

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 29 2004
DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Application of)
GREGORY DANIEL BEHRMANN,)
Respondent.)

NO. H-8235 SF
OAH No. N2003010461

By Shelly Ely

DECISION

The Proposed Decision dated March 11, 2004, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon
on April 19, 2004.

IT IS SO ORDERED March 19, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of Statement of Issues

GREGORY DANIEL BEHRMANN,

Respondent.

Case No. H-8235 SF

OAH No. N 2003010461

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on February 13, 2004.

Michael B. Rich, Staff Counsel, represented complainant.

John S. Morken, Attorney at Law, represented respondent who was present.

The matter was submitted on February 13, 2004.

FACTUAL FINDINGS

1. Les R. Bettencourt made this statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

2. Gregory Daniel Behrmann (respondent) made application to the Department of Real Estate of the State of California (Department) for a real estate salesperson license on February 11, 2002.

3. On June 9, 1995, in the United States District Court for the Southern District of Illinois, Respondent was convicted of violation of Title 21 United States Code, section 841(a)(1) (Controlled Substance – Sell, Distribute, or Dispense), a felony and a crime involving moral turpitude which is substantially related to the duties, qualifications and functions of a licensee. Respondent was found with 30 kilos of cocaine. He was to earn \$100,000 for transporting and delivering the drugs.¹

¹ Respondent was reluctant to testify about the value of 30 kilos of cocaine. However, the court documents indicate he could have been fined up to four million dollars.

4. Respondent was sentenced to 121 months in prison,² fined \$2000.00 and five years of supervised release. Respondent is currently on supervised release. He is in full compliance with the terms and conditions of his probation. He is due to have his supervised release termination on June 10, 2007 unless he receives an early termination.

5. Respondent had an alcohol abuse problem and was in financial difficulties at the time he committed the offense set forth in Finding 3. He also used cocaine occasionally, but was never addicted. Respondent participated in an alcohol and drug rehabilitation program in prison. He no longer uses drugs or alcohol.

6. Respondent is presently employed by Premier Home Loans. He does not engaged in activities that require a license. Respondent was previously licensed before he went to prison. No disciplinary action was taken against his license prior to his conviction. His employer is pleased with respondent's work.

7. Respondent claims to be financially stable. He has paid all his fines. However, he failed to file his income taxes while he was incarcerated and owes the IRS back taxes. He is working on clearing that up at this time.

8. Respondent is not married and has no children of his own. However, he lives with his girlfriend who has four children. He does participate in charitable activities including a clean and sober softball league and the American Cancer Society.

9. Respondent has clearly changed his friends and his attitude. He is certainly making a sincere effort toward rehabilitation. However, while he is still on supervised release it would not be in the public interest to allow respondent to be licensed. Respondent needs to show that he can maintain his clean and sober life style and continue to make positive contributions to his community after his probation is terminated. Further, respondent needs to settle his obligations to the IRS. Respondent is encouraged to continue his efforts toward full rehabilitation.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3 and 4, cause for denial exists pursuant to Business and Professions Code sections 480 (a) and 10177(b) (Conviction of a related offense).

2. The Matters set forth in Findings 5 through 9 have been considered in making the following order.

² Respondent served seven and a half years earning an early release for good conduct.

ORDER

The application of Gregory Daniel Behrmann for a real estate salesperson license is hereby denied pursuant to the Legal Conclusions set forth above.

DATED: March 11, 2004

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

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

FILED
JAN 09 2003

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

GREGORY DANIEL BEHRMANN

Case No. H-8235 SF

OAH No.

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 THE OFFICE OF ADMINISTRATIVE HEARINGS, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on MONDAY--MARCH 10, 2003, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearing 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.

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

DEPARTMENT OF REAL ESTATE

Dated: JANUARY 9, 2003

By

Michael B. Rich
MICHAEL B. RICH,

Counsel

FILED
DEC 19 2003

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

DEPARTMENT OF REAL ESTATE

Shelly Ely

In the Matter of the Application of

GREGORY DANIEL BEHRMANN

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Case No. H-8235 SF

OAH No.

Respondent

**FIRST CONTINUED
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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612** on **FRIDAY--FEBRUARY 13, 2004**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

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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.

DEPARTMENT OF REAL ESTATE

Dated: DECEMBER 19, 2003

By

Michael B. Rich
MICHAEL B. RICH, Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED
NOV - 7 2002

DEPARTMENT OF REAL ESTATE

By *John Arundel*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 GREGORY DANIEL BEHRMANN,)
13 Respondent.)

No. H-8235 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 GREGORY DANIEL BEHRMANN (hereinafter "Respondent")
18 alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about February 11, 2002.

23 II

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

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III

On or about June 9, 1995, in the United States District Court for the Southern District of Illinois, Respondent was convicted of violation of Title 21, U.S.C., Section 841(a)(1) (Controlled Substance - Sell, Distribute, or Dispense), a felony and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III, above, constitutes 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.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 4th day of September, 2002.