

Sack's Day

FILED
APR 16 2003
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Jane B. Stone

* * * * *

In the Matter of the Application of)	No. H-29693 LA
JIN HO SHIN,	L-2002110282
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Respondent.)
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DECISION

The Proposed Decision dated March 11, 2003, 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 May 6, 2003

IT IS SO ORDERED

April 14, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JIN HO SHIN,

Respondent.

CASE No. H-29693 LA

OAH No. L2002110282

PROPOSED DECISION

On January 27, 2003, in Los Angeles, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Chris Leong, Counsel, Department of Real Estate.

Respondent was present and represented by Wayne Yee, Attorney at Law.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Complainant Janice Waddell made the Statement of Issues and First Amended Statement of Issues in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. On November 5, 2001, respondent applied to the Department for a real estate salesperson license, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of section 10153.4 of the Business and Professions Code ("Code").

3. On December 23, 1997, in the Santa Monica Judicial District Municipal Court, County of Los Angeles, State of California, respondent was convicted on his plea of no contest of violating section 529(3) (False impersonation to avoid prosecution) of the Penal Code. This crime was a misdemeanor involving moral turpitude. It is substantially related to the qualifications, functions and duties of a real estate licensee. As a result of this conviction, respondent received a suspended imposition of sentence and was placed on summary probation for 2 years. The terms and conditions of his probation included fines, penalties, costs, and restitution totaling \$594.00.

The facts and circumstances surrounding this conviction are that shortly after 1:00 a.m. on November 5, 1997, respondent was stopped by the police for a traffic violation, failure to yield. After being stopped, respondent did not produce personal identification and verbally identified himself with the name and birth date of a friend of his. Respondent lied to the police about his identity four times, including after his girlfriend, who was riding in the car, identified him by his correct name. Respondent was arrested, handcuffed, and placed in the rear seat of a patrol car. At this time, he told police his correct name.

4. Question 25 on respondent's real estate license application asked : "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?" Respondent answered: "NO."

5. Respondent testified that he responded "no" to the above question because his conviction was a misdemeanor, not a more serious felony. He stated his belief that the question only applied to felonies. He also testified that while he knew he had been convicted of a crime, he was not sure of the difference between a conviction and a plea of "No Contest." This testimony was not believable. Although respondent has been working for a real estate broker for one year, answering phones and doing other clerical work, his conviction, the above testimony, and the fact that he lied on his application indicate that he is not yet rehabilitated.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's real estate license application was established pursuant to sections 480(a)(conviction) and 10177(b)(conviction) of the Code, by reason of finding 3.

2. Said cause was established for violation of sections 480(c)(Knowing false statement on application) and 10177(a)(Fraud, misrepresentation, deceit or misstatement on application) of the Code, by reason of finding 4.


3. In view of the fact that respondent is not yet rehabilitated, his application should be denied

ORDER

Wherefore, the following order is hereby made:

The application of Jin Ho Shin for a real estate salesperson license is denied.

Dated: March 11, 2003



JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-29693 LA
JIN HO SHIN,) OAH No. L-2002110282
Respondent(s)

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DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent(s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on MONDAY, JANUARY 27, 2003, at the hour of 9:00 A.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 his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Chris Leong

Dated: December 4, 2002

By CHRIS LEONG, Counsel

cc: Jin Ho Shin
New Star Realty, Inc.
Sacto.
OAH

II

1 Complainant, Janice Waddell, a Deputy Real Estate
2 Commissioner of the State of California, makes this Statement
3 of Issues in her official capacity.
4

III

5 On or about December 23, 1997, in the Municipal
6 Court, Santa Monica Judicial District, County of Los Angeles,
7 State of California, Case No. 7SM04902, Respondent was
8 convicted of violating Section 529(3) (Falsely impersonated
9 another person), a crime involving moral turpitude which is
10 substantially related to the qualifications, functions and
11 duties of a real estate licensee.
12

IV

FAILURE TO REVEAL

13 On Respondent's real estate license application, in
14 response to Question 25: "Have you ever been convicted of any
15 violation of law?...", Respondent answered: "No".
16
17

V

18 Respondent's conviction and failure to reveal, as set
19 forth in Paragraphs III and IV, are cause to deny Respondent's
20 real estate license application pursuant to Code Sections
21 480(a), 480(c), 10177(a) and/or 10177(b).
22

23 These proceedings are brought under the provisions of
24 Section 10100, Division 4 of the Business and Professions Code
25 of the State of California and Sections 11500 through 11528 of
26 the Government Code.
27

///

1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, upon proof of the
3 charges contained herein, that the Commissioner refuse to
4 authorize the issuance of, and deny the issuance of, a real
5 estate salesperson license to Respondent, JIN HO SHIN, and for
6 such other and further relief as may be proper in the premises.

7 Dated at Los Angeles, California

8 this 5th day of November, 2002.

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11 Deputy Real Estate Commissioner

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23 cc: Jin Ho Shin
24 New Star Realty/Jenny Nam
25 Janice Waddell
26 Sacto.
27 AS

CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)

FILED
SEP 19 2002
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
JIN HO SHIN,	No. H-29693 LA
Respondent.	<u>STATEMENT OF ISSUES</u>

The Complainant, Janice Waddell, for Statement of
Issues against JIN HO SHIN ("Respondent") alleges as follows:

I

Respondent, pursuant to the provisions of Section
10153.3 of the Business and Professions Code ("Code"), made
application to the Department of Real Estate of the State of
California for a real estate salesperson license on or about
November 5, 2001, with the knowledge and understanding that any
license issued as a result of said application would be subject
to the conditions of Code Section 10153.4.

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II

1 Complainant, Janice Waddell, a Deputy Real Estate
2 Commissioner of the State of California, makes this Statement
3 of Issues in her official capacity.
4

III

5 On or about December 23, 1997, in the Municipal
6 Court, Santa Monica Judicial District, County of Los Angeles,
7 State of California, Case No. 7SM04902, Respondent was
8 convicted of violating Section 529(3) (Falsely impersonated
9 another person), a crime involving moral turpitude which is
10 substantially related to the qualifications, functions and
11 duties of a real estate licensee.
12

IV

13 Respondent's conviction, as set forth in Paragraph
14 III, is cause to deny Respondent's real estate license
15 application pursuant to Code Sections 480(a)(1) and 10177(b).
16

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

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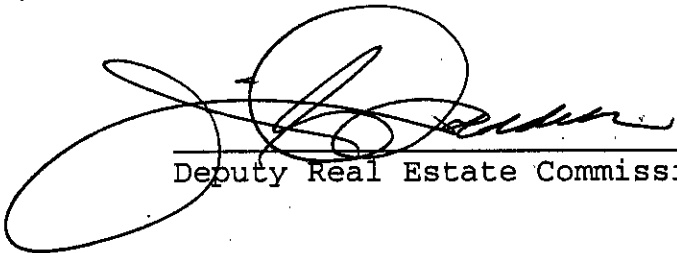
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1 WHEREFORE, the Complainant prays that the above-
2 entitled matter be set for hearing and, upon proof of the
3 charges contained herein, that the Commissioner refuse to
4 authorize the issuance of, and deny the issuance of, a real
5 estate salesperson license to Respondent, JIN HO SHIN, and for
6 such other and further relief as may be proper in the premises.

7 Dated at Los Angeles, California

8 this 13 day of September, 2002.

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10 
11 _____
12 Deputy Real Estate Commissioner

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21
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23 cc: Jin Ho Shin
24 New Star Realty/Jenny Nam
25 Janice Waddell
26 Sacto.
27 AS