. California Code of Regulations, title 10, section 2910, subdivision (a)(8), provides that when considering whether a license should be denied on the basis of the conviction of a crime, the crime or act shall be deemed to be substantially related to the qualifications, functions, or duties of a licensee if it involves doing an unlawful act with the intent or threat of doing substantial injury to the person or property of another.

### **Causes Exists to Deny the Application**

6. Cause exists under Business and Professions Code sections 480, subdivision (a)(1), and 10177, subdivision (b), to deny respondent's application for a real estate license. Respondent's conviction was substantially related to the qualifications, functions, and duties of a licensee pursuant to California Code of Regulations, title 10, Section 2910, subdivision (a)(8), and as set forth above.

## **Rehabilitation**

7. Having found cause to deny the application, the issue becomes one of evaluating respondent's rehabilitation. California Code of Regulations, title 10, section 2911, subdivisions (a) and (b)(1), set forth the department's criteria for rehabilitation for applicants, which were considered in rendering this decision. That section provides:

(a) The following criteria have been developed and will be considered by the Bureau pursuant to Section 482 of the Business and Professions Code for the purpose of evaluating whether or not an applicant is rehabilitated for purposes of issuance or for reinstatement of a license:

(1) The time that has elapsed the passage of less than two years since the most recent criminal conviction, since commission of the acts(s) or offense(s):

(A) The passage of less than two years after the most recent criminal conviction or act of the applicant that is a cause of action in the Bureau's Statement of Issues against the applicant is inadequate to demonstrate rehabilitation.

(B) Notwithstanding subdivision (a)(1)(A), above, the two year period may be increased based upon consideration of the following:

(i) The nature and severity of the crime(s) and/or act(s) committed by the applicant.

(ii) The applicant's history of criminal convictions and/or license discipline that are "substantially related" to the qualifications, functions, or duties of a real estate licensee. However, no rehabilitation shall be required where the sole proven basis or bases for denial of an application is an expunged conviction as described in Business and Professions Code Section 480(c).

(2) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant, or escheat to the State of these monies or other properties if the victim(s) cannot be located.

(3) Expungement of criminal convictions.

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

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

(6) Abstinence from the use of controlled substances and/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 and/or alcohol.

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

**(8) 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 Bureau action sought.**

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

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

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

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

**(13) 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 Bureau action sought.**

**(14) Change in attitude from that which existed at the time of the conduct in question as evidenced by the following:**



**(A) Testimony and/or other evidence of rehabilitation submitted by the applicant.**

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

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

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

**(E) Absence of subsequent felony convictions, misdemeanor convictions, or other conduct that provides grounds to discipline a real estate licensee, which reflect an inability to conform to societal rules when considered in light of the conduct in question.**

**(b) The SAFE Act, commencing with section 10166.01 of the Business and Professions Code, imposes specific conditions that apply to applications for a mortgage loan originator license endorsement. Each of the above criteria notwithstanding, no mortgage loan originator license endorsement shall be issued to an applicant for such license endorsement where the applicant:**

(1) Has been convicted of any felony during the seven year period preceding the date of his or her application for a license endorsement. This ban is not subject to mitigation or rehabilitation unless the felony conviction has been expunged or pardoned, or unless the real estate licensee has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

### **Appellate Law**

8. Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) The evidentiary significance of an applicant's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

9. Cases involving admission based on rehabilitation commonly involve a substantial period of exemplary conduct following the applicant's misdeeds. (*In re Gossage* (2000) 23 Cal.4th 1080, 1096, citing *Kwasnik*.) Since persons under the direct supervision of judicial or correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that such an individual did not commit additional crimes or continue inappropriate behavior while under supervision. (*Id.* at p.1099.)

## **Evaluation**

10. Respondent's conviction is cause for denial of his application. He was convicted of a serious offense—he was involved in a crime where someone was killed. Respondent has been off parole for less than two years.

The rehabilitation criteria set forth in California Code of Regulations, title 16, section 2911, have been considered. It has been 26 years since respondent's commission of the offense and almost 12 years since his conviction. There was no evidence that he has engaged in any illegal conduct before or after 1995. From 1995 to 2010, he worked, attended college, got married, and started a family. However, given the principle espoused in *In re Gossage, supra*, little weight is given to the fact that he remained law abiding from 2010 to 2020, while he was in prison and on parole.

Respondent appears to have a stable family life and many supportive friends. He is gainfully employed. He is involved in his community and church. He completed his associate degree and took other courses while in prison. It is clear from his testimony and various letters of reference that respondent has a stable family life and a good support system. It is also clear from his testimony that he is remorseful for his conduct.

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, with terms and conditions. Given how much time has passed since he took the exam, respondent will be required to take the real estate exam, and apply for a license. Once the license is issued, a three-year probation period will begin.

## **ORDER**

The application of respondent Edul J. Azeez II aka Sean Azeez for an unrestricted 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 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:

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 two years have elapsed from the date of issuance of the restricted license to respondent.
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 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.

Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATE: December 8, 2021

*Marion Vomhof*

MARION J. VOMHOF

Administrative Law Judge

Office of Administrative Hearings