

FILED

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEC 28 2009

DEPARTMENT OF REAL ESTATE

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By K. Mar

In the Matter of the Application of )  
DENNIS P. STAVROPOULOS, )  
Respondent. )

NO. H-10680 SF  
OAH NO. 2009060835

DECISION

The Proposed Decision dated November 18, 2009, 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.

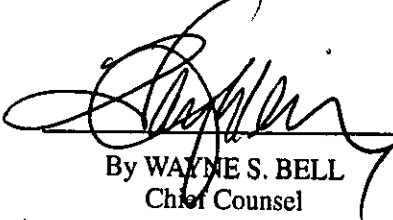
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 JAN 19 2010.

IT IS SO ORDERED 12/21/2009

JEFF DAVI  
Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

DENNIS P. STAVROPOULOS,

Respondent.

Case No. H-10680 SF

OAH No. 2009060835

**PROPOSED DECISION**

This matter was heard before Diane Schneider, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on September 28, 2009.

Complainant Joe M. Carrillo, Deputy Real Estate Commissioner, was represented by John W. Barron, Counsel.

Respondent was present and was represented by Frank M. Buda, Attorney at Law.

Submission of the case was deferred until October 20, 2009, pending receipt of closing briefs. Complainant's closing post-trial brief was received and marked for identification as Exhibit 6, and respondent's reply brief was received and marked for identification as Exhibit J. The record was closed and matter was submitted for decision on October 20, 2009.

**FACTUAL FINDINGS**

1. At the hearing, complainant amended the Statement of Issues as follows: Complainant deleted the allegation that respondent had been convicted of a felony. (Statement of Issues, page 2, line 8.) In its place, complainant alleges that respondent had been convicted of a "misdemeanor and a crime of moral turpitude."

2. On September 29, 2007, respondent Dennis P. Stavropoulos submitted to the Department of Real Estate an application for a real estate salesperson license. The department denied respondent's application and respondent appealed.

3. Question number 25 of the application for licensure stated: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT

CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE. IF YES, COMPLETE #27 BELOW." Respondent checked "Yes" in response to this question.

In response to question #27, which directs the applicant to provide a detailed explanation regarding past convictions, respondent indicated that he had one misdemeanor conviction for domestic violence. Respondent's answer to this question was false and misleading in that he failed to disclose his other misdemeanor conviction, as described in Factual Findings 4 and 5.

4. On January 21, 1991, in the Santa Clara County Superior Court, respondent was convicted, on his plea of guilty, of a misdemeanor violation of Penal Code section 459/460, subdivision (2) (burglary, second degree), a crime involving moral turpitude that is substantially related to the qualifications, functions and duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (a)(1) (fraudulent taking of property belonging to another).<sup>1</sup> The court suspended imposition of sentence and placed respondent on probation for 18 months.

5. The facts and circumstances surrounding respondent's offense are that he attempted to obtain an illegal refund for a faucet, a fire extinguisher and a food disposal from Home Depot. Respondent stated that he had not purchased the items for which he sought a refund in the amount of about \$300. Respondent appeared sincerely remorseful and ashamed about this incident. Respondent stated that his failure to include this conviction on his application for licensure was inadvertent.

6. Respondent has two children, both boys, who are 16 and 18 years old. Respondent was granted sole custody of his children eight years ago. By all accounts, he has done an exemplary job raising them on his own. His older son, a freshman at Harvard University, submitted a letter attesting to his father's "excellent work in raising [his children] with good values." Respondent's younger son testified to his father's honesty, as well as to his remorse over his criminal conviction.

7. Respondent has worked at Zephyr Real Estate in San Francisco for the past four years. He assists Anna Spathis, a top real estate agent, with various aspects of her work, including: creating marketing material, making appointments for inspections, and receiving escrow checks. Spathis, who is also respondent's girlfriend, testified to her very high opinion of respondent on a personal and professional level. According to Spathis, respondent is trustworthy, thorough, and hard-working – sentiments which she maintains are

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<sup>1</sup> The department established respondent's conviction with a document entitled "Problem Resolution Disposition Information (Disposition Information)." Although respondent objected to the admission of this document in his post-trial brief, it is admitted into evidence pursuant to Evidence Code section 1280. At the time respondent entered his guilty plea, the offense of second degree burglary was designated as subdivision (2) of Penal Code section 460. In 1991, that section re-designated former subdivisions (1) to (3) as subdivisions (a) to (c).

echoed by her clients. She has "no questions" about his honesty or integrity. She cannot imagine respondent lying because "that's just not the way he is." She believes that respondent is "very sorry" for failing to disclose his 1991 conviction on his license application. According to Spathis, respondent is also embarrassed for his mistake because "he is a good person and this makes him seem like he's not."

8. Matthew Borland, is a real estate broker and manager of the Zephyr Real Estate office in San Francisco. He is also a co-vice president and minority owner of Zephyr Real Estate. He supervises Spathis's and respondent's work. According to Borland, Spathis and respondent are extremely hard workers. They are the first to arrive and the last to leave the office. Borland stated that respondent's convictions are "not congruous" with his experience of respondent. Borland thinks respondent is honest and truthful. By way of example, Borland recounted an incident in which respondent found a wallet in a nearby parking lot and returned it to the office manager. Borland wholeheartedly supports respondent's application for licensure; and, if respondent receives his salesperson license, Borland agrees to closely supervise his work.

9. Respondent loves working in the real estate industry. He wants nothing more than to obtain his real estate salesperson license.

10. William C. Drypolcher, President of Zephyr Real Estate, and Randall Kostick, General Manager of Zephyr Real Estate, submitted letters in support of respondent's application for licensure. The letters describe respondent as "bright and inquisitive" and "attest to his energy and drive to become a productive and professional agent." These letters are given diminished weight because they are almost identical in wording.

11. Over the years, respondent has participated in various community activities. He has coached his younger son's basketball team since 1999. Respondent volunteered at the Santa Clara County Library from 2000 to 2006 with both of his sons. Respondent also raised funds to support a school playground for one of Spathis's clients at Zephyr Real Estate.

12. In 2006, respondent completed a course in Real Estate Principles, with a final grade of "A."

#### Matter in Aggravation

13. On June 15, 1998, respondent was convicted, on his plea of no contest, of violating Penal Code section 415(1) (fighting or challenging fight in a public place), a misdemeanor and a crime that is substantially related to the qualifications, functions and duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (a)(8) (doing an unlawful act with the threat of doing substantial injury to another). The court suspended imposition of sentence and placed respondent on court probation for two years. His terms of probation included serving five days in jail,

completing a 20-hour anger management course, and staying away from the victim, his ex-wife.

14. The facts and circumstances of this offense are that respondent and his ex-wife were embroiled in an argument, and respondent stuck his hands out to keep her at bay. Respondent's ex-wife left the country in 2002 and resides in Greece. Respondent completed the terms and conditions of his probation.

### LEGAL CONCLUSIONS

1. Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), provide that an application for a real estate license may be denied if the applicant has been convicted of a felony or a crime that is substantially related to the qualifications, functions or duties of a real estate licensee.<sup>2</sup> The matters set forth in Factual Finding 4 establish cause for denial of respondent's application under those sections.

2. Business and Professions Code sections 480, subdivision (c), and 10177, subdivision (a), together provide that a license may be denied if the applicant knowingly made a false and material misstatement of fact required to be revealed on an application. Respondent's failure to disclose his 1991 conviction on his application, as set forth in Factual Finding 3, establishes cause for denial of the application under those sections.

3. In determining whether to grant or deny respondent's application for licensure, the central question is whether or not respondent is substantially rehabilitated from his offense. It is respondent's burden to demonstrate his rehabilitation. The criteria used by the department in evaluating an applicant's rehabilitation are set forth in California Code of Regulations, title 10, section 2911. The paramount concern is not whether an applicant has satisfied every criterion, but whether an applicant is rehabilitated to the extent that he can be trusted to discharge his duties as a real estate salesperson in a manner consistent with public safety. For this reason, an applicant need not satisfy every criterion in order to establish rehabilitation.

Based upon the matters set forth in Factual Findings 6 through 14, it is determined that while respondent committed a commercial burglary and failed to disclose this offense on his license application, he established sufficient rehabilitation to justify issuing him a salesperson license on a restricted basis. Among the factors considered in making this determination are as follows: Respondent takes full responsibility for his convictions. Respondent's 1991 conviction occurred over 18 years ago. While the reasons for his commission of the crime were not clear, what is clear is that he has proven himself to be a hard-working and productive member of society. While he suffered another misdemeanor

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<sup>2</sup> At the time that respondent submitted his application, the law also provided that where an application is denied on the basis of a misdemeanor conviction, that conviction must involve moral turpitude. (*Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554.) As set forth in Factual Finding 4, respondent's conviction for second degree burglary is a crime involving moral turpitude.

conviction for fighting with his ex-wife 11 years ago; both offenses appear to be isolated instances in an otherwise law-abiding life. Indeed, respondent raised both of his sons on his own and is well-respected by those who know him personally and professionally. He has made contributions to his community and has endeavored to better himself through vocational education. Respondent's supervising broker is willing to assume the additional responsibilities of supervising respondent, should he be issued a restricted license. Based upon the evidence presented, respondent is well on his way to complete rehabilitation. Under these circumstances, it is extremely unlikely that respondent will engage in criminal activities in the future. Accordingly, it is determined that public safety will not be imperiled if respondent is issued a real estate salesperson license on a restricted basis.

#### ORDER

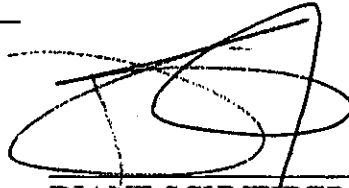
The application of respondent Dennis P. Stavropoulos for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to respondent 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 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 that 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: \_\_\_\_\_

11/18/09



\_\_\_\_\_  
DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings

1 KENNETH C. ESPELL, Counsel (SBN 178757)  
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4 Sacramento, CA 95818-7007

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4 Telephone: (916) 227-0789  
5 -or- (916) 227-0868 (Direct)

DEPARTMENT OF REAL ESTATE  
By H. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Application of )  
12 )  
13 DENNIS P. STAVROPOULOS, )  
14 )  
15 Respondent. )

NO. H-10680 SF  
STATEMENT OF ISSUES

16 The Complainant, JOE M. CARRILLO, in his official capacity as a Deputy Real  
17 Estate Commissioner of the State of California, for this Statement of Issues against  
18 DENNIS P. STAVROPOULOS, (hereinafter "Respondent"), is informed and alleges as follows:  
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21 On or about September 29, 2007, Respondent made application to the  
22 Department of Real Estate of the State of California for a real estate salesperson license.

23 FAILURE TO DISCLOSE

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25 In response to Question 25 of the application described in Paragraph 1, above, to  
26 wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?", requiring  
27 Respondent to disclose all convictions other than minor traffic citations not constituting a



1 misdemeanor or felony offense, Respondent answered "YES" in identifying a "domestic  
2 Violence" conviction in Santa Clara County but failed to disclose any details concerning the  
3 date of the conviction, the nature of the conviction or other information concerning the  
4 conviction. In addition Respondent concealed and failed to disclose the conviction set forth in  
5 Paragraph 3, below.

6 3

7 On or about January 24, 1991, in the, case number C9004088, Respondent was  
8 convicted of violating Sections 459/460.2 of the California Penal Code (Burglary) a felony and  
9 a crime which bears a substantial relationship under Section 2910 of the Regulations, to the  
10 qualifications, functions, or duties of a real estate licensee.

11 4

12 Respondent's failure to reveal in the application the convictions described in  
13 Paragraph 3, above, constitutes the attempted procurement of a real estate license by fraud,  
14 misrepresentation, deceit, or by making a material misstatement of fact in said application,  
15 which failure is cause for denial of Respondent's application for a real estate license under  
16 Sections 480(c) and 10177(a) of the California Business and Professions Code.

17 Matter in Aggravation

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19 On or about June 15, 1998, in the Santa Clara County Municipal Court, State of  
20 California, case number C9762238, Respondent was convicted of violating Section 415(1) of  
21 the California Penal Code (Disturbing the Peace, Fighting in Public), a misdemeanor which  
22 bears a substantial relationship under Section 2910 of the Regulations, to the qualifications,  
23 functions, or duties of a real estate licensee.

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25 The crime of which Respondent was convicted, as alleged in paragraph 3 above,  
26 constitutes cause for denial of Respondent's application for a real estate license under Sections  
27 480(a) and 10177(b) of the California Business and Professions Code.

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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.

  
\_\_\_\_\_  
JOE M. CARRILLO  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 11 day of May, 2009.