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JUN 19 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

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

In the Matter of the Application of) No. H-8216 SF
RICHARD R. BARRELIER,)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 28, 2003, 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 April 9, 2003, and Respondent has operated as a restricted licensee since that time.

On May 22, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's 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 Respondent meets the requirements of law for
3 the issuance of an unrestricted real estate salesperson license
4 and that it would not be against the public interest to issue
5 said license to Respondent.

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, within
9 nine (9) months from the date of this order, Respondent shall:

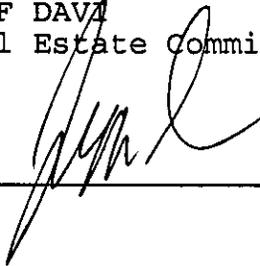
10 1. Submit a completed application and payment of the
11 fee for a real estate salesperson license.

12 2. Submit evidence of having, since the most recent
13 issuance of an original or renewal real estate license, taken and
14 successfully completed the continuing education requirements of
15 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
16 real estate license.

17 This Order shall become effective immediately.

18 DATED: 6-17-08

19 JEFF DAVA
20 Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

RICHARD R. BARRELIER,

Respondent.

Case No. H-8216 SF

OAH No. N2002110545

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on December 30, 2002.

Complainant Les R. Bettencourt, Deputy Real Estate Commissioner, Department of Real Estate, was represented by Deidre L. Johnson, Counsel.

Respondent Richard R. Barrelier was present and was represented by J. Anne Rawlins, Attorney at Law, 1007 7th Street, Suite 314, Sacramento, California 95814.

The matter was submitted on December 30, 2002.

FACTUAL FINDINGS

1. On May 27, 2002, Richard R. Barrelier (respondent) filed with the Department of Real Estate (Department) his application for a real estate salesperson license. Any license issued because of that application would be subject to the conditions of Business and Professions Code section 10153.4.
2. On his application, respondent checked "yes" to question 25: "Have you ever been convicted of any violation of law?" and revealed the convictions set forth in Findings 4 and 5. But he did not reveal the conviction set forth in Finding 3.
3. On February 8, 1985, in the Superior Court of California, County of San Mateo, respondent was convicted of a misdemeanor violation of Penal Code section 148 (resisting or obstructing a peace officer), a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee.

4. On January 4, 1991, in the Superior Court of Arizona, County of Maricopa, respondent was convicted, on his guilty plea entered on November 27, 1990, of a felony violation of Arizona Revised Statutes sections 13-1003, 13-3401, 13-3408, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-801 and 13-812 (collectively, conspiracy to transfer a narcotic drug), a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee.

5. On January 13, 1992, in the Superior Court of California, County of San Mateo, respondent was convicted, on his plea of no contest, of one count of violating Penal Code section 182 (conspiracy) and three counts of violating Health and Safety Code section 11352 (transporting cocaine for sale), a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee.

6. Respondent's 1985 conviction resulted from a domestic dispute. He got into an argument with his girlfriend when he found her with another man. Respondent ran from the police when a neighbor called them.

7. Respondent's 1991 Arizona conviction resulted from respondent's involvement in a plan to sell cocaine. Respondent was living in California. A friend who was dealing drugs enlisted respondent to invest and participate in the plan to buy cocaine in Arizona. Respondent was to carry the money to Arizona and some of his co-conspirators were to bring the drugs back to California. Respondent, who had not previously been involved in selling drugs, was motivated to join the plan out of greed; he saw it as a way to supplement his income. Respondent induced some of his friends to invest nearly \$40,000 in the scheme by telling them they were investing in a real estate deal. In May 1990, respondent carried \$165,000 to Arizona to purchase 10 kilograms of cocaine. He was arrested when he handed the money to undercover agents posing as drug dealers.

8. Following his conviction, imposition of sentence was suspended and respondent was placed on probation for seven years on conditions that included four months in county jail and payment of a \$7,500 fine. Respondent was permitted to serve the jail sentence on a work furlough program.

9. After he completed his jail sentence, respondent was allowed to return to California. He moved back to San Mateo County in May 1991 and roomed with a man who was selling narcotics. In September 1991, respondent began to assist his roommate in his drug sales. Respondent now admits he made a "stupid, stupid error" by becoming involved in drug sales again. But he did so because the plan, which involved selling drugs to his roommate's brother, "seemed foolproof" and "easy money." Respondent participated in three transactions, ranging in size from one ounce to one kilogram of cocaine.

10. For his involvement in this plan, respondent was sentenced to eight years in state prison. (A year later, his Arizona probation was revoked and he was sentenced to serve seven years in prison, with that term to run concurrently with the term respondent was then serving in California.) Respondent served four years in prison, the first 16 months at Deuel Vocational Institute and the balance at San Quentin, before being released on parole. He was then extradited to Arizona, where he served an additional four months in state prison. Respondent successfully completed his California parole in December 1998.

11. Respondent is 40 years old. He lives with his fiancée, their six-month-old son and his fiancée's five-year-old daughter. For the past year, respondent has worked as a loan consultant for PortfolioLending.com. Respondent has impressed his employer, broker Donald Kung, as an honest, and extremely hard-working, employee who gets to the office early, leaves late and works weekends. Respondent has been candid with Kung about his criminal actions and has expressed regret for that conduct.

12. Respondent left high school after the eleventh grade. He obtained his high school proficiency certificate in 1978. He then attended Canada College for about two-and-a-half years, studying food technology. He left school just short of his AA degree to take a full-time job. From 1980 to 1988 respondent worked for Guittard Chocolate. He began as a janitor and eventually became a candy machine operator. Respondent later obtained life insurance and securities licenses. He was working at A.L. Williams, selling insurance and securities, when he became involved in the scheme to buy drugs in Arizona. Respondent's former supervisor at A.L. Williams, who had also worked with respondent at Guittard Chocolate, has never questioned respondent's honesty and trusts him "absolutely."

13. When he was incarcerated at Deuel Vocational Institute respondent worked as a teacher's aide helping other prisoners learn English. When he was transferred to San Quentin respondent continued to teach English to Spanish-speaking prisoners on a volunteer basis. Respondent has continued other volunteer work since his release from prison. During the 2000-2001 school year respondent worked as a volunteer teacher's aide in a first grade class in East Palo Alto. In addition to working in the classroom, respondent took students on outings on weekends. Following the 9/11 attacks respondent, who was then working in construction, took an unpaid leave from his job to work as a volunteer for the American Red Cross, where he helped provide food service for workers at the World Trade Center site. For many years, respondent has been a regular blood donor. He has donated over 100 pints of blood and for the past three years has been donating platelets for cancer patients every six weeks. That procedure takes between one and two hours per session.

14. Although respondent began using marijuana when he was 13 years old, and experimented briefly with cocaine and LSD, he was not using drugs at the time he became involved in drug trafficking. Nor does he use drugs now.

15. The money respondent brought to Arizona for the drug deal was confiscated when he was arrested. He has never repaid the friends who "invested" nearly \$40,000 with him. Respondent paid about \$5,500 of the \$7,500 fine that was imposed in Arizona. He understands that the balance ceased to be due after his probation was revoked.

16. Respondent's fiancée describes him as positive, hard-working, committed and loving. She has known him for two years. Respondent told her of his drug convictions after they had been dating about two weeks. She believes he is honest and trustworthy. He is also very responsible for the family. Because she works three nights a week on the graveyard shift as a nurse, respondent often cares for the children to allow her to sleep during the day. Often, he will take their son to work with him.

17. Respondent's drug convictions and incarcerations were devastating for his family. But his brother and sister have seen a "100% change" in respondent since that time. They trust him completely and have made him executor of their trusts. Respondent attributes much of this change to his prison experience. He concedes that after his Arizona incarceration, which he served on work furlough while working in the community, he "did not learn [his] lesson." Thus, he became involved in drug dealing again when he returned to California. But his prison experience, especially at San Quentin, made him realize that he never wanted to return to criminal activities.

18. Respondent did not report his 1985 conviction on his application for a real estate license because he had forgotten about it. It was not until the Department of Real Estate discovered and asked him about this conviction that it came back to his mind. He now remembers the incident, but still does not remember going to court for it. Respondent asserts that obtaining a real estate license was very important to him and he had no intention of jeopardizing getting that license by withholding information from the Department. Considering all the evidence presented, including the nature of the two serious convictions respondent revealed and the far less serious, and much older, one he did not, it is found that respondent's failure to disclose that conviction was an innocent error. He had no intent to mislead the Department.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480(a) and 10177(b) in that, by reason of the matters set forth in Findings 3, 4 and 5, he has been convicted of crimes involving moral turpitude and that are substantially related to the qualifications, functions and duties of a real estate licensee.

2. While respondent's failure to disclose his 1985 conviction was due to an error rather than an intent to mislead, he nevertheless made a material misstatement of fact on his application for a salesperson license. Cause for denial of respondent's application thereby exists pursuant to Business and Professions Code sections 480(c) and 10177(a). The circumstances of the misstatement are, however, considered in mitigation.

3. Respondent twice involved himself in schemes to sell cocaine. In both instances, respondent was motivated by greed. In the first incident, respondent lied to his friends, inducing them to "invest" in a supposed real estate deal when the money was actually to be used to finance a drug deal. Respondent has not repaid, and apparently has not even attempted to repay, the nearly \$40,000 his friends lost as a result of his transactions. Just months after completing his jail sentence in Arizona, respondent again allowed himself to be lured into drug sales by the promise of "easy money."

4. It appears that since his most recent incarceration, respondent has made efforts to turn his life around. He volunteered as a teacher in prison and he has continued volunteer work of various sorts after he was released. He has started a family and has taken on the responsibilities that go with that. He has shown himself to be an industrious employee in his current job as a loan consultant. He has impressed his employer with his honesty and trustworthiness. Similarly, family members, friends and former co-workers find respondent to be an honest man.

5. Respondent's last criminal actions occurred more than ten years ago. He completed his prison sentences about seven years ago and has now been off parole for almost five years. There is no evidence to indicate that respondent would return to criminal behavior or that he would again be driven by greed to engage in illegal acts.

6. When the nature and circumstances of respondent's crimes are weighed against the length of time since his criminal conduct and the changes he has effected in his life since his last conviction, it is determined that it would not be against the public interest to permit respondent to hold a restricted real estate license.

ORDER

The application of respondent Richard R. Barrelier for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to 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 that 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 (2) 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.

4. 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 two 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. The 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.

5. 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 years after the date of the issuance of the preceding restricted license.

DATED: January 14, 2003


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

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

FILED
NOV 14 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

RICHARD R. BARRELIER,

By *Laurie L. [Signature]*

Case No. H-8216 SF

OAH No.

Respondent

NOTICE OF HEARING ON ACCUSATION

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 HEARING, THE ELIHU HARRIS STATE BUILDING,
1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612**

on **MONDAY, DECEMBER 30, 2002**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal 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.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: NOVEMBER 14, 2002

DEPARTMENT OF REAL ESTATE

By *Deidre L. Johnson*
DEIDRE L. JOHNSON, COUNSEL (2)

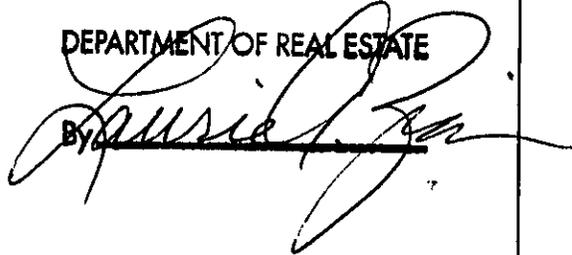
1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0781 (Direct)
7

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DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 RICHARD R. BARRELIER,)
13 Respondent.)

No. H-8216 SF

STATEMENT OF ISSUES

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against RICHARD R. BARRELIER aka Richard Russell
18 Barrelier and Richard Russell Barreliers (hereinafter
19 "Respondent") alleges as follows:

20 I

21 Respondent, pursuant to the provisions of Section
22 10153.3 of the Business and Professions Code, made application
23 to the Department of Real Estate of the State of California for
24 a real estate salesperson license on or about May 17, 2002 with
25 the knowledge and understanding that any license issued as a
26 result of said application would be subject to the conditions of
27 Section 10153.4 of the Business and Professions Code.

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II

Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "Yes", and disclosed the convictions alleged in Paragraphs IV and V below, but failed to disclose the conviction alleged in Paragraph VI below.

IV

On or about November 27, 1990, In the Superior Court of the State of Arizona in and for the County of Maricopa, Respondent was convicted of violation of A.R.S. Sections 13-1003, 13-3401, 13-3408, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-801 and 13-812 (Conspiracy to Transfer a Narcotic Drug. Class 2 Felony), crimes involving moral turpitude, and crimes 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.

V

On or about January 13, 1992, in the Superior Court of California, County of San Mateo, State of California, Respondent was convicted of violation of Section 182 of the California Penal Code (Conspiracy), and violation of three counts of Section 11352 of the California Health and Safety Code (Transport Cocaine for Sale), crimes involving moral turpitude,

1 and crimes which bear a substantial relationship under Section
2 2910, Title 10, California Code of Regulations, to the
3 qualifications, functions or duties of a real estate licensee.

4 VI

5 On or about February 8, 1985, in the Superior Court of
6 California, County of San Mateo, State of California, Respondent
7 was convicted of violation of Section 148 of the California
8 Penal Code (Resisting or Obstructing Public Officer), a crime
9 involving moral turpitude, and a crime which bears a substantial
10 relationship under Section 2910, Title 10, California Code of
11 Regulations, to the qualifications, functions or duties of a
12 real estate licensee.

13 VII

14 Respondent's failure to reveal the conviction set
15 forth in Paragraph VI above in said application constitutes the
16 attempt to procure a real estate license by fraud,
17 misrepresentation, or deceit, or by making a material
18 misstatement of fact in said application, which is cause for
19 denial of Respondent's application for a real estate license
20 under Sections 480(c) and 10177(a) of the Business and
21 Professions Code.

22 VIII

23 The crimes of which Respondent was convicted, as
24 alleged in Paragraphs IV and V above, constitute cause for
25 denial of Respondent's application for a real estate license
26 under Sections 480(a) and 10177(b) of the California Business
27 and Professions Code.

