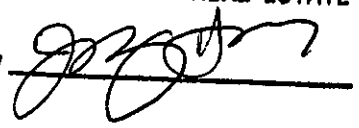


FILED
MAR 11 2005

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Accusation of)
)
)
JEFFREY BRANDON LLOYD,)
)
)
Respondent.)
_____)

No. H-31060 LA
L-2004080301

DECISION

The Proposed Decision dated February 8, 2005, 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.

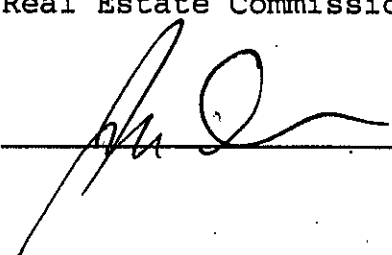
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on April 1, 2005

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JEFFREY BRANDON LLOYD,

Respondent.

OAH NO. L2004080301

CASE NO. H-31060 LA

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge (ALJ), Office of Administrative Hearings, at Los Angeles, California on December 22, 2004.

Department of Real Estate Staff Counsel Kelvin K. Lee represented complainant.

Respondent, Jeffrey B. Lloyd, personally appeared and was represented by Edward O. Lear, Esq.

Oral and documentary evidence was received and the record remained open until January 21, 2005 so the parties could submit written briefs and closing statements. The closing statements/briefs were received, read, and considered and the matter was deemed submitted on January 21, 2005.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. The Accusation was filed by Maria Suarez (complainant) while acting in her official capacity as a Deputy Real Estate Commissioner, Department of Real Estate (DRE), State of California.
2. On January 8, 1992, respondent was licensed by the DRE as a real estate broker. At all times relevant to the instant proceedings respondent's real estate broker license was, and currently is, in full force and effect.
3. On August 15, 2001, respondent was convicted in Los Angeles County Superior Court, in case number 1GL01814, of one count of violating California Vehicle Code section 23152, subdivision (a) (Driving a Vehicle Under the Influence of Alcohol), and one count of violating California Vehicle Code section 23152,

subdivision (b) (Driving a Vehicle With More Than a 0.08% Blood Alcohol Level), misdemeanor crimes.

4. On April 15, 2003, respondent was convicted in Los Angeles County Superior Court, in case number 3MT01929, of one count of violating California Vehicle Code section 23152, subdivision (a) (Driving a Vehicle Under the Influence of Alcohol), a misdemeanor crime.

5. On November 21, 2003, respondent was convicted in Los Angeles County Superior Court, in case number 3BH00713, of one count of violating California Penal Code section 273.5, subdivision (a) (Causing Corporal Injury to a Spouse), a misdemeanor crime.

Evidence in Mitigation and of Rehabilitation

6. Respondent is still on summary probation as a result of his 2003 convictions; however, he has completed all the operative terms of his probation, including paying all fines and penalties and completing all court ordered programs.

7. Respondent has completed over 1 ½ years of alcohol treatment program including a one month, intensive, in-house treatment program. Respondent is still undergoing voluntary counseling and therapy focused on impulse control. One of respondent's therapists, a marriage and family therapist who is a specialist in chemical dependency, appeared at the hearing and testified on respondent's behalf. According to this expert witness respondent has no issues with either alcohol or impulse control in the "professional context." Respondent's alcohol abuse and spousal abuse convictions occurred during periods when respondent was experiencing marital difficulties. The convictions exacerbated respondent's already stressful situation by infusing legal difficulties into the picture. Respondent felt his life was in turmoil so he sought counseling. To date, respondent has been in counseling for over 18 months. Respondent's therapy is "Psychodynamic" in nature and focuses on alcohol issues, marital problems, and impulse control (anger management). Respondent grew up in a very unstable environment and survived many instances of abuse as a child. Respondent managed to remove himself from the abusive environments and "found his way through in a functional way." Respondent is "brutally candid". He is "not a liar."

Respondent's therapist testified that based on his extensive knowledge of respondent's background and issues, he is confident that respondent was, and is, able to completely compartmentalize his behaviors. Because of this ability, respondent has no "issues in the professional context." In other words, respondent would not consume alcohol or act out in an unprofessional manner while functioning in his capacity as a broker. Respondent's therapist opined that respondent has

successfully implemented impulse control interventions and has learned to properly control his impulses.

8. Respondent's wife, the victim of the spousal abuse which led to respondent's November 21, 2003 conviction for causing corporal injury to a spouse, appeared at the hearing and testified on respondent's behalf. According to Ms. Lloyd, she and respondent are no longer having marital difficulties. Respondent has "worked hard to improve the marriage and we have managed to do it." According to Ms. Lloyd, the incident leading to respondent's conviction occurred during a time when respondent was doing some "major drinking." As a result of the incident both respondent and Ms. Lloyd began therapy and according to Ms. Lloyd the "entire chain of events caused a positive change" in respondent and herself. Ms. Lloyd reports that she and respondent are now "happily married."

9. Respondent devotes time to community service projects such as Covenant House, a charitable organization that "takes in runaway young people, ages 17 – 21, and gives them medical treatment, counseling and teaches them job skills." Respondent devotes substantial time and money to Covenant House. In fact, one of the young adults from the program appeared at the hearing and testified on respondent's behalf. According to the young man he was taken into Covenant House when he came to California. At the time, he was 18 years old and homeless. Respondent gave him a job as a receptionist; and, recently, the young man obtained his real estate salesperson's license and is being tutored by respondent.

10. Three other witnesses, including a licensed real estate salesperson, one of respondent's clients, and respondent's business manager also appeared at the hearing and testified on respondent's behalf. They all attested to the fact that in the work setting respondent has always exhibited patience, good judgment, professionalism, and "makes appropriate management decisions." Respondent always acts in the best interests of his clients and his employees. He is an excellent broker who is highly respected by his clients, his employees and his peers.

11. Respondent has no record of any consumer/client complaints.

SUBSTANTIAL RELATIONSHIP

Counsel for respondent argues that respondent's driving under the influence convictions are not substantially related to respondent's activities as a broker. Specifically, counsel argues:

"Allowing the DRE to retroactively use Mr. Lloyd's August 2001 conviction to revoke his license pursuant to Title 10 of the California Code of Regulations § 2910(a)(11) violates his constitutional rights under the

U.S. Constitution, Art. I, § 10 cl. 1, and the California Constitution, Art. 1, § 9, in that § 2910(a)(11) acts as a quasi-ex post facto law...Section 2910(a)(11) was not implemented by the DRE until January of 2003, yet the DRE attempts to use Mr. Lloyd's August 2001 DUI conviction in order to establish an alleged substantial relationship to his qualifications, functions, and/or duties as a real estate broker...."

Counsel's position lacks merit. Prior to enactment of California Code of Regulations, title 10, (Regulations) section 2910, subdivision (a), subsection (11), the DRE used Regulations section 2910, subdivision (a), subsection (8), which provides, in pertinent part that "Doing of any unlawful act with the ... threat of doing substantial injury to the person or property of another," as a basis for proceeding against a licentiate convicted of a single act of driving under the influence (DUI). For multiple alcohol related convictions the DRE asserted that pursuant to Regulations section 2910, subdivision (a), subsection (10), two or more such convictions "...demonstrates a pattern of repeated and willful disregard of law" and are thus substantially related to the qualifications, functions and duties of a licentiate

Enactment of Regulations section 2910, subdivision (a), subsection (11) did not give rise to a new theory of substantial relationship. It was a merely a clarification of how alcohol related convictions, including DUI's, should be treated. Subsection (11) does not criminalize an act that was not considered criminal prior to its enactment, nor does it create a new cause for discipline, it merely provides a formula for treating alcohol related offenses in a fair and consistent manner.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. The crime for which respondent was convicted, as described in Finding 3, is substantially related to the qualifications, functions and duties of a licentiate pursuant to Regulations section 2910, subdivision (a), subsection (8). Respondent's conviction, therefore, constitutes a ground for discipline of respondent's real estate broker license pursuant to Business and Professions Code section 490 and 10177, subdivision (b).

2. The crime for which respondent was convicted, as described in Finding 4, is substantially related to the qualifications, functions and duties of a licentiate pursuant to Regulations section 2910, subdivision (a), subsection (8). Respondent's conviction, therefore, constitutes a ground for discipline of respondent's real estate broker license pursuant to Business and Professions Code section 490 and 10177, subdivision (b).

3. The crime for which respondent was convicted, as described in Finding 5, is substantially related to the qualifications, functions and duties of a licentiate pursuant to Regulations section 2910, subdivision (a), subsection (8). Respondent's conviction, therefore, constitutes a ground for discipline of respondent's real estate broker license pursuant to Business and Professions Code section 490 and 10177, subdivision (b).

4. The crimes for which respondent was convicted, as described in Findings 3, 4, and 5, are substantially related to the qualifications, functions and duties of a licentiate pursuant to Regulations section 2910, subdivision (a), subsections (10) and/or (11). Respondent's convictions, therefore, constitute grounds for discipline of respondent's real estate broker license pursuant to Business and Professions Code section 490 and 10177, subdivision (b).

5. Based on the mitigating factors and factors indicating rehabilitation, as set forth in Findings 6, 7, 8, 9, 10, and 11, it appears that respondent has gotten control over the underlying cause of his convictions; impulse control, and it would not be adverse to the public interest to place respondent on three years probation with appropriate terms and conditions.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Jeffrey Brandon Lloyd, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefore and pays to the DRE the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to 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 that Code:

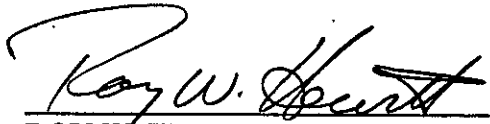
1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

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 the 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, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: February 8, 2005.


ROY W. HEWITT
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 Accusation of)
JEFFREY BRANDON LLOYD,)
_____) Respondent

Case No. H-31060 LA
OAH No. L-2004080301

FILED
OCT 28 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

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 WEDNESDAY, DECEMBER 22, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation 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.

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

Dated: October 26, 2004

By

Kelvin K. Lee
KELVIN K. LEE, Counsel

cc: Jeffrey B. Lloyd
Edward O. Lear, Esq.
Sacto.
OAH

5012

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
JEFFREY BRANDON LLOYD,)
_____)
Respondent.

Case No. H-31060 LA
OAH No. L-2004080301

FILED
SEP 13 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By [Signature]

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 WEDNESDAY, OCTOBER 27, 2004, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Accusation 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.

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DEPARTMENT OF REAL ESTATE

Dated: September 13, 2004

By [Signature]
KELVIN K. LEE, Counsel

cc: Jeffrey B. Lloyd
Edward O. Lear, Esq.
Sacto.
OAH

5070
KELVIN K. LEE, Counsel (SBN 152867)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct)- (213) 576-6905

FILED
JUL 13 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
JEFFREY BRANDON LLOYD,)
Respondent.)

No. H-31060 LA

A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against JEFFREY BRANDON LLOYD ("Respondent") alleges as follows:

I

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation
in her official capacity.

II

Respondent is presently licensed and/or has license
rights under the Real Estate Law, Part 1 of Division 4 of the
California Business and Professions Code ("Code"), as a real
estate broker.

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III

Respondent was originally licensed by the Department as a real estate broker on January 8, 1992. His license is due to expire on January 7, 2008.

IV

On or about August 15, 2001, in the Superior Court of California, County of Los Angeles, in case no. 1GL01814, the Respondent was convicted of one (1) count of violating California Vehicle Code 23152, subdivision (a), (Driving a Vehicle Under the Influence of Drugs or Alcohol) and one (1) count of violating Vehicle Code 23152(b), (Driving a Vehicle with More than a 0.08% Blood Alcohol Level). These crimes involved moral turpitude and bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions, or duties of a real estate licensee.

V

On or about April 15, 2003, in the Superior Court of California, County of Los Angeles, in case no. 3MT01929, the Respondent was convicted of one (1) count of violating Vehicle Code 23152, subdivision (a) (Driving a Vehicle Under the Influence of Drugs and/or Alcohol.) This crime involves moral turpitude and bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions, or duties of a real estate licensee.

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1 qualifications, functions, or duties of a real estate licensee.

2 VI

3 On or about November 21, 2003, in the Superior Court
4 of California, County of Los Angeles, in case no. 3BH00713, the
5 Respondent was convicted of one (1) count of violating
6 California Penal Code 273.5, subdivision (a), (Causing Corporal
7 Injury to a Spouse.) This crime involved moral turpitude and
8 bears a substantial relationship under Section 2910, Title 10,
9 Chapter 6, California Code of Regulations to the qualifications,
10 functions, or duties of a real estate licensee.

11 VII

12 The crimes of which Respondent was convicted, as
13 described in Paragraphs IV, V and VI above, constitute cause
14 under Sections 490 and 10177(b) of the Code for the suspension
15 or revocation of the license and license rights of Respondent
16 under the Real Estate Law.

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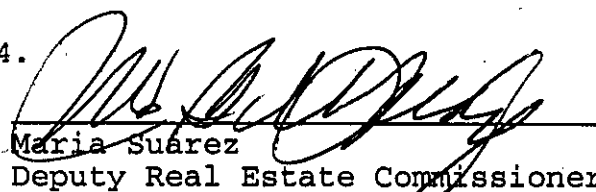
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent, JEFFREY BRANDON LLOYD, under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code) and
7 for such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at Los Angeles, California

10 this 8th day of July, 2004.

11 
12 Maria Suarez
Deputy Real Estate Commissioner

13 cc: JEFFREY BRANDON LLOYD
14 Maria Suarez
15 Sacto.
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