FILED
JUN 13 2006
DEPARTMENT OF REAL ESTATE
By

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

In the Matter of the Application of LAWRENCE ALPHONSO EVANS, Respondent.	NO. H-9529 SF OAH NO. N-2006030547

DECISION

The Proposed Decision dated May 17, 2006, 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 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 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 appended hereto.

This Decision shall become effective at 12 o'clock noon on JUL - 3 2006.

IT IS SO ORDERED 6-12-06.

JEFF DAVI
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: LAWRENCE ALPHONSO EVANS, Respondent.	Case No. H-9529 SF OAH No. N 2006030547

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 3, 2006.

James L. Beaver, Assistant Chief Counsel, represented complainant.

Edgardo Gonzalez, Attorney at Law, represented respondent, who was present.

The matter was submitted on May 3, 2006.

FACTUAL FINDINGS

1. Charles W. Koenig made the statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Lawrence Alphonso Evans (respondent) made application to the Department of Real Estate of the State of California for a real estate salesperson license on April 14, 2005, with the knowledge and understanding that any license issued as a result of the application would be subject to the conditions set forth in Business and Professions Code section 10153.4.

3. In response to Question 25 of the application, "Have you ever been convicted of any violations of law?" respondent failed to disclose the conviction set forth in Finding 4, below.

4. On July 18, 1989, in the Superior Court of the State of California, County of Alameda, respondent was convicted of the crime of Armed Robbery in violation of Penal

Code section 211, a misdemeanor, and the crime of Grand Theft in violation of Penal Code section 487, a felony. Each crime involves moral turpitude and is substantially related to the duties, qualifications and functions of a real estate licensee.

5. By failing to disclose the convictions described in Finding 4, above, respondent attempted to procure a real estate license by misrepresentation and by making a material misstatement of fact in the application. He also made a material misstatement of fact when he gave additional information about the crimes to the Department in November, 2005.

6. Respondent was involved in a scheme to steal pizza from a delivery person. One of respondent's friends called for pizza to be delivered knowing that they could not pay for it. When the pizza delivery person arrived, one of the other members of the group pulled a gun on the delivery person and fired a shot, missing the driver. Respondent was then ordered by the person holding the gun to get the pizza and run, which he did. Respondent was sentenced to 360 days in jail, and three years court probation. Respondent successfully completed probation on July 17, 1992. On November 18, 2005, respondent received a Penal Code section 1203.4 dismissal.

7. Respondent has rehabilitated himself since he committed the crimes in 1989. He has been gainfully employed for over ten years. He has received a certificate to become a tax preparer and worked as such for the 2006 tax season. He handled sensitive information and there were no complaints about his work. Respondent's employer, Ernest Nichols III, for the tax preparation is the broker under whom respondent wants to work as a real estate salesperson. Mr. Nichols testified at the hearing that he has known respondent for two or three years. He knows about respondent's criminal past and is willing to closely supervise him.

8. Respondent's wife also testified at the hearing. She is a registered nurse at Children's Hospital in Oakland. She has been married to the respondent for five years. She has witnessed that respondent has changed a great deal since they first met in 1994. Respondent and his wife are very involved in the youth program at church. In December 2005, respondent became an ordained dean in his church. He told the congregation about his past in hopes that it would keep others from following the wrong path.

9. Two of respondent's friends also testified at the hearing. Charles Murry, a correctional officer, knows respondent and wife from church. He finds respondent to be honest. He believes that respondent has changed. Joel Sena, Jr. has known respondent for 19 years. He knew about respondent's convictions soon after they happened. He knew him then and knows him now and has seen the positive changes respondent has made in his life. Mr. Sena testified that respondent is always ready to help – "If you need him, you can call him."

10. Respondent submitted four character letters, including one from the Minister of his church. They all find respondent to be a caring and charitable person. They have seen him mature as a person, both personally and spiritually.

11. While it is a serious problem that respondent made significant misrepresentations to the Department concerning his convictions, it appears that the motivation was embarrassment and shame. Respondent's lapse seems to be an isolated problem relating to his feeling about his past. He has taken steps to get beyond that by telling the congregation of his church about this criminal past. It is unlikely that respondent would carry his dishonesty about this matter over to his dealings as a real estate agent. Under all the circumstances, especially that respondent's broker understands the serious nature of respondent's misconduct and he is still willing to closely supervise respondent, it would not be against the public interest to grant respondent a conditional restricted license at this time.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 2, 3, 4, 5 and 6, cause for denial exists pursuant to Business and Professions Code sections 480, subdivision (c) and 10177, subdivision (a) (attempt to procure license by misrepresentation).

2. By reason of the matters set forth in Finding 4, cause for denial exists pursuant to Business and Professions Code sections 480, subdivision (a) and 10177, subdivision (b) (conviction of a substantially related crime).

3. The matters set forth in Findings 7 though 11 have been considered in making the following order.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a conditional 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 the 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 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 two 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 a course in real estate practices and one 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. Said 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: May 17, 2004

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

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FILED
FEB 18 2006
DEPARTMENT OF REAL ESTATE
By L. Zeni

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of LAWRENCE ALPHONSO EVANS, Respondent.	No. H-9529 SF STATEMENT OF ISSUES

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against LAWRENCE ALPHONSO EVANS ("Respondent"), alleges:

I

Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

II

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about April 14, 2005 with the knowledge and understanding that any license issued as a result of the application would be subject to the conditions of Section

10153.4 of the California Business and Professions Code ("the Code").

III

In response to Question 25 of the application, "Have you ever been convicted of any violation of law?", Respondent failed to disclose the convictions described in Paragraph IV.

IV

On or about July 18, 1989, in the Superior Court of the State of California, County of Alameda, Respondent was convicted of the crime of Armed Robbery in violation of Penal Code Section 211, a misdemeanor, and the crime of Grand Theft in violation of Penal Code Section 487, a felony, each a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations ("the Regulations"), to the qualifications, functions or duties of a real estate licensee.

V

By failing to disclose the convictions described in Paragraph IV, Respondent attempted to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in the application, which constitutes cause for denial of Respondent's current application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

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VI

Respondent's criminal convictions described in Paragraph IV 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, Complainant asks 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.

Charles Koenig

CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 7th day of February, 2006.