

File

OCT 13 1989

DEPARTMENT OF REAL ESTATE
Laurel B. Luna

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) NO. H-23647 LA
SHMUEL ERDE,) L-46275
Respondent.)

ORDER DENYING RECONSIDERATION

On August 10, 1989, a Decision was rendered in the above entitled matter. The Decision is to become effective on October 13, 1989.

On September 6, 1989, respondent petitioned for reconsideration of the Decision of August 10, 1989.

I have given due consideration to the petition of respondent. I find no good cause to reconsider the Decision of August 10, 1989 and reconsideration is hereby denied.

IT IS SO ORDERED Oct 10, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By:

Robin T. Wilson
ROBIN T. WILSON
Chief Legal Officer

*filed
9/11/89*

SEP 11 1989

SAUNA B. OLIVERA

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) NO. H-23647 LA
SHMUEL ERDE,) L-46275
Respondent.)
_____)

ORDER STAYING EFFECTIVE DATE

On August 10, 1989, a Decision was rendered in the
above-entitled matter to become effective on September 13, 1989.

IT IS HEREBY ORDERED that the Decision of August 10,
1989 is stayed for a period of 30 days.

The Decision of August 10, 1989 shall become effective
at 12 o'clock noon on October 13, 1989.

DATED: 9-11-1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: *Randolph Brendia*
RANDOLPH BRENDIA
Regional Manager

lbo

DEPARTMENT OF REAL ESTATE

AUG 24 1989

STATE OF CALIFORNIA

RECEIVED
JAMES A. EDMONDS, JR.

In the Matter of the Application of)
)
SHMUEL ERDE,)
)
)
Respondent.)
)

NO. H- 23647 LA

L- 46275

DECISION

The Proposed Decision dated July 28, 1989 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on SEPTEMBER 13, 1989.

IT IS SO ORDERED August 10, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement)	
of Issues Against:)	
	) Agency No. H-23647 LA
SHMUEL ERDE,)	
	) OAH No. L-46275
	)
Respondent.)	
_____)	

PROPOSED DECISION

This application case came on for hearing before Richard E. Ranger, Administrative Law Judge of the Office of Administrative Hearings, on June 27, 1989 at Los Angeles, California.

James R. Peel, Counsel, represented the Department of Real Estate.

Shmuel Erde, respondent, represented himself without counsel.

Oral and documentary evidence was received and the hearing was concluded. The record remained open for 10 days for respondent to submit additional documentary evidence. Within the time allotted, respondent submitted a copy of a dismissal order under Penal Code section 1203.4.

FINDINGS OF FACT

1. On October 25, 1988, respondent Shmuel Erde filed an application with the Department of Real Estate for a real estate salesperson's license. In his application, respondent reported a conviction.

2. On March 27, 1989, a statement of issues was filed against respondent to initiate a hearing to determine whether a salesperson's license should be issued to respondent.

3. On October 7, 1987, in the Superior court of the State of California for the County of Los Angeles, in case no. A810456, respondent pled nolo contendere to a felony charge of violating Penal Code section 476(a)(a) (non-sufficient fund check). Imposition of sentence was suspended and respondent was placed on probation for three years on terms and conditions including restitution to a local bank. Respondent made restitution in the amount of approximately \$6,500.00 and in May 1989, the case was dismissed pursuant to Penal Code section 1203.4.

4. The facts and circumstance of respondent's offense are that in 1984, respondent wrote two checks in the amount of \$4,500 and \$2,000 to a local bank without sufficient funds. The account against which the checks were drawn was closed. Respondent was a real estate investor at the time, maintained an office, employed a secretary and bookkeeper, and insists that because of emotional depression due to loss of his mother in 1984, permitted his businesses to fail.

5. Respondent is a 45 year old applicant currently employed as an administrator for a local loan company where he has worked for about two months. Prior to his present employment, he was a financial officer for a developer. He is a 1971 graduate of the University of California, Los Angeles, and resides in Beverly Hills with his wife and four children.

DETERMINATION OF ISSUES

A. Cause exists pursuant to Business and Professions Code sections 480 and 10177(b) to deny respondent's application in that he has been convicted of a moral turpitude crime which is substantially related to the qualifications, functions and duties of a real estate licensee. Rehabilitation is not established at this time.

B. Cause does Not exist to deny a license pursuant to Business and Professions Code sections 480 and 10177(a). Respondent answered the conviction question truthfully and the information provided is sufficient.

ORDER

The application of Shmuel Erde for a real estate sales-
person's license is denied.

DATED: July 28, 1989


RICHARD E. RANGER
Administrative Law Judge

RER:btm

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JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 620-4790

OCT 27 1988

DEPARTMENT OF REAL ESTATE
Jana B. Chao

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of)	NO. H-23647 LA
SHMUEL ERDE,)	
)	<u>STATEMENT OF ISSUES</u>
)	
)	
Respondent.)	
_____)	

The Real Estate Commissioner, in conformity with Section 10152, Division 4, Business and Professions Code of the State of California, requires further proof of the honesty and truthfulness of SHMUEL ERDE, (hereinafter referred to as respondent), in connection with respondent's application for a real estate salesperson license, filed on October 25, 1988, and in relation thereto, will consider the following:

I

Respondent, pursuant to the provisions of Section 10153.3 of the Business and Professions Code, made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about October 25, 1988, with the

1 knowledge and understanding that any license issued as a result of
2 said application would be subject to the conditions of Section
3 10153.4 of the Business and Professions Code.
4

5 II

6 In response to Question 25 of said license application, to
7 wit: "Have you ever been convicted of any violation of law?",
8 respondent marked the box denoting "Yes", however respondent
9 failed to give a detailed explanation of each conviction as
10 requested by the application.

11 III

12 On or about October 7, 1987, in the Superior Court of the
13 State of California for the County of Los Angeles, respondent was
14 convicted of the crime of violating Penal Code Section 476a(A)
15 (NSF check), a felony and a crime involving moral turpitude.

16 IV

17 The crime of which respondent was convicted bears a
18 substantial relationship to the qualifications, functions or
19 duties of a real estate licensee.

20 V

21 Respondent's failure to fully reveal the criminal conviction
22 as set forth in Paragraph III above in said application
23 constitutes an attempt by respondent to procure a real estate
24 license by fraud, misrepresentation or deceit, or by making a
25 material misstatement of fact in said application, which failure
26 is grounds for denying respondent's application for a real estate
27 license under Sections 480 and 10177(a) of the Business and
Professions Code of the State of California.

VI

Respondent's criminal conviction, as set forth above in Paragraph III, is grounds for denying respondent's application for a real estate license under Sections 480 and 10177(b) of the Business and Professions Code of the State of California.

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the Government Code.

Dated at Los Angeles, California
this 27th day of March, 1989.


Deputy Real Estate Commissioner

cc: Shmuel Erde
Sacto.
JGS