

FILED
DEC 23 2009
DEPARTMENT OF REAL ESTATE
By *[Signature]*

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

In the Matter of the Application of
JOHN MATTHEW ADAMS,
Respondent.

No. H-9542 SF

ORDER GRANTING UNRESTRICTED LICENSE

On June 21, 2006, 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 August 30, 2006, and Respondent has operated as a restricted licensee since that time.

On July 23, 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 an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to
3 the following understanding and conditions:

4 1. The license issued pursuant to this order shall be deemed to be the first
5 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
6 of Section 10153.4.

7 2. Within twelve (12) months from the date of this order Respondent shall:

8 (a) Submit a completed application and payment of the appropriate fee for a
9 real estate salesperson license, and

10 (b) Submit evidence of having taken and successfully completed the courses
11 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
12 for renewal of a real estate license.

13 3. Upon renewal of the license issued pursuant to this order, Respondent
14 shall submit evidence of having taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
16 license.

17 This Order shall become effective immediately.

18 IT IS SO ORDERED 11-18-09

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20 JEFF DAVI
Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

FILED
JUN 23 2008

DEPARTMENT OF REAL ESTATE

[Signature]

In the Matter of the Application of)
JOHN MATTHEW ADAMS,) NO. H-9542 SF
Respondent.) OAH NO. N-2006030420

DECISION

The Proposed Decision dated May 24, 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 14 2006.

IT IS SO ORDERED 6-21-06

JEFF DAVI
Real Estate Commissioner

[Signature]

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

In the Matter of the Application of:

JOHN MATTHEW ADAMS,

Respondent.

Case No. H-9542 SF

OAH No. N2006030420

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 3, 2006.

Real Estate Counsel James Beaver represented complainant Charles W. Koenig, a Deputy Real Estate Commissioner.

Respondent John Matthew Adams was present and represented himself.

The record was closed and the matter was submitted on May 3, 2006.

FACTUAL FINDINGS

1. Complainant Charles W. Koenig filed the statement of issues in his capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent John Matthew Adams filed with the Department an application for a real estate salesperson license on July 6, 2005.
3. On April 29, 2002, respondent was convicted in Santa Clara County on his plea of nolo contendere to a violation of Health and Safety Code 11359, possession for sale of marijuana, a felony. The offense of possession for sale of marijuana is a crime involving moral turpitude. The offense is substantially related to the qualifications, functions and duties of a real estate licensee as it involves the doing of an unlawful act with the intent of conferring a financial benefit upon the perpetrator. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(7).)

Imposition of sentence was suspended and respondent was placed on formal probation for three years on conditions that included a four-month suspended jail term, attending a three-month drug rehabilitation program, and payment of various fines and fees.

4. The circumstances of the offense were that respondent sold marijuana to make money. He was 19 years old at the time of the offense.

5. Respondent satisfied all terms and conditions of probation. On April 20, 2006, the court granted his petition for a record clearance under Penal Code section 1203.4. The court denied his motion to reduce his conviction to a misdemeanor.

6. On May 10, 2002, respondent was convicted in Santa Clara County, on his no contest plea to a violation of Penal Code section 12020, subdivision (a)(1), possession of a specified weapon (brass knuckles). The offense involves the doing of an unlawful act with the intent or threat of doing substantial injury to the person or property of another. As such, the offense is substantially related to the qualifications, functions or duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).)

Imposition of sentence was suspended and respondent was placed on court probation for one year and ordered to pay a \$50 fine.

7. The circumstances of the offense were that respondent had brass knuckles in his possession which were discovered by the police during a vehicle stop.

Respondent bought the brass knuckles in Mexico during his senior trip following high school graduation. Respondent was unaware that brass knuckles were considered a prohibited weapon. He had the brass knuckles with him on the day of his arrest, not for protection, but because he thought they were "neat" and he wanted to show them off to a friend.

It was not established that this offense involves moral turpitude.

8. Respondent satisfied all terms and conditions of probation. On April 13, 2006, the court granted his petition for a record clearance under Penal Code section 1203.4.

9. In June of 2005 respondent obtained Associate in Arts degrees in Liberal Arts and Real Estate from DeAnza College. Since the fall of 2005 he has attended California State University San Jose on a full-time basis working toward a Bachelor of Science degree in Business Administration/Management.

10. From April 2001 to August 2005 respondent worked in his mother's property management firm. Since August of 2005 respondent has been employed on a full-time basis with Atlantis Properties. Respondent's mother also works for the agency.

11. Louis Melo is the broker/manager of Atlantis Properties. He testified at hearing that respondent is a professional, valuable, honest and ethical employee. He does not believe that respondent poses a risk to the public. He is willing to supervise respondent should he obtain a restricted real estate license.

12. Respondent's mother, Sandra Sue Adams, is a licensed real estate broker. She testified that her son was honest and ethical in all of his dealings with her clients. She has seen her son mature since committing the crimes. In her view he has learned from his mistakes and has come to understand the negative consequences of his conduct.

13. Marie Francis Turano is associated with the educational component of the Tri-County Apartment Association, a property management trade association in the south bay. Respondent has attended trainings through the association for four years. Turano testified at hearing that in her opinion respondent is an honest and ethical young man who would be an asset to the industry.

14. Through the California Apartment Association, respondent has obtained a certification as a California Certified Residential Manager, which certifies that he has completed 27 hours of instruction in property management, has met the educational and experience criteria, and has agreed to abide by the association's Code of Ethics.

15. Respondent testified at the hearing in an honest and credible manner. He acknowledged the mistakes he made as a youth and established that he has learned from them. He no longer associates with the people with whom he associated at the time of the offenses. He has not committed any further criminal offenses.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 480, subdivision (a), the Commissioner may deny an application for a real estate license if the applicant has been convicted of an offense that is substantially related to the qualifications, functions or duties of a real estate licensee. Under Business and Professions Code section 10177, subdivision (b), the Commissioner may deny an application if the applicant has been convicted of a felony or a crime involving moral turpitude. Case law requires that the offense also bear a substantial relationship to the licensed activity. (*Brandt v. Fox* (1979) 90 Cal.App.3d 737, 748-749.)

By reason of the matters set forth in Factual Finding 3, respondent was convicted of a felony offense that is substantially related to the qualifications, functions, and duties of a real estate licensee. Cause exists to deny respondent's application pursuant to Business and Professions Code sections 480, subdivision (a), and 11077, subdivision (b).

By reason of the matters set forth in Factual Findings 6 and 7, respondent was convicted of a misdemeanor offense that does not involve moral turpitude but is substantially

related to the qualifications, functions, and duties of a real estate licensee. Cause exists to deny respondent's application pursuant to Business and Professions Code section 480, subdivision (a), only.

2. In California Code of Regulations, title 10, section 2911, the Department has established criteria to be used in evaluating the rehabilitation of an applicant with a criminal record. The burden is on respondent to show that he is sufficiently rehabilitated so that it would be appropriate to issue him a real estate license. Respondent has met many of the relevant criteria of rehabilitation, including the passage of more than two years since his last conviction, expungement of the convictions, successful completion of probation, payment of the fines associated with the offenses, completion of community college, sustained enrollment in college, new and different social and business relationships, and most importantly, a change of attitude from that which existed at the time of the offenses. For these reasons, it would not be contrary to the public interest to issue respondent a restricted real estate salesperson license.

ORDER


The application of John Matthew Adams 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 the 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 or 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.

DATED: May 24, 2006


MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

1 NAOMI DE LA MORA, COUNSEL (SBN 222048)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0780 (Direct)

FILED
FEB 21 2006

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)

) No. H-9542 SF

12 JOHN MATTHEW ADAMS,)

) STATEMENT OF ISSUES

13 Respondent.)

14
15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against JOHN MATTHEW ADAMS ("Respondent"), alleges:

18 I

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

22 II

23 Respondent made application to the Department of Real
24 Estate of the State of California for a real estate salesperson
25 license on or about July 6, 2005.

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1 III

2 On or about April 29, 2002, in the Superior Court of
3 the State of California, County of Santa Clara, Respondent was
4 convicted of Possession for Sale of Marijuana in violation of
5 Health and Safety Code Section 11359, a felony and a crime
6 involving moral turpitude which bears a substantial relationship
7 under Section 2910 of the Regulations to the qualifications,
8 functions or duties of a real estate licensee.

9 IV

10 On or about May 10, 2002, in the Superior Court of the
11 State of California, County of Santa Clara, Respondent was
12 convicted of Possessing, Giving, Lending or Manufacturing a
13 Specified Weapon in violation of Penal Code Section 12020(a)(1),
14 a misdemeanor and a crime involving moral turpitude which bears
15 a substantial relationship under Section 2910, Title 10,
16 California Code of Regulations ("the Regulations"), to the
17 qualifications, functions or duties of a real estate licensee.

18 V

19 Respondent's criminal convictions described in
20 Paragraphs III and IV constitute cause for denial of
21 Respondent's application for a real estate license under
22 Sections 480(a) and 10177(b) of the California Business and
23 Professions Code.

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1 WHEREFORE, Complainant asks that the above-entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of a real estate salesperson
5 license to Respondent, and for such other and further relief as
6 may be proper in the premises.

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8 
9 CHARLES W. KOENIG
Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 14th day of February, 2006.