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DEC 26 2001
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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Jane B. Cron

In the Matter of the Application of)	No. H-29208 LA
SASAN DJARIRI,	L-2001090497
Respondent.	

DECISION

The Proposed Decision dated November 30, 2001, 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.

Pursuant to Section 11517(b)(3) of the Government Code, the following correction is made:

Page 1, Factual Findings, Paragraph 2, delete the date July 18, 2000 and replace it with June 18, 2001.

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 of Section 11522 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 attached hereto.

This Decision shall become effective at 12 o'clock noon on January 15, 2002.

IT IS SO ORDERED *December 18, 2001*

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

SASAN DJARIRI,

Respondent.

Case No. H-29208 LA

OAH No. L2001090497

PROPOSED DECISION

Administrative Law Judge M. Amanda Behe, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on October 31, 2001.

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

Respondent represented himself.

The matter was submitted on October 31, 2001.

FACTUAL FINDINGS

1. Thomas McCrady is a Deputy Real Estate Commissioner of the Department of Real Estate (hereinafter "the Department"), State of California, and filed the Statement of Issues in his official capacity.

2. On ~~July 18, 2000~~ ^{June 18, 2001}, (hereinafter "respondent") filed an application for a real estate salesperson's license with the Department with the knowledge and understanding that any license issued would be subject to the conditions of Business and Professions Code section 10153.4.

3. Respondent was previously denied a real estate license as a result of the Decision in Case No. H-28764 LA, effective February 20, 2001.

4. On December 2, 1998, in the Municipal Court for the County of Los Angeles, State of California, respondent was convicted of a violation of Health and Safety Code section 11359 [POSSESSION OF MARIJUANA FOR SALE], a felony involving moral turpitude. The circumstances of the offense are that respondent sold marijuana on two occasions. Respondent was sentenced to complete a ninety-day residential substance abuse program, and pay a fine and restitution. He was placed on three years probation.

5. Respondent's crime is substantially related to the qualifications, functions and duties of the licensed activity, pursuant to the criteria enumerated in Title 10, California Code of Regulations, section 2910. Title 10, California Code of Regulations, section 2910, establishes the criteria for determining whether the actions of a respondent are substantially related to the licensed activity, as follows:

“(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

- “(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.
- “(2) Counterfeiting, forging or altering on an instrument or the uttering of a false statement.
- “(3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state, or local government.
- “(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.
- “(5) Sexually related conduct causing physical harm or emotional distress to a person who is an observer or non-consenting participant in the conduct.
- “(6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.
- “(7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.

“(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

“(b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.

“(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.”

5. Respondent presented a hearsay letter of Jason Katzman, manager of Paramount Properties, which indicated an interest in hiring respondent if a license is issued. Respondent presented a hearsay letter of Rodie Morales, President of Emanon Enterprises, that respondent had been an employee since January 1998 and is reliable and trustworthy. Mr. Morales opined that respondent has learned from his past mistakes, and would be a valuable employee.

6. The Department’s criteria for rehabilitation are found in Title 10, California Code of Regulations, section 2912, as follow:

“The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

“(a) The passage of not less than two years from the most recent criminal conviction that is “substantially related” to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.).

“(b) Restitution to any person who has suffered monetary losses through “substantially related” acts or omissions of the licensee.

“(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.

“(d) Successful completion or early discharge from probation or parole.

- “(e) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- “(f) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- “(g) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- “(h) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- “(i) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.
- “(j) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- “(k) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- “(l) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:
 - “(1) Testimony of applicant.
 - “(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.
 - “(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
 - “(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.”

6. More than two years has passed since respondent's conviction and his conviction has been expunged. Since his last application for a license respondent has again passed the licensing examination. He has paid all fines and restitution ordered by the court, and was released from probation nine months early. Respondent has maintained employment with

Emanon Enterprises since January 1998 in a position that requires performance without on-site direct supervision. For example, in one assignment respondent was required to open a health club at 5 a.m. every morning. He met that responsibility, and the hearsay evidence of the company owner noted respondent's reliability.

Respondent's testimony established that he recognizes the seriousness of his conviction and that he has learned from that mistake. Respondent testified that the experience, and the consequences as reflected in the earlier denial of his license application, have made him more focussed. He no longer uses marijuana and does not associate with people who do. Respondent displays a sincere and enduring interest in pursuing real estate as his profession.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application for a real estate salesperson's license was established for violation of Business and Professions Code sections 480(a) and 10177(b).

2. Respondent established substantial rehabilitation that indicates that the public interest would be protected if a license were issued.

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 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 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 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance

of the restricted license to respondent.

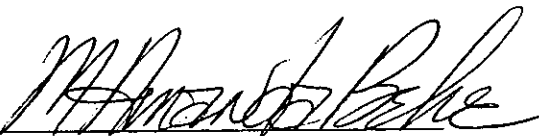
3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(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.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

Dated: November 30, 2001


M. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

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FILED
OCT 10 2001
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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By Laura B. Irons

In the Matter of the Application of)
)
SASAN DJARIRI,)
)
Respondent(s))

Case No. H-29208 LA
L-2001090497

NOTICE OF HEARING ON APPLICATION

To the above-named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on **OCTOBER 31, 2001** at the hour of **1:30 p.m.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: October 10, 2001

DEPARTMENT OF REAL ESTATE

By: James R. Peel
JAMES R. PEEL, Counsel

cc: Sasan Djariri
Paramount Rodeo Realty
Sacto.
OAH

Justo Jay

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AUG 31 2001
DEPARTMENT OF REAL ESTATE

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
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6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)

By *Lana B. Stone*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Application of)	No. H-29208 LA
12	SASAN DJARIRI,)	<u>STATEMENT OF ISSUES</u>
13	Respondent.)	

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against SASAN DJARIRI (Respondent) is informed and alleges in his
18 official capacity as follows:

19 I

20 On or about June 18, 2001, Respondent applied to the
21 Department of Real Estate of the State of California for a real
22 estate salesperson license with the knowledge and understanding
23 that any license issued as a result of that application would be
24 subject to the conditions of Section 10153.4 of the Business and
25 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 SASAN DJARIRI, and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California
this 31st day of August, 2001.


Deputy Real Estate Commissioner

cc: Sasan Djariri
Paramount Rodeo
Thomas McCrady
Sacto
CW