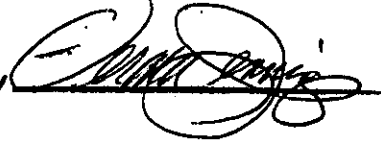


FILED
NOV 24 2010

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

RICHARD DAVID ADAMS,

Respondent.

No. H-34354 LA.

ORDER DENYING REINSTATEMENT OF LICENSE AND
GRANTING RIGHT TO A RESTRICTED LICENSE

Respondent's real estate salesperson license was revoked effective May 19, 2008.

In 2005, Respondent had three (3) convictions for being under the influence of a controlled substance and one conviction for false evidence of vehicle registration.

On or about July 13, 2009, Respondent petitioned for reinstatement of said license.

The Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate

1 salesperson license.

2 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
3 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
4 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
5 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

6 The Department has developed criteria in Title 10, California Code of Regulations
7 ("Regulations") Section 2911 to assist in evaluating the rehabilitation of an applicant for
8 reinstatement of a license. Among the criteria relevant in this proceeding are:

9 Regulation 2911(a) - passage of sufficient time to show rehabilitation

10 Additional time is needed to assess Respondent's rehabilitation.

11 Regulation 2911(j) – Discharge of, or bona fide efforts toward discharging,
12 adjudicated debts or monetary obligations to others.

13 Respondent has not submitted such proof for a 2007 civil judgment and a Federal
14 tax debt.

15 Regulation 2911(l) – Significant or conscientious involvement in community,
16 church or privately-sponsored programs designed to provide social benefits or to ameliorate
17 social problems.

18 Respondent has not provided such proof.

19 Given the fact that Respondent has not established that Respondent has complied
20 with Regulations 2911(a), (j) and (l), I am not satisfied that Respondent is sufficiently
21 rehabilitated to receive a real estate salesperson license.

22 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
23 reinstatement of Respondent's real estate salesperson license is denied.

24 I am satisfied, however, that it will not be against the public interest to issue a
25 restricted real estate salesperson license to Respondent.

26 ///

27 ///

1 A restricted real estate salesperson license shall be issued to Respondent pursuant
2 to Code Section 10156.5 if Respondent satisfies the following requirements:

- 3 (a) submits a completed application and pays the fee for a real estate salesperson
4 license within the 12 month period following the date of this Order; and
5 (b) submits proof that Respondent has completed the continuing education
6 requirements for renewal of the license sought. The continuing education
7 courses must be completed either (i) within the 12 month period preceding the
8 filing of the completed application, or (ii) within the 12 month period
9 following the date of this Order.

10 The restricted license issued to Respondent shall be subject to all of the provisions
11 of Code Section 10156.7 and to the following limitations, conditions and restrictions imposed
12 under authority of Code Section 10156.6:

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

17 2. The restricted license issued to Respondent may be suspended prior to hearing
18 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
19 Respondent has violated provisions of the California Real Estate Law, Regulations of the Real
20 Estate Commissioner or conditions attaching to the restricted license.

21 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
22 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
23 restricted license until two (2) years have elapsed from the effective date of this Decision.

24 4. Respondent shall submit with any application for license under an employing
25 broker, or any application for transfer to a new employing broker, a statement signed by the
26 prospective employing real estate broker on a form approved by the Department of Real Estate
27 which shall certify:

1 (a) That the employing broker has read the Decision of the Commissioner which
2 granted the right to a restricted license; and

3 (b) That the employing broker will exercise close supervision over the
4 performance by the restricted licensee relating to activities for which a real estate license is
5 required.

6 This Order shall become effective at 12 o'clock noon on DEC 14 2010

7 IT IS SO ORDERED 10/20/2010

8 JEFF DAVI
9 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

FILED
APR 28 2008
DEPARTMENT OF REAL ESTATE

By Laura B. Don

In the Matter of the Accusation of)	No. H-34354 LA
)	
RICHARD DAVID ADAMS,)	L-2007100885
)	
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated March 19, 2008, 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 MAY 19 2008

IT IS SO ORDERED

4-22-08
JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RICHARD DAVID ADAMS,

Respondent.

Case No. H-34354 LA

OAH No. L2007100885

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 5, 2008.

James R. Peel, Staff Counsel, represented Maria Suarez (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Richard David Adams (Respondent) represented himself.

Oral and documentary evidence was received, and the matter argued. At the conclusion of the hearing, the record was held open to permit Respondent to submit letters of recommendation. Time was also provided Complainant to file a response to Respondent's submittal. Three letters on behalf of Respondent were filed on February 11, 13, and 14 respectively. No response was received from Complainant. The three letters are marked as Respondent's Exhibit A and are received in evidence as administrative hearsay.

The case was submitted for decision on March 5, 2008.

FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in her official capacity.

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

3. Respondent was originally licensed as a real estate salesperson by the Department in February 1980. Respondent's license expired on February 7, 2008. (Pursuant to Business and Professions Code section 10103, the Department retains jurisdiction over lapsed licenses.)

4. On June 14, 2005, in the California Superior Court, County of Orange, Respondent, upon his guilty plea, was convicted of violating Health and Safety Code sections 11377, subdivision (a), possession of a controlled substance, a felony, and 11364, possession of controlled substance paraphernalia, a misdemeanor. The court suspended sentencing Respondent and placed Respondent on formal probation for three years on certain terms and conditions including serving ninety days in the county jail which was stayed pending Respondent's completion of a ninety residential program. Respondent was also ordered to pay certain fines and fees. On May 15, 2006, Respondent appeared in court for a violation of probation hearing. As a result of the hearing Respondent's probation was reinstated and modified and probation was terminated. Respondent was released on this case only.

5. The facts and circumstances leading to Respondent's conviction set forth in Paragraph 4 above are as follows: On April 18, 2005, at 2:30 in the morning, Respondent was observed by police with his automobile parked in a car wash stall with its trunk and driver's side door open. Respondent told the police that he had had a garage sale earlier the day before and had come to the car wash to clean out his automobile. Respondent was found to be under the influence of a controlled substance and was taken into custody. A search of the automobile was made.

6. On June 14, 2005, in the California Superior Court, County of Orange, Respondent, upon his guilty plea, was convicted of violating Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, a felony, and Vehicle Code section 4462.5, false evidence of registration, a misdemeanor. The court suspended sentencing Respondent and placed Respondent on formal probation for a period of three years upon certain terms and conditions including serving ninety days in the county jail which was stayed pending Respondent's completion of a ninety day residential treatment program.

7. The facts and circumstances leading to Respondent's conviction set forth in Paragraph 6 above are as follows: On April 20, 2005, in the early afternoon, a police officer observed Respondent and another man riding in Respondent's automobile. They were turning into a motel parking lot. The officer ran a Department of Motor Vehicles check on the vehicle and found that its registration had expired. However, the officer observed what appeared to be a current registration tab on the rear license plate. The officer ordered Respondent to stop his vehicle to determine the status of the vehicle's

registration. Respondent admitted to the police officer that the vehicle's registration had expired and he had taken a tab off of another vehicle and taped to his automobile's license plate. The officer conducted a search of Respondent's vehicle and found approximately one gram of white crystallized powder in a box. The officer searched the passenger and found a like amount of powder in the passenger's possession in a similar box. The men were arrested.

8. In Aggravation. On September 29, 2005, in the California Superior Court, County of Orange, Respondent, upon his guilty plea, was convicted of violating Health and Safety Code section 11550, subdivision (a), under the influence of a controlled substance – methamphetamine, a misdemeanor. The court suspended the imposition of sentence and Respondent was placed on informal probation for a term of three years upon certain terms and conditions including serving ninety days in the county jail which was stayed pending Respondent's successful completion of a ninety day residential treatment program. (The facts and circumstances leading to this conviction occurred on April 18, 2005 and are described in Paragraph 5 above.)

9. After his sentencing in June 2005, Respondent was unable to get into a residential care facility so he was incarcerated in the J. A. Music Facility for four months with two months off for good behavior. Respondent remains on formal probation until June 28, 2008.

10. Upon his release from the jail facility in August 2006, Respondent was able to get into a drug diversion program. He completed the Penal Code 1000 therapy program and another drug diversion program. During this time, Respondent attended Alcoholics and Narcotics Anonymous meetings. At the present he does not attend such meetings regularly but does seek assistance in maintaining abstinence from his church in which he is very active.

11. Respondent has been drug free since he was released from jail in August 2006. He has also successfully passed all drug tests which he has been given.

12. During the course of therapy it was found that Respondent is bi-polar and manic depressive. This is being handled through medication.

13. Respondent has been in the real estate business for more than twenty-five years. He was a listing agent. No prior administrative actions have been filed against his salesperson license. Respondent has completed eight of the courses to qualify for a broker's license.

14. Respondent, for many years, lived a normal life until he was offered methamphetamines socially and subsequently became addicted to the drug. He was on this drug for three or four years. It has had a profound effect upon his life. This came at a time of mid-life crisis for Respondent.

15. Respondent and his wife were divorced in 2006. They have two grown children ages 22 and 23.

16. For the past year, Respondent has lived with his father.

17. For the past year and one-half, Respondent has been employed at a Catholic Bookstore and Gift Shop. Respondent's employer submitted a letter of recommendation stating that Respondent is an exemplary, responsible and trustworthy employee. Respondent maintains the stock and handles online orders and phone calls from the store website.

18. Respondent's former real estate broker submitted a letter of recommendation. The broker has known Respondent for twenty-five years. He stated that Respondent is honest, hard working and respected. The broker would reemploy Respondent.

19. Respondent is active in the Knights of Columbus.

20. Respondent no longer associates with people on drugs. He is embarrassed and ashamed of how he has let his children down. As a result of his criminal convictions and therapy, Respondent states that he will never again become involved with drugs. He has positively changed his way of life. He has had no slips back to his former ways since his incarceration and has been free of drugs since that time.

LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. Respondent's 2005 criminal convictions involve moral turpitude and are, by virtue of the provisions of the California Code of Regulations, title 10, section 2910, subdivision (a) (11), substantially related to the qualifications, functions or duties of a licensee of the Department in Respondent has two or more convictions involving driving and the use of drugs.

3. Cause exists, by virtue of Business and Professions Code sections 490 and 10177, subdivision (b), to suspend or revoke Respondent's license and license rights from the Department due to her criminal conviction.

4. The Department's Criteria of Rehabilitation, set forth in California Code of Regulations, title 10, section 2912, provides factors to be considered in evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee. The criteria require the passage of at least two years from the time of the most recent criminal conviction. It has been over two years since

Respondent's most recent conviction. Respondent will complete formal probation in June of this year. Respondent has successfully completed drug treatment programs and has not used illegal drugs since his release from county jail in August 2006. He has completely changed his way of life and no longer associates with people using illegal drugs. Respondent has been a real estate salesperson for more than twenty-five years without any previous administrative action being filed against him. He has no other criminal convictions. Respondent is active in his church and a fraternal organization. He presently lives with his father and they have a close relationship. Respondent's former supervising broker praised Respondent as an honest and hardworking person whom the broker will rehire. Respondent also submitted a letter of recommendation from his current employer praising Respondent's abilities. Given the foregoing, it would appear that with close supervision of Respondent provided by a restricted license the public interest will be protected.

ORDER

All licenses and licensing rights of Respondent Richard Davis Adams, under the Real Estate Law, are revoked; provided, however, a restricted real estate salesperson 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 Department of Real Estate 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:

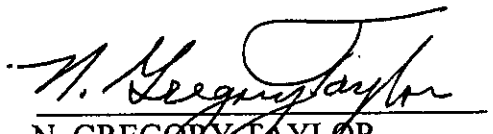
1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The 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 two years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Professional Responsibility Condition: Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes, the examination.

DATED: March 19, 2008.


N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

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

FILED

OCT - 2 2007

DEPARTMENT OF REAL ESTATE

BY: Laura B. Quinn

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-34354 LA
RICHARD DAVID ADAMS,) A C C U S A T I O N
Respondent.)

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

1.

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

2.

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 salesperson.

3.

1 In aggravation, on or about September 29, 2005, in the
2 Superior Court of California, County of Orange, in case no.
3 05WM07993, Respondent was convicted of violating California
4 Health and Safety Code Section 11550(a) (under the influence of
5 a controlled substance), a misdemeanor.
6

7 4.

8 On or about June 14, 2005, in the Superior Court of
9 California, County of Orange, in case no. 05WF1547, Respondent
10 was convicted of violating California Health and Safety Code
11 Sections 11377(a) (under the influence of a controlled
12 substance), a felony. The underlying facts of this crime
13 involve moral turpitude, which bears a substantial relationship
14 under Section 2910, Title 10, Chapter 6, California Code of
15 Regulations to the qualifications, functions or duties of a real
16 estate licensee. In aggravation, Respondent was also convicted
17 of violating California Health and Safety Code Section 11364
18 (possession of controlled substance paraphernalia), a
19 misdemeanor.
20

21 5.

22 On or about June 14, 2005, in the Superior Court of
23 California, County of Orange, in case no. 05WF1200, Respondent
24 was convicted of violating California Vehicle Code Section
25 4462.5 (false evidence of registration), a misdemeanor and
26 violating California Health and Safety Code Section 11377(a)
27 (under the influence of a controlled substance), a felony. The

1 underlying facts of these crimes involve moral turpitude, which
2 bear a substantial relationship under Section 2910, Title 10,
3 Chapter 6, California Code of Regulations to the qualifications,
4 functions or duties of a real estate licensee.

5 6.

6 The crimes of which Respondent was convicted, as
7 described in Paragraphs 4 and 5 above, constitute cause under
8 Sections 490 and 10177(b) of the Code for the suspension or
9 revocation of the license and license rights of Respondent under
10 the Real Estate Law.

11 WHEREFORE, Complainant prays that a hearing be
12 conducted on the allegations of this Accusation and that upon
13 proof thereof, a decision be rendered imposing disciplinary
14 action against all the licenses and license rights of
15 Respondent, RICHARD DAVID ADAMS, under the Real Estate Law (Part
16 1 of Division 4 of the Business and Professions Code) and for
17 such other and further relief as may be proper under other
18 applicable provisions of law.

19 Dated at Los Angeles, California

20 this 20th day of September, 2007.

21
22
23
24 
Maria Suarez
Deputy Real Estate Commissioner

25 cc: RICHARD DAVID ADAMS
26 Maria Suarez
27 Sacto.