

FILED

MAY 10 2000

DEPARTMENT OF REAL ESTATE

By Jean Cronk

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
JEFFREY BARDEN SCHWEEN,)
Respondent.)

No. H-6497 SF

ORDER GRANTING UNRESTRICTED LICENSE

On September 11, 1991, a Decision was rendered herein denying the Respondent's application for real estate license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on October 7, 1991, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent.

On November 22, 1999, Respondent petitioned for the removal of restrictions attaching to his real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's

1 record as a restricted licensee. Respondent has demonstrated to
2 my satisfaction that he meets the requirements of law for the
3 issuance to him of an unrestricted real estate salesperson
4 license and that it would not be against the public interest to
5 issue said license to him.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for removal of restrictions is granted and that a real
8 estate salesperson license be issued to Respondent if Respondent
9 satisfies the following condition within nine months from the
10 date of this Order:

11 1. Submittal of a completed application and payment of
12 the fee for a real estate salesperson license.

13 This Order shall become effective immediately.

14 DATED: April 20, 2000.

15 PAULA REDDISH ZINNEBANN
16 Real Estate Commissioner
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

FILED
SEP 17 1991

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of)

No. H- 6497 SF

JEFFREY BARDIN SCHWEEN)
aka JEFFREY B. SCHWEEN,)
Respondent.)

By) OAH N- 38816

By

Lynda Montiel
Lynda Montiel

DECISION

The Proposed Decision dated August 15, 1991, 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 again 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 of Section 11522 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 attached hereto.

This Decision shall become effective at 12 o'clock noon on October 7th, 1991.

IT IS SO ORDERED September 11, 1991.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
by: JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)

JEFFREY BARDIN SCHWEEN)
aka JEFFREY B. SCHWEEN,)

Respondent.)
_____)

CASE NO. H-6497 SF

OAH NO. N-38816

PROPOSED DECISION

This matter was heard before Ruth S. Astle,
Administrative Law Judge of the Office of Administrative
Hearings, State of California on August 14, 1991 in San
Francisco, California.

Complainant was represented by David B. Seals, Staff
Counsel.

Respondent was present and represented himself.

FINDINGS OF FACT

I

Edward V. Chiolo made the statement of issues in his
official capacity as a Deputy Real Estate Commissioner of the
State of California and not otherwise.

II

Jeffrey Bardin Schween (respondent) made application to
the Department of Real Estate of the State of California for a
real estate salesperson license on November 21, 1990.

FIRST CAUSE OF ACTION

III

On February 6, 1989, in the Municipal Court of
California, County of Butte, North County Judicial District,
respondent was convicted of a violation of sections 484/488/490.5
of the Penal Code (Petty Theft), a crime involving moral tur-
pitude which is substantially related to the duties, qualifica-
tions and functions of a real estate licensee.

SECOND CAUSE OF ACTION

IV

On December 4, 1989, the Department of Motor Vehicles of the State of California in case number S-481756 denied respondent's application for a vehicle salesperson license pursuant to Vehicle Code section 11806 because his application was false and misleading in that he failed to disclose the February 6, 1989 conviction for violation of Penal Code section 490.5 (Petty Theft) as set forth in Finding III.

OTHER MATTERS

V

Respondent has demonstrated substantial rehabilitation. He has met all the terms and conditions of his probation and received a 1203.4 dismissal. Respondent was involved in a fraternity hazing which required him to steal something from the bookstore. Respondent was caught stealing a \$2.00 pen. He is very remorseful and realizes it was not a trivial matter. He severed all ties with that fraternity and became involved in another fraternity dedicated to community service. He went on to hold two offices in the fraternity, treasurer and vice president. He has handled himself and his responsibilities in an exemplary fashion.

VI

Respondent graduated from Chico State with a BA degree in business finance. He is presently employed by Wagner and Adams, brokers. They have worked with him for over a year. They know of his conviction and are willing to supervise him. They are confident in his integrity and honesty.

VII

Respondent is engaged to be married at the end of August. He is ready to take on the responsibility of a family. He has participated in community service including raising money for charitable organizations. It is clear that respondent regrets his prior actions and is extremely unlikely to do anything like this ever again. It would not be against the public interest to issue a restricted license at this time.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Finding III, cause for denial exists pursuant to sections 480(a) and 10177(b) of the Business and Professions Code.

II

By reason of the matters set forth in Finding IV, cause for denial exists pursuant to section 10177(f) as it relates to section 10177(a) of the Business and Professions Code.

III

The matters in rehabilitation, extenuation and mitigation set forth in Findings V through VII have been considered in making the following order.

ORDER

1. The application of Jeffrey Bardin Schween for a real estate salesperson license is hereby denied, however;

2. A conditional restricted real estate salesperson license shall be issued to respondent under Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fees for said license within ninety (90) days of the Decision.

3. The conditional restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following conditions:

- A. Said restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.
- B. Said restricted license may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, Regulations of the Real Estate Commissioner and conditions attaching to the restricted license.
- C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.

D. Respondent shall submit with his application for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:

- (i) That he/she read the Decision of the Commissioner which granted the right to a restricted license; and
- (ii) That he/she will exercise close supervision over the performance by the restricted licensee of the activities for which a real estate license is required.

DATED: August 15, 1991

Ruth S. Astle
RUTH S. ASTLE
Administrative Law Judge

RSA:jt

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JUL 11 1991

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

JEFFREY BARDIN SCHWEEN
aka JEFFREY B. SCHWEEN,

By

Victoria Dillon
Victoria Dillon

Case No.

H-6497 SF

OAH No.

N 38816

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at
OFFICE OF ADMINISTRATIVE HEARINGS, State Building
455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

(2 hrs. hearing)

on the 14th day of August, 19 91, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: July 11, 1991

By

David B. Seals
DAVID B. SEALS,

Counsel

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MAY 16 1991

DEPARTMENT OF REAL ESTATE

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
4 San Francisco, California 94107-1770
5 (415) 904-5917

By *Lynda Montiel*
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Application of)
12 JEFFREY BARDIN SCHWEEN)
13 aka JEFFREY B. SCHWEEN,)
14 Respondent.)

NO. H-6497 SF

STATEMENT OF ISSUES

15 The Complainant, EDWARD V. CHIOLO, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against JEFFREY BARDIN SCHWEEN aka JEFFREY B. SCHWEEN
18 (hereinafter Respondent), alleges as follows:

19 FIRST CAUSE OF ACTION

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about November 21, 1990.

24 II

25 The Complainant, EDWARD V. CHIOLO, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Statement of Issues in his official capacity and not otherwise.

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III

On or about February 6, 1989, in the Municipal Court of California, County of Butte, North County Judicial District, Respondent was convicted of a violation of Section 484/488/490.5 of the California Penal Code (Petty Theft of Retail Merchandise), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 480(a) and 10177(b) of the California Business and Professions Code for denial of Respondent's application for a real estate license.

SECOND CAUSE OF ACTION

V

There is hereby incorporated into this second, separate and distinct cause of action all the allegations contained in Paragraphs I and II of the First Cause of Action as if fully set forth herein.

VI

On or about December 4, 1989, the Department of Motor Vehicles of the State of California in case number S-481756 denied Respondent's application for a vehicle salesperson license pursuant to Vehicle Code Section 11806 because his application was false and misleading in that he failed to disclose a February 6, 1989 conviction for violation of Penal

1 Code Section 490.5 (Petty Theft of Retail Merchandise).

2 VII

3 The acts for which Respondent's license was denied, if
4 done by a real estate licensee, would be grounds for the denial,
5 of a California real estate license under the provisions of
6 Section 10177(a) of the Business and Professions Code (Code).

7 VIII

8 The facts alleged in Paragraphs VI and VII above
9 constitute cause under Section 10177(f) of the Code for denial
10 of Respondent's application for a real estate license.

11 WHEREFORE, Complainant, prays that the above-entitled
12 matter be set for hearing and upon proof of the charges
13 contained herein, that the Commissioner refuse to authorize the
14 issuance of, and deny the issuance of, a real estate salesperson
15 license to Respondent, and for such other and further relief as
16 may be proper in the premises.

17
18 *Edward V. Chio*

19 EDWARD V. CHIOLO
20 Deputy Real Estate Commissioner

21 Dated at San Francisco, California,

22 this 17th day of April, 1991.