

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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FILED  
DEC 27 2001  
DEPARTMENT OF REAL ESTATE

By 

In the Matter of the Application of )	No. H-29217 LA
BRANDEN JOSEPH WILLIAMS, )	L-2001090435
Respondent. )	

DECISION

The Proposed Decision dated November 23, 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 to the Proposed Decision:

Respondent's name is changed to read "BRANDEN JOSEPH WILLIAMS" throughout the Proposed Decision.

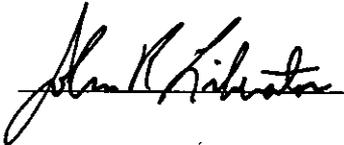
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 16, 2002.

IT IS SO ORDERED December 26, 2001

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

BRANDON J. WILLIAMS,

Respondent.

Agency No. H-29217 LA

OAH No. L-2001090435

PROPOSED DECISION

This matter came on for hearing before Carolyn D. Magnuson, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on October 25, 2001.

Chris Leong, Staff Counsel, represented the Complainant.

Brandon J. Williams appeared personally and represented himself.

Oral and documentary evidence was received and the matter submitted.

FACTUAL FINDINGS

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

2. Brandon J. Williams ("Respondent") filed an application dated February 1, 2001 with the Department for the issuance of a real estate salesperson's license. That application was denied.

3. On September 11, 1991, in the Superior Court of the State of California, County of Los Angeles, South Branch, in People v. Brandon Joseph Williams, case number NA006119-01, the Respondent was convicted of violating Penal Code § 211 (second degree robbery) and Penal Code § 207(a) (kidnapping), crimes involving moral turpitude and substantially related to the duties, functions, and qualifications of a departmental licensee.

4. The facts and circumstances of the conviction is that the Respondent agreed to drive a car to Texas for a friend when he was returning to college in Texas following a break. Although Respondent was not aware of it, the car had been stolen and the car's owner had been kidnapped in the course of that robbery. Nonetheless, a jury convicted Respondent of the crimes that occurred prior to his taking possession of the car.

5. Respondent was placed on three years' probation but was released after six months. Since this conviction, the Respondent's record has been clean.

6. Respondent does not associate with the group with whom he got in trouble. Respondent did not return to college, but he did attend a technical school. For a number of years, the Respondent was a manager for a large shoe store chain. Presently, the Respondent works as a broker for a mortgage loan company. He only handles out of state loans. Respondent also teaches martial arts part time and trains in that discipline four days a week. Respondent is engaged to be married, and he has a daughter he supports. He regularly attends church.

#### LEGAL CONCLUSIONS

7. Business and Professions Code section 480(a) provides:

"a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

Business and Professions Code section 10177(b) provides:

"The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following: . . .

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information."

Title 10 of the California Code of Regulations section 2911 provides:

“The following criteria have been developed by the department pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

- (a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct 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 applicant.
- (c) Expungement of criminal convictions resulting from immoral or antisocial acts.
- (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 conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (f) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (g) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (h) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (i) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (j) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (k) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (l) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.
- (m) Change in attitude from that which existed at the time of the conduct 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 applicant's previous conduct and with his 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 or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.”

8. The Respondent’s criminal conviction is a basis for denying his application under the provisions of Business and Professions Code section 480(a) and 10177(b).

9. However, in the 10 years since his conviction, Respondent has met nearly all of the rehabilitation criteria set forth in 10 CCR section 2911 that apply to his conviction except the conviction has not been expunged. Moreover, Respondent has held responsible positions in which he has handled money for others without any problems. Recidivism seems very unlikely.

#### 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 the 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 the 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, limitation 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 approved by the Department, 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 the 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: November 23, 2001

  
CAROLYN D. MAGNUSON  
Administrative Law Judge  
Office of Administrative Hearings





1 conditions of Section 10153.4 of the Business and Professions  
2 Code.

3 II

4 Complainant, Thomas McCrady, a Deputy Real Estate  
5 Commissioner of the State of California, makes this Statement  
6 of Issues in his official capacity.

7 III

8 On or about May 10, 1991, in the Superior Court of  
9 California, County of Los Angeles, South Branch, Case No.  
10 NA 006119-01, Respondent was convicted of violating one count  
11 of Section 207(a) of the California Penal Code (PC)  
12 (Kidnapping), and two counts of Section 211 PC (Deg 2<sup>nd</sup>  
13 Robbery), felonies and crimes involving moral turpitude which  
14 are substantially related under Section 2910, Title 10, Chapter  
15 6, California Code of Regulations, to the qualifications,  
16 functions or duties of a real estate licensee.

17 IV

18 Respondent's convictions, as set forth in Paragraph  
19 III, are cause to deny Respondent's real estate license  
20 application pursuant to Code Sections 480(a) and 10177(b).

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

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