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DEC 15 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

OSCAR MORA,

No. H-8522 SF

Respondent.

ORDER GRANTING UNRESTRICTED LICENSE

On February 2, 2004, a Decision was rendered herein denying Respondent's application for a real estate salesperson 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 March 23, 2004, and Respondent has operated as a restricted licensee since that time.

On September 8, 2009, 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 record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of

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1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

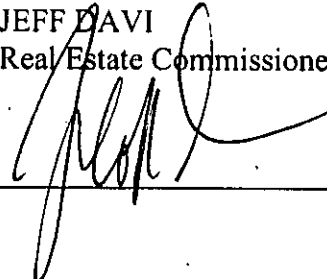
3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
4 restrictions is granted and that a real estate salesperson license be issued to Respondent if
5 Respondent satisfies the following requirements:

6 1. Submits a completed application and pays the fee for a real estate
7 salesperson license within the 12 month period following the date of this Order; and

8 2. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed
11 application, or (ii) within the 12 month period following the date of this Order.

12 This Order shall become effective immediately.

13 IT IS SO ORDERED

14 12/14/2010
15 JEFF DAVI
16 Real Estate Commissioner
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FEB - 3 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

N-2003100564

John K. Hunter

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB - 3 2004

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

In the Matter of the Application of)	No. H-8522 SF
)	
OSCAR MORA,)	OAH No. N2003100564
)	
Respondent.)	
_____)	

PROPOSED DECISION

John K. Markley, Administrative Law Judge, Office of the Administrative Hearings, State of California, heard this matter on November 25, 2003, in Oakland, California.

The Department of Real Estate of the State of California ("Department") was represented by Deidre L. Johnson, Counsel.

Oscar Mora, respondent, was present and acted without legal counsel.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Les R. Bettencourt ("complainant") made and filed this statement of issues in his official capacity of Deputy Real Estate Commissioner of the State of California.

2. On or about February 4, 2003, respondent applied to the Department for a real estate salesperson license. In response to Interrogatory 25, respondent properly disclosed two prior criminal convictions.

3. On October 4, 2001, respondent pled guilty and was convicted in the Monterey County Superior Court of (i) possession for sale of a controlled substance (methamphetamine), a felony violation of Health and Safety Code section 11378, and (ii) carrying a concealed and unlicensed firearm in a vehicle, a misdemeanor violation of Penal Code section 12025(a)(1). These convictions resulted from a single incident.

4. The underlying facts and circumstances are: Respondent is now 29 years old. He married in 1994 and graduated from college in 1997. The marriage produced three children, currently ages 2, 6 and 9. From 1994 to the present, respondent has been gainfully employed and has supported his family. After his college graduation, respondent hung with a

crowd which consumed lots of alcohol and, later, methamphetamines. At some unspecified point, respondent began purchasing and selling methamphetamines to others in their social circle in order to support his personal consumption. Respondent also acquired a .45 pistol which he carried without a license. On July 27, 2001, respondent was driving his vehicle which contained illegal substances and various drug paraphernalia including weighing and packing materials. Respondent was also carrying the .45 pistol in the rear waist band of his pants. When the vehicle sustained two flat tires, the respondent pulled to the side of the road. While waiting for vehicle assistance, the police came by and questioned the respondent and his passenger. The police received inconsistent responses, could smell alcohol and could see the watery eyes of the respondent. A search of the respondent and his vehicle resulted and the illegal substances and the weapon were discovered. It is noted that respondent disclosed the existence of the weapon to the officer and relinquished it without resistance.

5. On October 4, 2001, respondent received a suspended jail sentenced of 365 days, was placed on a three year formal probation (through October 3, 2004) with all standard conditions of probation plus payment of court fines and restitution, performance of 200 hours of community service, registration as a narcotics offender, participation in the program provided by Janus House, and completion of counseling for substance abuse.

6. These criminal convictions involve moral turpitude and bear a substantial relationship to the qualifications, functions or duties of a real estate salesperson. The possession for sale of a controlled substance is substantially related, as that term is defined in section 2910 of the California Code of Regulations, as it involves the doing of an unlawful act with the intent of conferring personal financial benefit on respondent. The carrying of a concealed firearm in a vehicle (especially while in possession of a controlled substance for sale) is substantially related as it is the doing of an unlawful act with the intent of conferring a financial or economic benefit on the respondent or with the intent or threat of doing substantial injury to the person or property of another. The sale of illegal substances for personal financial benefit, and the carrying of a weapon while engaged in such endeavor, violate the ethics and standards of honesty, morality, fair play, fiduciary duty, trust and loyalty required of licensed real estate salespersons.

7. There were no mitigating circumstances in this instance. In an effort to support his own alcohol and drug habit, the respondent engaged in the purchase and sale of controlled substances while in possession of an unlicensed weapon.

8. The evidence regarding respondent's rehabilitation is:

- A. Respondent paid the court-imposed fines and fees.
- B. Respondent performed the required community service.
- C. Respondent successfully completed the court-mandated counseling for alcohol and substance abuse. On August 24, 2001, respondent successfully completed the Short Term Stabilization Program in the Janus Special Care Unit. On

September 21, 2001, Respondent successfully completed the residential treatment program for alcoholism/chemical dependency provided by Janus

D. While at Janus, respondent formulated a detailed aftercare program that included an intensive involvement in the 12-step meetings, working with a sponsor and after care attendance. Respondent has successfully followed this program and has been clean and sober since August of 2001, approximately 2 and one-third years. The facts regarding Janus are supported by the letter from Dante Stewart, a Counselor II at the Janus Residential Treatment Center.

E. Respondent continues to be actively involved in the 12-step program and is now sponsoring two other men who seek to remain clean and sober.

F. Respondent's probation was terminated approximately one year early on October 23, 2003. The early termination occurred on the recommendation of his parole officer.

G. Respondent has no other criminal convictions, either prior or subsequent.

H. Respondent freely admits his illegal acts. He has accepted full responsibility for his actions and has aggressively sought to turn his life around.

I. Since his conviction respondent has become very active in his Catholic church and has assumed a leadership role since his conviction. Respondent was just chosen to be the coordinator and leader for an upcoming weekend retreat for young men aged 14 to 18. Respondent's active participation in his church has greatly aided him in his efforts to remain clean and sober and to become a better husband, father and citizen.

J. Respondent's involvement in the Catholic church involved participation in several family retreats, and these have been instrumental in repairing his family relationship. The above-stated facts regarding respondent's participation in the Catholic church are supported by the letter from Father Eleutorio Sanz.

K. Respondent is married with three minor children. Respondent realizes he almost lost his family due to his abuses. Respondent is highly motivated to remain clean, sober and law abiding in order to keep his family. Respondent is strongly supported in his improvement endeavors by his wife. Respondent is also strongly supported by his father.

L. Respondent has been gainfully employed both before and after his convictions, and he contributes, along with his wife, to the financial well-being of his family.

M. Respondent has been employed by Richard Vieira for approximately 1.5 years as a real estate loan processor (not a licensed activity). His employer has submitted a letter of recommendation which supports respondent's testimony that he has changed his attitudes and his life and has become a responsible, reliable and trustworthy employee.

N. Richard Vieira, respondent's employer and a licensed real estate broker, is ready to employ and supervise respondent as a licensed real estate salesperson.

O. Respondent has changed his social group since his conviction. His social life now centers around his family and his church society.

P. In preparation for his real estate career, respondent has taken and completed all required real estate courses and has passed the real estate exam. He has also taken attended real estate seminars. Respondent's employment has also provided hands-on experience in the administrative aspects of real estate transactions.

Q. Respondent realizes that his consumption of alcohol and drugs is a disease which he must diligently work to control and overcome. Respondent believes he can continue to successfully combat this disease because he did not fall off the wagon during the recent death of his grandmother and the separate death of his brother.

9. Respondent submitted three character reference letters in support of his rehabilitation, which have been referred to in Finding 8.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 2 through 6, cause for denial of the application exists pursuant to Business and Professions Code section 480(a) and section 10177(b) in that respondent was convicted of possession of a controlled substance for sale and carrying a concealed firearm in a vehicle, crimes involving moral turpitude which are substantially related to the qualifications, functions or duties of a real estate licensee.

2. By reason of the matters set forth in Findings 8 and 9, respondent has demonstrated sufficient progress in his personal rehabilitation that issuance of a restricted salesperson license, with appropriate restrictions and conditions, will adequately protect the public interest.

ORDER

The application of Oscar Mora 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 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 this 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 three (3) 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 approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision of the Commissioner 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 real estate license is required.

4. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Dated: December 18, 2003


JOHN K. MARKLEY

Administrative Law Judge
Office of Administrative Hearings

FILED
OCT 24 2003

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

DEPARTMENT OF REAL ESTATE

By *Alleen Contreras*

In the Matter of the Application of

OSCAR MORA,

Respondent

Case No. H-8522 SF

OAH No.

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

on **NOVEMBER 25, 2003**, at the hour of **9:00 AM**, 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you 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 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: OCTOBER 17, 2003

By *Deidre L. Johnson*
DEIDRE L. JOHNSON, Counsel

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2 Department of Real Estate
P. O. Box 187000
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7

FILED
SEP 12 2003

DEPARTMENT OF REAL ESTATE

by *Kathleen Conners*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 OSCAR MORA,) NO. H-8522 SF
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, LES R. BETTENCOURT, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Statement of Issues against OSCAR MORA, alleges as follows:

19 I

20 OSCAR MORA (hereafter Respondent) made application to
21 the Department of Real Estate of the State of California for a
22 real estate salesperson license on or about February 4, 2003.

23 II

24 The Complainant, LES R. BETTENCOURT, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Statement of Issues in his official capacity and not
27 otherwise.

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III

On or about October 4, 2001, in the Superior Court of California, County of Monterey, Respondent was convicted of violation of Health and Safety Code Section 11378 (POSSESSION FOR SALE OF A CONTROLLED SUBSTANCE), a felony, and Penal Code Section 12025(a)(1) (CARRYING CONCEALED FIREARM IN VEHICLE), a misdemeanor, crimes involving moral turpitude, and/or 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.

IV

The crimes of which Respondent was convicted as alleged above constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and/or 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 in the premises.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California
this 22nd day of August, 2003