FILED

SEP 22 2010

DEPARTMENT OF REAL ESTATE

By [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

TERRY LUVEL MORRIS,

Respondent.

No. H-9568 SF

ORDER GRANTING UNRESTRICTED LICENSE

On September 1, 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 September 23, 2006, and Respondent has operated as a restricted licensee since that time.

On May 6, 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.

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

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

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

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

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

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

This Order shall become effective immediately.

IT IS SO ORDERED 9-15-'06

JEFF DAVI
Real Estate Commissioner

FILED
SEP 01 2006
DEPARTMENT OF REAL ESTATE
By S. Ch

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | |
|---|---|
| In the Matter of the Application of)<br>)<br>TERRY LUVEL MORRIS, )<br>)<br>Respondent. ) | NO. H-9568 SF<br><br>OAH No. N-2006050300 |

**DECISION**

The Proposed Decision dated August 1, 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 SEP 21 2006.

IT IS SO ORDERED September 1 2006.

JEFF DAVI
Real Estate Commissioner

[signature]

BY: John R. Liberator
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of the Application of:<br><br>TERRY LUVEL MORRIS,<br><br>Respondent. | Case No. H-9568 SF<br><br>OAH No. N2006050300 |

**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on July 12, 2006.

Real Estate Counsel Michael B. Rich represented complainant E. J. Haberer II, a Deputy Real Estate Commissioner.

Respondent Terry Luvel Morris was present and represented himself.

The matter was submitted for decision on July 12, 2006.

FACTUAL FINDINGS

1. Complainant E. J. Haberer II filed the statement of issues in his capacity as a Deputy Real Estate Commissioner of the State of California.

2. Respondent Terry Luvel Morris filed with the Department an application for a real estate salesperson license on November 10, 2004.

Prior Convictions

3. Between 1991 and 1996, respondent suffered nine criminal convictions. Respondent admits that each of these convictions occurred.

a. On January 18, 1991, respondent was convicted in Tulare County of violating Vehicle Code section 14601, subdivision (a), driving when driving privileges have been suspended, a misdemeanor.

b. On February 19, 1991, and again on October 22, 1992, respondent was convicted in Tulare County of violating Vehicle Code section 14601.1, subdivision (a), knowingly driving when driving privileges have been suspended, and Vehicle Code section

23152, subdivision (b), driving with a blood alcohol level of .08 per cent or more, both misdemeanors.

c. On October 22, 1992, respondent was convicted in Tulare County of violating Vehicle Code section 14601.1, subdivision (a), knowingly driving when driving privileges have been suspended, a misdemeanor.

d. On October 26, 1994, respondent was convicted in Tulare County of violating Penal Code section 148.9, providing false identification to a police officer, and Vehicle Code section 14601, subdivision (a), driving when driving privileges have been suspended, both misdemeanors.

e. On April 20, 1994, respondent was convicted in Tulare County on his plea of nolo contender to violating Welfare and Institutions Code section 10980, subdivision (c)(2), fraud in obtaining aid, a felony. Imposition of sentence was suspended and respondent was placed on probation for three years and ordered to pay restitution. Respondent says his former wife paid most of the restitution and that he was required to pay $900 in restitution which he did.

f. On September 19, 1995, respondent was convicted in Alameda County of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.

Court records reveals that respondent was placed on court probation for one year, with conditions that he complete eight days of weekend work, complete a "DDP program," pay a fine and perform community service. Respondent completed all requirements and the fine was stayed.

g. On September 30, 1996, respondent was convicted in Alameda County of violating Health and Safety Code section 11350, subdivision (a), possession of a controlled substance, cocaine base, a felony.

This offense was reduced to a misdemeanor per Penal Code section 17 and set aside pursuant to Penal Code section 1203.4 on August 31, 1999. At the same time, respondent was also issued an award by the Alameda County Superior Court for his outstanding performance in the Drug Court Program.

4. On August 30, 2004, respondent was convicted in Alameda County of violating Penal Code section 415, disturbing the peace, a misdemeanor. Imposition of sentence was suspended and respondent was placed on two years' court probation. He was ordered to pay a $120 fine and perform community service. Probation was terminated early effective June 14, 2006.

While respondent admits that he pled nolo contendere to the offense and that he was convicted of it, he does not admit to committing the underlying act of soliciting a prostitute.

The arrest occurred on a night when respondent was driving a friend home in Oakland. At a stop sign, a young woman approached the car and solicited respondent. He says he refused her advances and drove away. A few blocks later, respondent was pulled over and accused of soliciting an undercover officer. Respondent decided to plead no contest to a reduced charge of disturbing the peace in order to "get the matter behind me." His testimony in this regard was very believable.

<u>Other Matters</u>

5. During the time respondent committed the offenses set forth in Factual Finding 3, he was regularly abusing drugs and alcohol. He started using drugs about the age of 22 and eventually they and alcohol controlled his life. Respondent did not realize he had a problem until 1996. He started attending 12-step meetings in 1996 but realized that he needed a rehabilitation program. He completed a 90-day residential program in the fall of 1997 and has been sober since October 25, 1997.

Respondent has had the same sponsor for seven years, and regularly attends 12-step meetings through Alcoholics Anonymous and Narcotics Anonymous. Respondent regularly works the 12-steps and demonstrates a clear understanding of them and the life-long process of recovery.

6. Respondent is 45 years old. He remarried approximately five years ago and has a stable family life. Respondent has three children, two of whom have graduated from high school and are in the United States Navy. Respondent's daughter and his stepson are still in the family home. By all accounts, respondent is a devoted father and family man.

7. Respondent and wife are active members of the Greater St. Paul Baptist Church in Oakland. Respondent is a church Deacon and assists the pastor and the bishop in various tasks for about 24 hours per month. He is involved in the Men's Ministry, where he participates in group meetings and leadership activities with younger men in the church. Respondent spends about four to six hours a month with SPEEDCO, a nonprofit after-school tutoring and homework program run by the church. Respondent is involved with fundraising activities for SPEEDCO.

Bishop Joseph E. Simmons attests that respondent is a leader and positive role model for the church. Bishop Simmons writes, "He has exemplified a high quality of integrity. When we need Terry to assist on special projects he is very reliable and gets the task done. He is a man who is honest and has a genuine concern for others." These sentiments are echoed in a letter from respondent's former pastor, Reverend Joseph Jones of Love Temple Missionary Baptist Church in Oakland.

8. Since approximately 1998, respondent has worked full-time as a broker's assistant for Realty World Unlimited Real Estate in Oakland. Broker Sedalia Benton attests that respondent is hardworking and trustworthy and "would make a wonderful real estate agent." Benton is respondent's sponsoring broker.

9. Complainant recommends that respondent be granted a restricted real estate salesperson license in light of the significant progress respondent has made in his rehabilitation. Complainant further recommends that respondent be required to demonstrate weekly attendance at Alcoholics Anonymous, Narcotics Anonymous or a similar 12-step program as a condition of such licensure.

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, it was established that respondent was convicted of three offenses that involved the use of alcohol or controlled substances, two of which involved driving a motor vehicle. By regulation, the three offenses are deemed to be substantially related to the qualifications, functions and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(11)). Collectively, the ten offenses set forth in Factual Findings 3 and 4 are substantially related in that they demonstrate a pattern of willful disregard for the law. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(10).) Cause exists to deny respondent's application pursuant to Business and Professions Code sections 480, subdivision (a), by reason of these convictions.

By reason of the matters set forth in Factual Findings 3, it was established that respondent was convicted of two felony offenses, welfare fraud and possession of a controlled substance. The offense of providing false information to a police officer involves moral turpitude per se. Cause exists to deny respondent's application under Business and Professions Code section 10177, subdivision (b), by reason of each of these convictions.

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 meets most of the relevant criteria.

Respondent has been sober for more than eight years. Respondent has taken his rehabilitation from drugs and alcohol seriously and appears to be managing it extremely well. Respondent has significant and conscientious involvement in community and church activities. He has a stable family life and stable employment. And most importantly, it is clear that respondent has a significant change in attitude from that which existed at the time of the offenses. It is true that respondent's last criminal conviction occurred just slightly less than two years ago. Nevertheless, this conviction does not evidence a significant lack of rehabilitation. The conviction was not the product of drug or alcohol abuse. It was the product of being in the wrong place at the wrong time. Respondent's denial of committing the underlying act was credible. Respondent is no longer on probation for this offense as probation was terminated early. All things considered, it would not be contrary to the public interest to follow complainant's recommendation and allow respondent to obtain a restricted license, with the additional requirement that he provide proof of regular attendance at 12-step meetings during the period of restriction. The public will be adequately protected by the following order.

## ORDER

Respondent's application 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 that 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 for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.

3. With any 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. Every six months, respondent shall provide to the Real Estate Commissioner proof of weekly attendance at a 12-step program such as Alcoholics Anonymous or Narcotics Anonymous. Attendance may be excused at the discretion of the Commissioner for reasons including, but not limited to, illness, family emergencies, or business travel. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent provides such proof.

DATED: Aug. 1, 2006

Melissa Crowell

MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED
APR 12 2006
DEPARTMENT OF REAL ESTATE
By S. Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | |
|---|---|
| In the Matter of the Application of<br>TERRY LUVEL MORRIS,<br>Respondent. | H-9568 SF<br><u>SATEMENT OF ISSUES</u> |

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against TERRY LUVEL MORRIS (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about November 10, 2004.

II

Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

///

III

On or about January 18, 1991, in the Municipal Court, County of Tulare, State of California, in case number TR-90-01138, Respondent was convicted of violating Section 14601(a) of the California Vehicle Code (Unlawful driving while license suspended or revoked for reckless driving, negligent/incompetent operation, or alcoholism or drug addiction), a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

On or about February 19, 1991, in the Municipal Court, County of Tulare, State of California, in case number TR-91-02431, Respondent was convicted of violating Section 14601.1(a) of the California Vehicle Code (Knowingly drive when driving privilege suspended under Section 14601, 14601.2 or 14601.5) and of violating Section 23152(b) of the California Vehicle Code (Driving under the influence while having a blood alcohol level of .08% or more), 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.

V

On or about October 22, 1992, in the Municipal Court, County of Tulare, State of California, in case number TR-92-41402, Respondent was convicted of violating Section 14601.1(a) of the California Vehicle Code (Knowingly drive when driving privilege suspended under Section 14601, 14601.2 or 14601.5), a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

VI

On or about October 26, 1994, in the Municipal Court, County of Tulare, State of California, in case number TR-93-43191, Respondent was convicted of violating Section 148.9 of the California Penal Code (Providing false identification to a peace officer) and of violating Section 14601(a) of the California Vehicle Code (Unlawful driving while license suspended or revoked for reckless driving, negligent/incompetent operation, or alcoholism or drug addiction), 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.

VII

On or about April 20, 1994, in the Superior Court, County of Tulare, State of California, in case number F-94-35562, Respondent was convicted of violating Section 10980(c)(2) of the California Welfare and Institutions Code (By means of false statements or false representations obtained aid), a felony and a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title

10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

VIII

On or about September 19, 1995, in the Municipal Court, County of Alameda, State of California, in case number 307777, Respondent was convicted of violating Section 23152(a) of the California Vehicle Code (Unlawfully driving a vehicle while under the influence of alcohol), a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IX

On or about September 30, 1996, in the Superior Court, County of Alameda, State of California, in case number S409999, Respondent was convicted of violating Section 11350(a) of the California Health & Safety Code (Unlawful possession of a controlled substance, to wit: cocaine base), a felony and a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

X

On or about August 30, 2004, in the Superior Court, County of Alameda, State of California, in case number 501780, Respondent was convicted of violating Section 415 of the

California Penal Code (Unlawfully fighting or challenging to fight in a public place, maliciously disturbs another by unreasonable noise, offensive words in a public place), a crime involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

XI

The crimes of which Respondent was convicted, as allege in Paragraphs III, IV, V, VI, VII, VIII, IX and X, above, either individually or collectively, constitutes 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 under other provisions of law.

E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 23rd day of February, 2006.