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FILED

OCT 13 2016

BUREAU OF REAL ESTATE
By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of
SEAN ANDRE BEATTIE,
Respondent.

CalBRE No. H-6366 SAC
OAH No. 2016031260

STIPULATION AND AGREEMENT
AND DECISION AFTER REJECTION

This matter came on for hearing before Gene K. Cheever, Administrative Law Judge, Office of Administrative Hearings, State of California, in Sacramento, California, on June 9, 2016.

Adriana Z. Badilas, Counsel, represented the Complainant, Tricia Parkhurst, in her official capacity as a Supervising Special Investigator with the Bureau of Real Estate ("the Bureau"). Respondent, SEAN ANDRE BEATTIE, appeared and represented himself.

Evidence was received, the record was closed, and the matter was submitted on June 9, 2016.

On June 29, 2016, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner (hereinafter "the Commissioner") declined to adopt as his Decision herein. Pursuant to Section 11517 of the Government Code of the State of California, Respondent was served with notice of the Commissioner's determination not to adopt the Proposed Decision along with a copy of the Proposed Decision. Respondent was notified that

1 the case would be decided by the Commissioner upon the record, the transcript of proceedings,
2 and upon written argument offered by Respondent and Complainant.

3 Written argument was not submitted by Respondent. Written argument was not
4 submitted on behalf of Complainant. The parties wish to settle this matter without further
5 proceedings.

6 The following shall constitute the Decision of the Commissioner in these
7 proceedings.

8 The Findings of Fact and Legal Conclusions in the Proposed Decision dated
9 June 29, 2016, and attached hereto as Exhibit A are hereby adopted in full as part of this
10 Decision.

11 Pursuant to Section 11517(c)(2)(B) of the California Government Code, the
12 Order in the Proposed Decision dated June 29, 2016, is hereby amended as follows:

13 ORDER

14 The application of Respondent SEAN ANDRE BEATTIE for a real estate
15 broker license is denied; provided, however, a restricted real estate broker license shall be
16 issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code
17 ("the Code"). The restricted license issued to Respondent shall be subject to all of the
18 provisions of Section 10156.7 of the Code and to the following limitations, conditions and
19 restrictions imposed under authority of Section 10156.6 of the Code:

20 1. The license shall not confer any property right in the privileges to be
21 exercised, and the Commissioner may by appropriate order suspend the right to exercise
22 any privileges granted under this restricted license in the event of:

23 (a) The conviction of Respondent (including a plea of nolo
24 contendere) of a crime that is substantially related to
25 Respondent's fitness or capacity as a real estate licensee; or

26 (b) The receipt of evidence that Respondent has violated
27 provisions of the California Real Estate Law, the subdivided


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lands law, regulations of the 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 limitations, conditions, or restrictions of a
restricted license until two (2) years have elapsed from the date of the issuance of the
restricted license to Respondent.

3. Respondent shall notify the Commissioner in writing within 72 hours of any
arrest by sending a certified letter to the Commissioner at the Bureau 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.

Aug 23, 2016
DATED


ADRIANA Z. BADILAS
Real Estate Counsel

* * *

I have read the Stipulation and Agreement and Decision After Rejection and its
terms are understood by me and are agreeable and acceptable to me. I understand that I am
waiving rights given to me by the Administrative Procedure Act, and I willingly, intelligently,
and voluntarily waive those rights.

August 24, 2016
DATED


SEAN ANDRE BEATTIE
Respondent

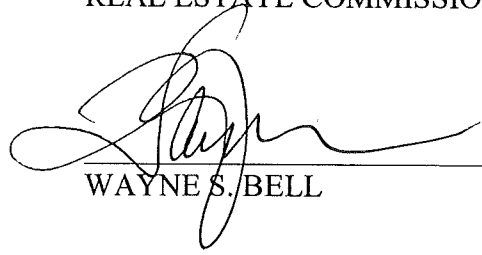
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The foregoing Stipulation and Agreement and Decision After Rejection is hereby
adopted as my Decision and Order in this matter and shall become effective at 12 o'clock noon
on NOV 03 2016.

IT IS SO ORDERED 10/12/2016.

REAL ESTATE COMMISSIONER



WAYNE S. BELL

FILED

JUL 27 2016

BUREAU OF REAL ESTATE

By B dew

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	CalBRE No. H-6366 SAC
SEAN ANDRE BEATTIE,)	
)	OAH No. 2016031260
Respondent.)	

NOTICE

TO: SEAN ANDRE BEATTIE, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 29, 2016, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 29, 2016, is attached hereto for your information.

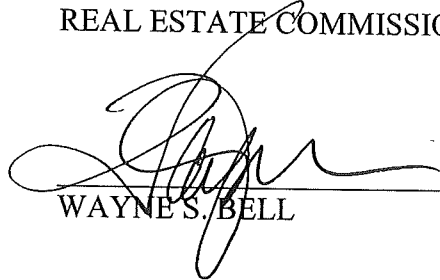
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 09, 2016, and any written argument hereafter submitted on behalf 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 June 09, 2016, at the Sacramento office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

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

4 DATED: 7/26/2016.

5 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:

SEAN ANDRE BEATTIE,

Respondent.

Case No. H-6366 SAC

OAH No. 2016031260

PROPOSED DECISION

Administrative Law Judge Gene K. Cheever, Office of Administrative Hearings (OAH), State of California, heard this matter on June 9, 2016, in Sacramento, California.

Adriana Z. Badilas, Legal Counsel, represented Tricia Parkhurst (complainant), a Supervising Special Investigator with the Bureau of Real Estate (Bureau), Department of Consumer Affairs (Department).

Sean Andre Beattie (respondent) appeared and represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on June 9, 2016.

FACTUAL FINDINGS

1. On February 29, 2016, complainant made and filed the Statement of Issues in her official capacity. On March 23, 2016, respondent filed a Notice of Defense.

2. On September 15, 2014, respondent submitted an application for a real estate broker license (Application). The Application is pending and no license has been issued.

Criminal Conviction

3. On June 3, 2003, respondent was convicted in the United States District Court, Northern District of California, Case No. CR00-0360-01 VRW, of violating 21 U.S.C. sections 846 (conspiracy to distribute cocaine and to possess cocaine with intent to distribute), a Class A felony, and 841, subdivisions (a) & (b)(1)(A)&(B) (possession with intent to distribute cocaine), a Class B felony. The court sentenced respondent to 121

months in prison, five years of supervised probation to be served upon his release from prison, and pay fines and fees of \$17,700.

Rehabilitation, Mitigation and Aggravation

4. Respondent is 45-years old and married. He and his wife have three of their own children. They also adopted one of his nephews. Three of the four children live at home with them. One is currently living away from home because she is attending school. In 2011, respondent was granted a restricted real estate salesperson's license by the Bureau.

5. Respondent testified that he sincerely regretted his conduct that led to his conviction. He was remorseful and apologetic. He made bad choices regarding the people who he chose to associate with, years ago, when he was involved in the music industry. He no longer associates with or communicates with those people. He believes he has learned from his mistakes.

6. Respondent spent 87 months in jail. He paid in full his assessment and fine by December 14, 2004. He was released from prison on November 26, 2010, and began his supervised probation. He completed his supervised probation on November 25, 2015. He had no probation violations.

7. Respondent applied for his real estate salesperson license when he was released from prison because he wanted to go into the real estate business. He is seeking his broker license so he can increase his job responsibilities with his employer. He has a supervising broker at his work.

8. Respondent engages in community service to help young adults and children learn about the consequences of violating the law. He goes to various recreation centers to share his own life experience, including his conviction and time spent in prison, with young adults and children. He did this approximately two to three times per month for about two and a half years (between 2011 and 2013) after being released from prison. He now does this about once a month given he has less time due to his taking time to be a caretaker for his ailing mother, and he is spending more time with his children and his work.

Discussion

9. In California Code of Regulations, title 10, section 2911, the Bureau adopted criteria of rehabilitation to be considered for the purpose of evaluating the rehabilitation of an applicant for the issuance of a license in considering whether or not to deny the issuance on account of a crime or act committed by the applicant. The criteria in section 2911 that are relevant to this matter include: (1) the passage of not less than two years from the most recent criminal conviction; (2) expungement of the conviction; (3) successful completion or early discharge from probation; (4) payment of fines imposed in connection with the criminal conviction; (5) stability of family life and fulfillment of parental and familial responsibilities; (6) significant and conscientious involvement in community, church or privately-sponsored

programs designed to provide social benefits or to ameliorate social problems; (7) 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; and (8) change in attitude from that which existed at the time of the commission of the criminal acts.

10. Respondent's conviction is remote in time. It has been 13-years since the conviction. Respondent took full responsibility for his actions that led to his conviction and expressed sincere regret and remorse regarding his conduct. Within two-years, he paid the full \$17,700 in assessments and fines. He has a stable family life with his wife and four children. He acts as a caretaker for his ailing mother. He regularly engages in community service by speaking with young adults and children about his own life experience. He completed his probation on November 25, 2015. He does not associate or communicate with the people he previously associated with when he engaged in his criminal conduct. His conviction has not been expunged. When all the evidence and rehabilitation criteria are considered, it would not be contrary to the public health, safety and welfare to allow respondent to receive a restricted real estate broker license as set forth below.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 480, subdivision (a), the Commissioner may deny a license on the ground the applicant has been convicted of a crime.
2. Pursuant to Business and Professions Code section 10177, subdivision (b), the commissioner may deny the issuance of a license to an applicant who has "[e]ntered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee."
3. Pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8), a conviction is deemed to be substantially related to the qualifications, functions or duties of a real estate licensee if it involves the doing of any unlawful act "with the intent of conferring a financial or economic benefit upon the perpetrator...." Respondent's conviction is substantially related to the qualifications, functions or duties of a real estate licensee because his conduct leading to his conviction involved acts with the intent of conferring a financial or economic benefit upon respondent.
4. Cause for denial of the application exists under Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), by reason of the matters set forth in Factual Finding 3. Respondent's conviction is a crime substantially related to the qualifications, functions or duties of a real estate licensee because respondent engaged in unlawful acts with the intent of conferring a financial benefit upon himself.
5. The burden is upon respondent to demonstrate he is rehabilitated and fit to hold the license for which he applied. As set forth in Factual Findings 9 and 10, when all the evidence and relevant rehabilitation criteria set forth in California Code of Regulations, title

10, section 2911, are considered, respondent established that it would be consistent with the public interest, safety and welfare to issue him a restricted real estate broker license as set forth below.

ORDER

1. Respondent Sean Andre Beattie's application for a real estate broker license is denied; provided, however, a restricted real estate broker 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:

a. 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:

(1) 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

(2) 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.

b. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate broker license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted real estate broker license until two years have elapsed from the date of issuance of the restricted license to respondent.

DATED: June 29, 2016

DocuSigned by:
Gene Cheever
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GENE K. CHEEVER
Administrative Law Judge
Office of Administrative Hearings