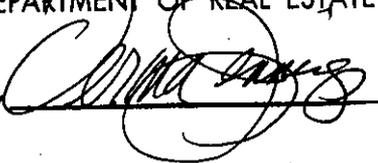


DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Application of) No. H-33265 LA
)
) L-2006100980
)
TONY HALIEM AYOUB,)
)
)
)
Respondent.)

DECISION

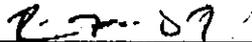
The Proposed Decision dated January 10, 2007, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

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.

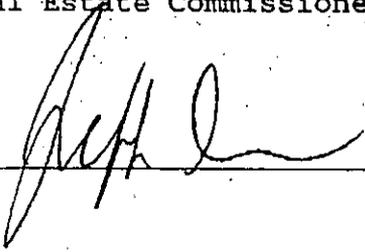
If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on March 1, 2007.

IT IS SO ORDERED



JEFF DAVI
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

TONY HALIEM AYOUB,

Respondent.

Case No. H-33265 LA

OAH No. L2006100980

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on December 14, 2006, in Los Angeles, California.

James R. Peel, Real Estate Counsel represented Deputy Real Estate Commissioner Janice A. Waddell (Complainant).

Mary E. Work, Esq., The Law Offices of Mary E. Work represented Tony Haliem Ayoub (Respondent). Respondent was present.

The parties submitted the matter for decision on December 14, 2006.

FACTUAL FINDINGS

1. Respondent applied for a real estate salesperson license on or about September 22, 2005. On July 6, 2006, Complainant, in her official capacity, signed the Statement of Issues. On September 23, 2006, Respondent signed the Notice of Defense. On October 17, 2006, Respondent's counsel signed a second Notice of Defense. This action then ensued.

2. Complainant contends Respondent's application should be denied because the Bureau of Automotive Repair (BAR) revoked Respondent's automotive repair-related licenses in 2003, and, in 2005, the BAR denied Respondent's application for two other automotive repair-related licenses. (Bus. & Prof. Code § 10177, subd. (f).)

3. Respondent contends his application should be granted because the actions underlying his 2003 revocations and 2005 denials occurred more than six years ago. He further contends, if licensed as a real estate salesperson, he would not be a danger to the public.

4. For the reasons set forth below, Respondent proved, if granted a restricted real estate salesperson license, he would not be a danger to the public.

5. On or about September 22, 2005, Respondent submitted an application to the Department of Real Estate for a real estate salesperson license, on the condition that any license issued as a result of that application would be subject to completion of certain educational requirements, as set forth in Business and Professions Code section 10153.4, subdivision (c).

6. Effective April 17, 2003, and after an administrative hearing, the BAR revoked Respondent's Automotive Repair Dealer Registration (AA186982), Smog Check Station License (RA186982), and Advanced Emission Specialist Technician License (EA309290) (*In the Matter of the Accusation Against Tony Haliem Ayoub, Owner of Hitek Auto Centers and Tony Haliem Ayoub*, case number 79/02-74). Respondent had held the three licenses since approximately 1996. In that matter, an Administrative Law Judge found Respondent committed acts of fraud and deceit in August and November 2000, violating provisions of the Business and Professions Code and the Health and Safety Code. The BAR uncovered Respondent's violations by using three separate undercover operations at Respondent's auto shop.

7. In May 2004, Respondent applied to the BAR for a smog check technician license and a lamp adjuster license. Effective September 22, 2005, the BAR denied Respondent's applications (*In the Matter of the Statement of Issues Against Tony Haliem Ayoub*, case number 79/02-74S). In that matter, an administrative hearing was held and an Administrative Law Judge considered, among other things, the Bureau's April 17, 2003 decision revoking Respondent's previously held licenses. (See, Factual Finding 6.) In his proposed decision, the Administrative Law Judge found Respondent had accepted responsibility for his wrongdoing and had shown sufficient rehabilitation to be granted probationary smog check technician and lamp adjuster licenses. The Administrative Law Judge's proposed decision placed both licenses on five years of probation under a number of terms and conditions. However, on April 6, 2005, the BAR ordered the nonadoption of the Administrative Law Judge's proposed decision and issued its own decision, wherein it found Respondent had not proven he was qualified and sufficiently rehabilitated to be granted the licenses for which he applied.

8. Though Respondent worked in the auto repair industry for over a decade, he now seeks to work in a less physically demanding career. He is currently working as an account executive for a mortgage company in La Palma, California. He enjoys his work and seeks a real estate salesperson license to further his career.

9. As a deacon, Respondent is very involved in his church. He assists in services and he helps elderly parishioners attend mass. Respondent's parish priest has known Respondent since approximately 1998 and he is aware of the earlier BAR revocations and denials. Respondent's parish priest believes Respondent is honest and trustworthy.

10. Respondent unwillingly separated from his wife and two children, sometime in approximately 1999. While Respondent remained in the United States, his wife and children moved to his native Egypt over several months' time. Thereafter, on a date uncertain, his

family rejoined him in the United States. Now, Respondent, his wife, and two children all live together. His wife describes Respondent as a good husband and father. Respondent recognizes his conduct underlying the 2003 revocations was wrong, noting he exercised bad judgment. He has taken responsibility for those actions and he has changed his ways to become a better person than what he exemplified in 2000.

LEGAL CONCLUSIONS

1. Cause exists to deny issuance of a real estate salesperson license to Respondent, pursuant to Business and Professions Code section 10177, subdivision (f), for the Bureau of Automotive Repair's previous license revocations and application denials, as set forth in Factual Findings 1, 5-10, and Legal Conclusions 2-6.

2. Business and Professions Code section 10177, subdivision (f) states in pertinent part:

The commissioner may . . . deny the issuance of a license to an applicant, who has done any of the following . . .

[¶] . . . [¶]

(f) Acted or conducted himself . . . in a manner that would have warranted the denial of his . . . application for a real estate license, or has either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked . . . for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act . . . and only upon an express finding of a violation of law by the agency or entity.

3. California Code of Regulations, title 10, section 2911 states, in pertinent part:

The following criteria have been developed by the department . . . for the purpose of evaluating the rehabilitation of an applicant for issuance . . . of a license in considering whether or not to deny the issuance . . . on account of a[n] . . . act committed by the applicant:

(a) The passage of not less than two years since the most recent . . . 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.)

[¶] . . . [¶]

(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.

[¶] . . . [¶]

(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 the applicant.

(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

4. The Bureau of Automotive Repair's 2003 decision revoking Respondent's licenses established cause to deny Respondent's real estate salesperson license application. (See, Bus. & Prof. Code § 10177, subs. (f) & (j).) Respondent's actions in 2000 compromised his honesty and integrity. However, Respondent sustained his burden sufficiently to be issued a restricted real estate salesperson license by his evidence of rehabilitation and the absence of additional acts of wrongdoing since 2000.

5. Respondent met five regulatory criteria of rehabilitation. More than six years have passed since Respondent's actions that induced the BAR's revocations and denials. (Cal. Code Regs., tit. 10, § 2911, subd. (a).) Respondent established that he has a stable family life and that he fulfills his parental and familial responsibilities. (Cal. Code Regs., tit. 10, § 2911, subd. (h).) He is conscientiously and significantly involved in his church. (Cal. Code Regs., tit. 10, § 2911, subd. (l).) By changing his career path, he has new and different business relationships from those which existed at the time he worked in the auto repair business. (Cal. Code Regs., tit. 10, § 2911, subd. (m).) Lastly, he exhibited a change in attitude by taking responsibility for his actions and recognizing his earlier actions were wrong. (Cal. Code Regs., tit. 10, § 2911, subd. (n).)

6. There was no evidence that Respondent has engaged in any fraudulent acts or other wrongful conduct since his actions in 2000. He has met a significant number of regulatory rehabilitative criteria. He testified credibly at hearing as to his change in attitude. Therefore, the public would be adequately protected if Respondent were issued a restricted real estate salesperson license, as described in the following Order.

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 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

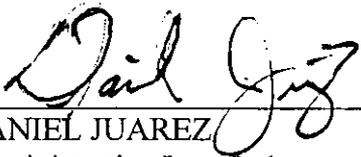
(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

///

4. Respondent shall, within eighteen 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 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 Respondent of lifting of the suspension.

5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

DATED: January 10, 2007



DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

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FILED
SEP 22 2008

DEPARTMENT OF REAL ESTATE

By



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2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Application of)	No. H-33265 LA
12	TONY HALIEM AYOUB,)	<u>STATEMENT OF ISSUES</u>
13	Respondent.)	
14	_____)	

15
16 The Complainant, Janice A. Waddell, a Deputy Real
17 Estate Commissioner of the State of California, for Statement of
18 Issues against TONY HALIEM AYOUB (Respondent) is informed and
19 alleges in her official capacity as follows:

20 I

21 On or about October 27, 2005, Respondent applied to the
22 Department of Real Estate of the State of California for a real
23 estate salesperson license with the knowledge and understanding
24 that any license issued as a result of that application would be
25 subject to the conditions of Section 10153.4 of the Business and
26 Professions Code.
27

II

1 On or about April 17, 2003, the Department of Consumer
2 Affairs, Bureau of Automotive Repair, State of California, Case
3 No. 79/02-74, revoked all licenses, registrations and
4 certifications issued to Respondent.
5

III

6 On or about September 22, 2005, the Department of
7 Consumer Affairs, Bureau of Automotive Repair, State of
8 California, Case No. 79/02-72 S, denied Respondent's application
9 for a Lamp Adjuster License and a Smog Check Technician License.
10

IV

11 The matters described in Paragraphs II and III
12 constitute cause for denial of Respondent's application for a
13 real estate salesperson license under Section 10177(f) of the
14 California Business and Professions Code.
15

16 The Statement of Issues is brought under the provisions
17 of Section 10100, Division 4 of the Business and Professions Code
18 of the State of California and Sections 11500 through 11528 of
19 the Government Code.

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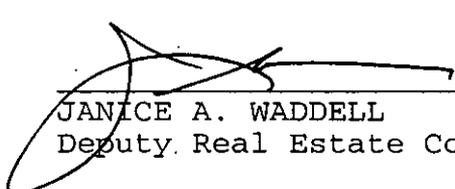
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27

1 WHEREFORE, the Complainant prays that the above-
2 entitled 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 TONY HALIEM AYOUB and for such other and
6 further relief as may be proper in the premises.

7 Dated at Los Angeles, California,

8 this 6 day of July, 2006.

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10
11 
12 JANICE A. WADDELL
13 Deputy Real Estate Commissioner
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22
23

24 cc: Tony Haliem Ayoub
25 Superstars, Inc.
26 Janice A. Waddell
27 Sacto.