

FILED

JUL 29 2010

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By K. Mar

In the Matter of the Application of)	
)	NO. H-10870 SF
PATRICK JAMES PEDERSEN,)	
)	OAH NO. 2010040251
Respondent.)	

DECISION

The Proposed Decision dated June 30, 2010, 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 with the following correction:

Pursuant to Section 11517(b)(3) of the Government Code, the following corrections are made to the Proposed Decision:

Page 1, paragraph 2 of the Proposed Decision is amended to read:

"Richard K. Uno, Counsel, and Rachelle G. Vande Pol, law student, represented complainant, Tricia D. Sommers, a Deputy Real Estate Commissioner of the State of California."

Page 1 of the Proposed Decision, under Factual Findings 2 is amended to read:

"2. Respondent Patrick Pedersen applied to the California Department of Real Estate for a real estate salesperson license on October 20, 2008."

Pages 3 and 4 of the Proposed Decision, under Order, the following corrections are made to the Proposed Decision:

"The application of respondent Patrick James Pedersen for a real estate salesperson license is denied; provided however, a restricted real estate salesperson license shall be issued to him pursuant to Business and Professions Code section 10156.5. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under the authority of section 10156.6 of that Code:"

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.

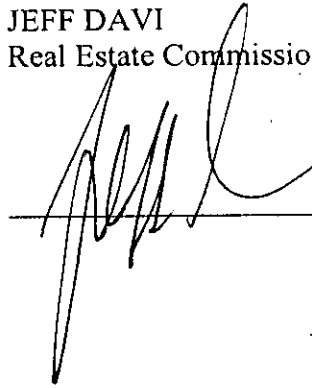
If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon on
AUG 19 2010

IT IS SO ORDERED

7/27/2010

JEFF DAVI
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

PATRICK JAMES PEDERSEN,

Respondent.

Case No. H-10870 SF

OAH No. 2010040251

PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on June 21, 2010.

Richard K. Uno, Counsel, and ^{Rachelle G. Vande Pol,} ~~Rebecca A. Vanderpool,~~ law student, represented complainant, Tricia D. Sommers, a Deputy Real Estate Commissioner of the State of California.

James F. DeMartini, Attorney-at-Law, represented respondent Patrick James Pedersen, who was present.

The matter was submitted on June 21, 2010.

FACTUAL FINDINGS

1. Tricia D. Sommers made the statement of issues in her official capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent Patrick Pedersen applied to the California Department of Real Estate for a real estate salesperson license on October 20, ~~2009~~
2008.
3. On May 24, 2005, in the Superior Court of the State of California, County of Sonoma, respondent was convicted of three counts of violating Health and Safety Code section 11352, subdivision (a) (transportation or sale of a controlled substance), felonies. In addition, respondent was required to register as a drug user pursuant to section 11590 of the Health and Safety Code. These convictions are substantially related to the duties, qualifications and functions of a real estate licensee because they are felony convictions, and they constituted unlawful acts with the intent to confer a financial gain upon the perpetrator. The imposition of sentence was suspended and respondent was placed on formal probation for a period of three years on terms and conditions which included twelve months in the county jail, 200 hours of volunteer work, attendance at AA meetings and the payment of

various fines and fees. Respondent successfully completed the terms of probation ahead of schedule on October 3, 2007.

4. The facts underlying the conviction are that in February and March of 2004, respondent sold cocaine to an undercover officer on three separate occasions. Respondent no longer has contact with the individuals associated with this criminal activity. Respondent was 22 years old at the time of the offenses. He sold the drugs solely for the money he earned, a decision he has regretted ever since. Respondent blamed his criminal behavior on his age and bad judgment.

5. Respondent fulfilled the requirement of 200 hours of community service by volunteering at an after-school children's program where he did maintenance work for the facility, chaperoned dances and supervised basketball games. He learned a lot from the experience.

6. Respondent also attended over 100 Alcoholics Anonymous meetings as a condition of probation. Respondent has never had an alcohol or drug problem, but attended the meetings to comply with the court order. Respondent listened to the stories of the alcoholics attending and learned how damaging drug and alcohol abuse can be to individuals and families. Respondent gained a great deal of insight from attending the meetings.

7. Since 2001, respondent has worked with a business partner as a painter. Respondent has had a city business license for this activity. His business partner is aware of all of the details of his criminal convictions and stood by him through the process. Their work has expanded into remodeling and construction. It is a successful business. Respondent is an officer of the business which has been incorporated.

8. In February 2006, respondent obtained a real estate appraiser trainee license. He worked with his aunt, who is a real estate appraiser, to learn the business. Before completing his 2,000 hours of training, he determined that he was not interested in working in this field and he let his trainee license expire.

9. Respondent has an outstanding judgment of just under \$1,000 for homeowner's association dues accrued after he lost a home he owned in Arizona to foreclosure. Respondent has attempted to contact the company named on the judgment, but has been unsuccessful. He is willing to satisfy the judgment. Respondent disclosed this debt on his license application.

10. Respondent has attended junior college, but has not earned a degree. Respondent's mother, father and brother all have real estate sales licenses and he has been invited to work with his mother if he obtains a license. He plans to work in real estate part-time while maintaining his painting and remodeling business. Respondent is single and owns his home.

11. Respondent disclosed his criminal convictions on his real estate license application.

12. Respondent is willing to accept a restricted license.

LEGAL CONCLUSIONS

1. Business and Professions Code section 480, subdivision (a), authorizes the denial of a license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. Business and Professions Code section 10177, subdivision (b), which is specific to real estate licenses, authorizes the denial of a license if the applicant has been convicted of a felony, or a crime that is substantially related to the qualifications, functions and duties of a licensee of the Department of Real Estate.

2. As set forth in Factual Finding 3, respondent has been convicted of three felonies, which constitutes cause to deny respondent's application.

3. In addition, the conviction of a crime constitutes cause to deny a license application if the crime bears a substantial relationship to the licensed activity. California Code of Regulations, title 10, section 2910, sets forth the criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. A crime is deemed to be substantially related if it involves "[t]he doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator" (subd. (a)(8)). Because respondent sold the drugs to make money, the convictions fall under this category and are substantially related to the qualifications, functions or duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (a)(8). By reason of the matters set forth in Findings 3 and 4, the convictions constitute cause to deny respondent's application for a real estate salesperson license pursuant to Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b).

4. California Code of Regulations, title 10, section 2911, sets forth criteria for evaluating an applicant's rehabilitation. The burden is on the respondent to show that he is sufficiently rehabilitated so that it would be appropriate to issue him a real estate license. More than six years have elapsed since respondent's criminal activity, and during that time he has led a productive and law-abiding life. His probation was successfully completed and terminated early. Respondent is remorseful for his past transgressions and appears to have learned a lesson. Respondent was forthright on his license application and in his testimony. Respondent has established that he is sufficiently rehabilitated that it would not be contrary to the public interest to grant him a restricted real estate license.

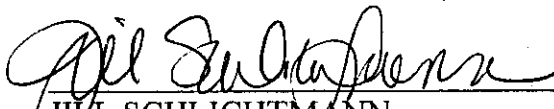
ORDER

The application of respondent Patrick James Pedersen for a real estate salesperson license is denied; provided however, a restricted real estate salesperson license shall be

issued to him pursuant to Business and Professions Code section 10156.5, if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days for the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under the authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of a restricted license until three years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a 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 performance by the restricted licensee relating to activities for which a real estate license is required.

DATED: 6/30/10


JILL SCHLICHTMANN
Administrative Law Judge
Office of Administrative Hearings

1 RICHARD K. UNO, Counsel (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-2380

FILED

MAR 17 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

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

11 * * *

12 In the Matter of the Application of
13 PATRICK JAMES PEDERSEN,
14 Respondent.

No. H-10870 SF

STATEMENT OF ISSUES

15
16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
17 of the State of California, for Statement of Issues against PATRICK JAMES PEDERSEN,
18 (Respondent), alleges as follows:

19 1

20 Complainant makes this Statement of Issues in her official capacity.

21 2

22 On or about October 20, 2008, Respondent made application to the Department
23 of Real Estate of the State of California (herein "the Department") for a real estate salesperson
24 license.

25 3

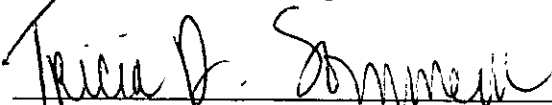
26 On or about May 24, 2005, in the Superior Court of the State of California,
27 County of Sonoma, Case No. SCR 33826, Respondent was convicted of violating Section

1 11352(a) of the California Health and Safety Code (Transport/Sale Narcotics/Controlled
2 Substances and was required to register as a drug user pursuant to Section 11590 of the
3 California Health and Safety Code), a felony and a crime which bears a substantial relationship
4 under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or
5 duties of a real estate licensee.

6 4

7 Respondent's criminal conviction, as described in Paragraph 3, above, constitutes
8 cause for denial of his application for a real estate license under Sections 480(a) and 10177(b)
9 of the Code.

10 WHEREFORE, Complainant prays that the above-entitled matter be set for
11 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to
12 authorize the issuance of, and deny the issuance of a real estate salesperson license to
13 Respondent, and for such other and further relief as may be proper in the premises.

14 

15 TRICIA D. SOMMERS
16 Deputy Real Estate Commissioner

17 Dated at Sacramento, California,
18 this 8th day of March, 2010.