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FILED

OCT 24 2009

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
AMIR E. JOHN DAVIDI,
Respondent.

No. H-31158 LA

ORDER GRANTING UNRESTRICTED LICENSE

On March 15, 2005, a Decision was rendered herein denying the Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on May 14, 2005, and Respondent has operated as a restricted licensee since that time.

On April 21, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
restrictions is granted and that a real estate salesperson license be issued to Respondent if
Respondent satisfies the following conditions within twelve (12) months from the date of this

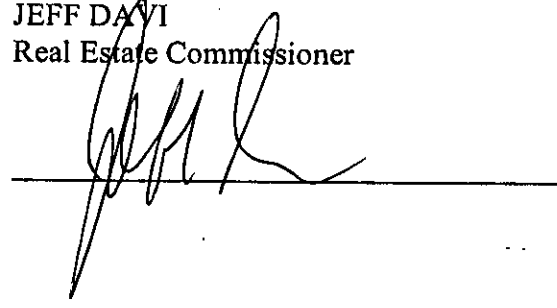
Order:

1. Submittal of a completed application and payment of the fee for a real estate salesperson license.
2. Submittal of evidence of having 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.

This Order shall become effective immediately.

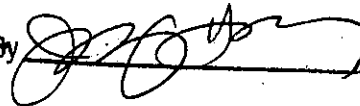
IT IS SO ORDERED 10/6/09

JEFF DAVI
Real Estate Commissioner



FILED
MAR 17 2005
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Application of)
AMIR E. JOHN DAVIDI,)
Respondent.)

No. H-31158 LA
L-2004080673

DECISION

The Proposed Decision dated February 14, 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.

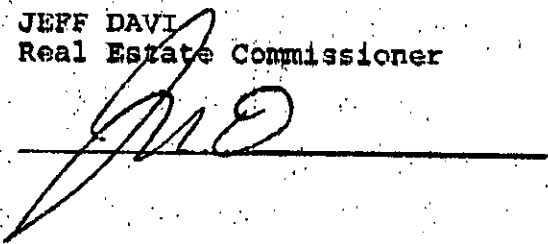
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 April 6, 2005.

IT IS SO ORDERED

13-15-05
JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:) Agency No. H-31158 LA
)
) OAH No. L-2004080673
AMIR E. JOHN DAVIDI,)
)
Respondent.)
_____)

PROPOSED DECISION

This matter came on regularly for hearing before Carolyn D. Magnuson, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on November 10, 2004.

Kelvin K. Lee, Staff Counsel, represented the Complainant.

Amir E. John Davidi appeared and represented himself.

Testimonial and documentary evidence was received, and the matter was submitted for decision at the conclusion of the case.

FACTUAL FINDINGS

1. Maria Suarez (Complainant) brought the Statement of Issues in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate (Department) of the State of California.

2. Amir E. John Davidi (Respondent) applied to the Department for a real estate salesperson license. That application was denied by the Department, and Respondent appealed that denial. The instant hearing followed.

3. On October 1, 2002, in the Superior Court of the County of Los Angeles, **State of California, Respondent was convicted on his plea of nolo contendere of violating Penal Code section 484A (theft), a crime involving moral turpitude and substantially related to the duties, functions, and qualifications of a departmental licensee. Imposition of sentence was suspended, and Respondent was placed on two years summary probation, on the condition that he serve two days in the County Jail and pay a fine. Respondent successfully completed**

probation, and his conviction has been expunged under the provisions of Penal Code section 1203.4.

4. The facts and circumstances underlying the conviction are that Respondent went to a department store, and brought with him a bag from that store in which he had merchandise he had previously purchased. While at the store, Respondent placed additional merchandise in the bag and left the store without paying for the items he had added to the bag.

5. Respondent testified that he had gone to the store looking for additional shirts. He claims that the shirts he left the store with were the same ones he had when he arrived. He denies telling the security officer that he had made a mistake and was sorry.

6. Respondent lives with his parents whom he supports. He hopes to become a real estate broker and to have a career in commercial real estate. Respondent believes he has been candid with the Department and that he should be granted a license. He agreed to accept a restricted license.

7. For three years Respondent has been employed by a merchant doing business in the jewelry district of Los Angeles. Respondent's employer wrote a glowing letter of recommendation for Respondent.

LEGAL CONCLUSIONS

8. In the absence of a statute to the contrary, the burden of proof is on the applicant for a license or permit. (*Southern California Jockey Club, Inc. v. California Horse Racing Board* (1950) 36 Cal.2d 167 [223 P.2d 1].) The standard of proof is a preponderance of the evidence. (*Pereyda v. State Personnel Board* (1971) 15 Cal.App.3d 47 [92 Cal. Rptr. 746].) A "preponderance of the evidence" means evidence that has more convincing force than that opposed to it. BAJI No. 2.60.)

9. Business and Professions Code section 480, subdivision (a), provides:

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.

10. Business and Professions Code section 10177, subdivision (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.

11. The Respondent's criminal theft conviction was one involving moral turpitude and was substantially related to the qualifications, duties, and functions of a departmental licensee. Therefore his conviction is a basis for denying his application under the provisions of Business and Professions Code sections 475, subdivision (a) (2), 480, subdivision (a) and 10177, subdivision (b). The remaining question is whether Respondent has shown sufficient evidence of good character and rehabilitation that it would be consistent with the public interest to allow him to hold a real estate salesperson license.

12. California Code of Regulations, title 10, section 2911 provides:

The following criteria have been developed by the department pursuant to Section 482, subdivision (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) ~~Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.~~

(e) Successful completion or early discharge from probation or parole.

(f) 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.

- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) 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.
- (i) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) 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.
- (n) 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.
- (5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

13. The evidence established that Respondent has met nearly all the applicable criteria. In Respondent's case, recidivism seems unlikely. Respondent has an otherwise spotless record and a significant period of time has passed during which no further criminal convictions have occurred. Thus, it would be consistent with the public interest to allow him to hold a properly conditioned real estate salesperson license.

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 three years have elapsed from the date of issuance of the restricted license to Respondent.

3. Respondent shall within eighteen (18) months of the issuance of the restricted license under the provisions of section 10153.4 of the Business and Professions Code, 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 present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of the restricted license. Said suspension shall not be lifted until Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the Respondent of lifting of the suspension.

4. 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:

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- 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: February 14, 2005



CAROLYN D. MAGNUSON
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE

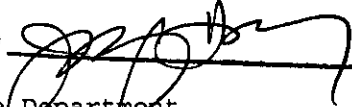
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-31158 LA
)
AMIR E. JOHN DAVIDI,) OAH No. L-2004080673
)
 _____)
 Respondent

FILED
 SEP 23 2004
 DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent(s):

By 

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, NOVEMBER 10, 2004, 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 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: September 23, 2004

By 
 KELVIN K. LEE, Counsel

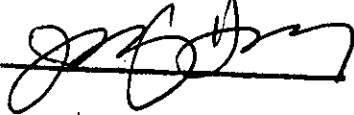
cc: Amir E. John Davidi
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KELVIN K. LEE, Real Estate Counsel (SBN 152867)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

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

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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-31158 LA
)	
AMIR E. JOHN DAVIDI,)	<u>STATEMENT OF ISSUES</u>
)	
Respondent.)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against AMIR E. JOHN DAVIDI ("Respondent"), is informed and alleges as follows:

I

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

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II

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2 Respondent made application to the Department of Real
3 Estate of the State of California for a real estate salesperson
4 license on or about January 9, 2004. This license was to be
5 subject to Section 10153.4 of the Business and Professions Code
6 ("Code").

7 III

8 (CRIMINAL CONVICTIONS)

9 On or about October 1, 2002, in the Superior Court of
10 Los Angeles County, State of California, in Case No. 2SM04012
11 Respondent AMIR E. JOHN DAVIDI, was convicted of one (1) count
12 of violating California Penal Code Section 484, subdivision (a),
13 (Theft of Property). This is a crime involving moral turpitude
14 which is substantially related under Title 10, Chapter 6,
15 Section 2910, subdivisions (a)(1), (a)(4) and (a)(8), California
16 Code of Regulations, to the qualifications, functions or duties
17 of a real estate licensee.
18

19 IV

20 The crime of which Respondent was convicted, as
21 alleged herein above in Paragraph III, constitutes cause for
22 denial of Respondent's application for a real estate license
23 under Code Sections 475(a)(2), 480(a)(1) and/or 10177(b).

24 The Statement of Issues is brought under the
25 provisions of Section 10100, Division 4 of the Business and
26 Profession Code of the State of California and Sections 11500
27 through 11528 of the Government Code.

1 WHEREFORE, Complainant prays that the above entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, AMIR E. JOHN DAVIDI, and for such other
6 and further relief as may be proper under other provisions of
7 law.

8 Dated at Los Angeles California

9 this 10th day of August, 2004.

10
11 
12 Maria Suarez
13 Deputy Real Estate Commissioner

14 cc: AMIR E. JOHN DAVIDI
15 Maria Suarez
16 Sacto.
17 PK
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