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MAY 12 2009

DEPARTMENT OF REAL ESTATE

By Jean [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
STEPHEN ROSS SHERMOEN, JR.,
Respondent.

No. H-31668 LA

ORDER GRANTING UNRESTRICTED LICENSE

On October 24, 2005, a Decision was rendered herein denying the Respondent's application for a real estate broker 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 January 14, 2006, and Respondent has operated as a restricted licensee since that time.

On October 24, 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.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to
3 the following understanding and conditions:

4 1. The license issued pursuant to this order shall be deemed to be the first
5 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
6 of Section 10153.4.

7 2. Within nine (9) months from the date of this order Respondent shall:

8 (a) Submit a completed application and pay the appropriate fee for a real
9 estate salesperson license, and

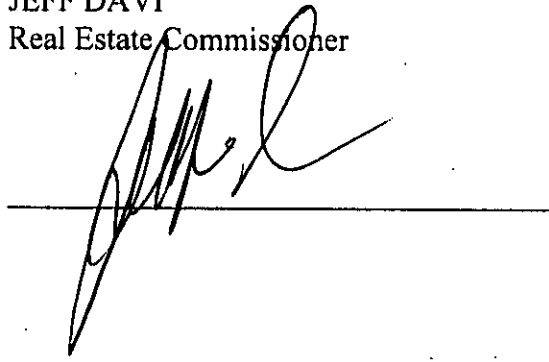
10 (b) Submit evidence of having taken and successfully completed the
11 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
12 of a real estate license.

13 This Order shall become effective immediately.

14 IT IS SO ORDERED

4-21-09

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16 JEFF DAVI
17 Real Estate Commissioner
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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)
STEPHEN ROSS SHERMOEN, JR.,)
Respondent.)

No. H-31668 LA
L-2005030815

FILED
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DEPARTMENT OF REAL ESTATE
[Signature]

DECISION

The Proposed Decision dated September 16, 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 with the following exception:

Condition 4 of the Order of the Proposed Decision is not adopted and shall not be a part of the Decision.

The application for a real estate broker 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 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 November 17, 2005.

IT IS SO ORDERED 10-24, 2005.

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

STEPHEN ROSS SHERMOEN, JR.,

Respondent.

File No. H – 31668 LA
OAH No. L 2005030815

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on August 16, 2005.

James R. Peel, Counsel, represented Complainant Janice A. Waddell, a Deputy Real Estate Commissioner in the Department of Real Estate of the State of California (Department).

Frank M. Buda, Attorney at Law, represented Respondent Stephen Ross Shermoen, Jr. who was present throughout the hearing.

Following the receipt of oral and documentary evidence and argument, the case was submitted on August 16, 2005.

FACTUAL FINDINGS

1. Complainant Janice A. Waddell, a Deputy Commissioner in the Department, filed the Statement of Issues in this matter in her official capacity.
2. On or about February 25, 2004, Respondent applied to the Department for a real estate broker license pursuant to the California Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code). In that application, Respondent disclosed the criminal convictions set forth below.

3. On or about August 7, 1997, in the Superior Court of California, County of Orange, in Case No. 97WM03422, Respondent, upon a plea of guilty, was convicted of a violation of Vehicle Code section 23103, subdivision (a), reckless driving, a misdemeanor. The court placed Respondent on informal probation for a period for 3 years on certain terms and conditions including the payment of \$676 in fines and assessments and attendance at 1 Madd Panel meeting. Respondent had trouble in paying that amount and was found to have violated probation. He served time in the county jail. All terms and conditions of the courts order have now been met.

4. On or about March 25, 1998, in the Superior Court of California, County of Orange, in Case No. 97NT3037, Respondent, upon a plea of guilty, was convicted of a violation of Vehicle Code section 14601.2, subdivision (a), driving with a suspended license, a misdemeanor. The court placed Respondent on informal probation for a period of 3 years on certain terms and conditions including serving 10 days in the county jail and payment of a fine and fees. All terms and conditions of the court order have been met.

5. On or about April 9, 1998, in the Superior Court of California, County of Orange, in Case No. 97HM08511MA, Respondent was convicted of violating Vehicle Code section 14601.5, subdivision (a), driving while license suspended or revoked, a misdemeanor. The court placed Respondent on informal probation for a period of 3 years on certain terms and conditions including payment of a fine and assessments in the total amount of \$946. All of the terms and conditions of the court order have been completed.

6. On or about April 30, 1998, in the Superior Court of California, County of Orange, in Case No. 98WM00832MA, Respondent, upon a plea of guilty, was convicted of violating Vehicle Code section 14601.5, subdivision (a), driving while license suspended or revoked. The court placed Respondent on informal probation for a period of 3 years on certain terms and conditions including serving 10 days in the county jail and payment of a fine and charges totaling \$1,486.00. All terms and conditions of the court order have been met.

7. On or about April 30, 1998, in the Superior Court of California, County of Orange, in Case No. 97WM08898MA, Respondent, upon a plea of guilty, was convicted of violating Vehicle Code section 14601.5, subdivision (a), driving while license suspended or revoked. The court placed Respondent on informal probation for a period of 3 years upon certain terms and conditions including a fine and assessments of \$946.00. All terms and conditions of the court order have been met.

8. On or about November 19, 1998, in the Superior Court of California, County of Orange, in Case No. 99WF0038FA, Respondent, upon a plea of guilty, was convicted of violating Health and Safety Code sections 11378, possession of barbiturates and/or stimulants, a felony, and 11370.1, subdivision (a), possession of a

controlled substance with firearm, a felony. The court sentenced Respondent to state prison for a period of 2 years.

9. On or about November 29, 1999, in the Superior Court of California, County of Orange, in Case No. 98HF0337MA, Respondent, upon a plea of guilty, was convicted of violating Health and Safety Code section 11377, subdivision (a), possession of barbiturates and/or stimulants, a misdemeanor. The court placed Respondent on informal probation for a period of 3 years on certain terms and conditions including 90 days in the county jail. The time in jail was to be concurrent with that imposed by the court in Paragraph 8 above.

10. On or about November 30, 1999, in the Superior Court of California, County of Orange, in Case No. 99WF2463FA, Respondent, upon a plea of guilty, was convicted of a violation of Health and Safety Code section 11378, possession of barbiturates and/or stimulants for sale. The court sentenced Respondent to state prison for a period of 16 months and required him to register as a narcotics offender pursuant to Health and Safety Code section 11590. The sentence imposed was to be served concurrently with the sentence imposed by the court in Paragraph 8 above.

11. On December 10, 2000, Respondent completed his state prison sentence. He received an early discharge from parole on January 7, 2002. All of the terms and conditions imposed on Respondent by the courts have been met.

12. The matters described in Paragraphs 3 through 11, above, involve moral turpitude and are substantially related to the functions, duties and responsibilities of a real estate licensee.

13. Sometime prior to his first conviction, Respondent started his own attorney service company. He needed to use an automobile to serve papers and make filings. As a result, he continued to drive after his drivers license was suspended resulting in his first convictions. Respondent also was the manager of an apartment complex. His later convictions centered around materials found in the complex.

14. For a period of approximately two years (1997-1999) Respondent's life was out of control. During that time he was abusing illegal drugs including speed, ecstasy, pot and valium. In Respondent's opinion, the best thing that happened to him was being sent to state prison because it caused him to change the direction of his life. Upon arriving in prison, he was assigned to work for the Catholic chaplain, Father Bucaro. Through the chaplain's influence and his beginning to read the Bible, Respondent had a spiritual awakening. He was involved with Prison Ministries and found a new direction for his life. He was baptized and joined the Catholic Church. (Respondent has continued to be in contact with Father Bucaro since leaving prison.)

15. Upon being released from prison, Respondent re-enrolled in college attending California State University Long Beach. On August 23, 2002, he received his Bachelor of Science degree in Business Administration: Finance.

16. Respondent has been employed for the past 3 years by Green Point Mortgage Company. He is an account executive and has been promoted to a more responsible position. His present assignments do not require him to have a license from the Department. Respondent has completed the courses required for a broker's license, however.

17. At the time of his convictions, Respondent was not married. Just prior to entering state prison he married his wife. They have now been married 6 years. They have two children ages 2 years and 6 months. Respondent has a strong family support network including assistance provided by his wife's family.

18. Respondent's wife has her own business. She was not a part of his past criminal activities and was very concerned about the direction of Respondent's life during that time. During the time Respondent was in prison she regularly visited him. She strongly supports him in his present endeavors.

19. Respondent and his wife are active in Prison Ministries. They regularly go to state prisons and work with the inmates. His wife talks about not using illegal drugs. Respondent gives messages about his experiences and teaches life skills classes. They encourage prisoners to get away from people who do drugs.

20. Respondent attends Alcoholic's Anonymous 3 times a week. He has a sponsor and is a sponsor of others in his group. Respondent has been clean and sober for more than 5 years.

21. Respondent takes full responsibility for his past problems and expressed great remorse for the problems he had caused. He no longer associates with the people he knew at that time. He has learned he has to take responsibility for his actions.

22. Respondent has an unrestricted driver's license at the present time.

23. Brian Cotter, a real estate broker for over 11 years, indicated in a letter filed in these proceedings, that he would supervise Respondent if a license was issued.

24. Respondent presented 6 letters of recommendation at the hearing recommending him highly. They were written by Father Bucaro (his chaplain in prison); a real estate broker, his wife, his father-in-law, and three business people who have known him for many years. None of them consider Respondent to be a threat to anyone.

25. Respondent was a credible and truthful witness.

LEGAL CONCLUSIONS

1. Cause exists, pursuant to Code sections 480, subdivision (a), and 10177, subdivision (b), to deny Respondent's application for a real estate broker license in that he has been convicted of the crimes set forth in Paragraphs 3 through 11 of the Factual Findings which involve moral turpitude and are substantially related to the functions, duties and responsibilities of a real estate licensee. California Code of Regulations, title 10, section 2910, subdivision (a) (8).

2. It has been more than 5 years since Respondent's last conviction and more than 3 years since the early termination of his parole. All of the terms and conditions of Respondent's sentences have been met. He has abstained from use of controlled substances and alcohol for the past 5 years. He has obtained a university bachelor's degree in Finance. He no longer associates with the people he knew at the time of his convictions. He has a new and different set of social and business relationships. There is a complete change in attitude on his part to which is verified by his family members and friends. He is significantly and conscientiously participating in community and church activities through his work with the prison ministry program, Alcoholics Anonymous and church. Consequently, Respondent has substantially met the Department's criteria for rehabilitation set forth in California Code of Regulations, title 10, section 2911. However, Respondent was convicted of several serious crimes and, under these circumstances he should continue to be monitored for a period of time to insure his recovery continues. During the closing argument, both counsel agreed that even though Respondent had applied for a broker license, the court had authority to order the issuance of either a broker or salesperson license in either a restricted or unrestricted form. It would be inappropriate to grant the requested broker license in that such a licensee works independently. Therefore, consistent in insuring the protection of the public, issuance of a restricted salesperson license to Respondent is appropriate. This finding is based upon Paragraphs 2 through 25 of the Factual Findings.

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ORDER

Respondent's application for a real estate broker 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 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 two years have 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 a course in real estate practices and one 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

*not
adopted*

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: September 16, 2005.


N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

SACD.
File

FILED
FEB 10 2005
DEPARTMENT OF REAL ESTATE

By 

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-31668 LA
STEPHEN ROSS SHERMOEN, JR.,)	<u>STATEMENT OF ISSUES</u>
Respondent.)	

The Complainant, Janice A. Waddell, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against STEPHEN ROSS SHERMOEN, JR. (Respondent), is informed and alleges in her official capacity as follows:

1.

On or about February 25, 2004, Respondent applied to the Department of Real Estate of the State of California for a real estate broker license.

CRIMINAL CONVICTIONS

2.

On or about November 30, 1999, in the Superior Court of California, County of Orange, in Case No. 99WF2463FA, Respondent was convicted of violating California Health and Safety Code

1 Section 11378 (Possession of Barbiturates, Stimulants For Sale),
2 a felony.

3 3.

4 On or about November 29, 1999, in the Superior Court of
5 California, County of Orange, in Case No. 98HF0337MA, Respondent
6 was convicted of violating California Health and Safety Code
7 Section 11377(a) (Possession of Barbiturates, Stimulates), a
8 misdemeanor.

9 4.

10 On or about November 19, 1999, in the Superior Court of
11 California, County of Orange, in Case No. 99WF0038FA, Respondent
12 was convicted of violating California Health and Safety Code
13 Section 11378 (Possession of Barbiturates, Stimulants), a felony;
14 and violating California Health and Safety Code Section
15 11370.1(a) (Possession of a Controlled Substance with Firearm), a
16 felony.

17 5.

18 On or about April 30, 1998, in the Superior Court of
19 California, County of Orange, in Case No. 97WM08898MA, Respondent
20 was convicted of violating California Vehicle Code Section
21 14601.5(a) (Driving While License Suspended or Revoked), a
22 misdemeanor.

23 6.

24 On or about April 30, 1998, in the Superior Court of
25 California, County of Orange, in Case No. 98WM00832MA, Respondent
26 was convicted of violating California Vehicle Code Section
27

1 14601.5(a) (Driving While License Suspended or Revoked), a
2 misdemeanor.

3 7.

4 On or about April 9, 1998, in the Superior Court of
5 California, County of Orange, in Case No. 97HM08511MA, Respondent
6 was convicted of violating California Vehicle Code Section
7 14601.5(a) (Driving While License Suspended or Revoked), a
8 misdemeanor.

9 8.

10 On or about March 25, 1998, in the Superior Court of
11 California, County of Orange, in Case No. 97NT3037, Respondent
12 was convicted of violating California Vehicle Code Section
13 14601.2(a) (Driving With Suspended License), a misdemeanor.

14 9.

15 On or about August 7, 1997, in the Superior Court of
16 California, County of Orange, in Case No. 97WM03422, Respondent
17 was convicted of violating California Vehicle Code Section
18 23103(a) (Reckless Driving), a misdemeanor.

19 10.

20 The matters described in Paragraphs 2 through 9, above,
21 involve moral turpitude and are substantially related to the
22 functions, duties and responsibilities of a real estate licensee.

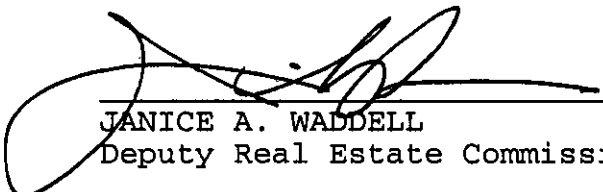
23 11.

24 The matters described in Paragraphs 2 through 9, above,
25 constitute cause for denial of Respondent's application for a
26 real estate broker license under Code Sections 480(a) and/or
27 10177(b).

1 The Statement of Issues is brought under the provisions
2 of Section 10100, Division 4 of the Business and Professions Code
3 of the State of California and Sections 11500 through 11528 of
4 the Government Code.

5 WHEREFORE, the Complainant prays that the above-
6 entitled matter be set for hearing and, upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of, a real estate broker
9 license to Respondent STEPHEN ROSS SHERMOEN, JR., and for such
10 other and further relief as may be proper in the premises.

11 Dated at Los Angeles, California,
12 this 12 day of January, 2005.

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15 JANICE A. WADDELL
16 Deputy Real Estate Commissioner
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25 cc: Stephen Ross Shermoen, Jr.
26 Sacto.
27 Janice A. Waddell
LA