

FILED
AUG 14 2008
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By James B. Olin

* * * * *

In the Matter of the Application of) No. H-34719 LA
) L-2008040117
GEORGE A RAMOS,)
)
Respondent.)
)

DECISION

The Proposed Decision dated July 22, 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 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 SEP - 3 2008.

IT IS SO ORDERED 8/12/08.

JEFF DAVI
Real Estate Commissioner

Barbara J. Bigby

BY: Barbara J. Bigby
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

GEORGE A. RAMOS,

Respondent.

Case No.: H-34719 LA

OAH No.: L2008040117

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on July 8, 2008.

Martha Rosett, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Frank Buda, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

Parties

1. Complainant Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Statement of Issues in his official capacity.

2. On May 16, 2006, Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license, with the knowledge and understanding that any license issued as a result of the application would be subject to the conditions of Business and Professions Code section 10153.4.

Criminal Convictions

3. While a youth Respondent had a child out-of-wedlock and become responsible for the financial support of the child. During a time when he worked for the minimum wage he fell into arrears in child support payments and was subjected to misdemeanor criminal proceedings. On June 17, 1999, in the Municipal Court of California, County of Los Angeles, in Case No. 9CR04259, Respondent was convicted of violating Penal Code section 166, subdivision (a)(4) (contempt of court; disobeying court order). Contempt of court is conduct which is substantially related to the qualifications, functions and duties of a real estate licensee.¹

4. During the early morning hours of September 22, 2002, Respondent left a party in the "inner city" of Los Angeles. While crossing Main Street toward 82nd Street a male, unknown to Respondent, fired a weapon in Respondent's direction. Respondent, in a state of anger went to a friend's house, borrowed a handgun, and returned to the scene. He did not see the person that took a shot at him. He confronted another male. He and the other male exchanged words. Respondent then fired a single shot into the floor and walked away. Police responded to a call and Respondent was arrested without incident. Respondent was subsequently subjected to criminal proceedings. Thereafter, on April 1, 2003, in the Superior Court of California, County of Los Angeles, in Case NO. BA236871, Respondent was convicted of violating Penal Code section 245, subdivision (b) (assault with a deadly weapon/semiautomatic firearm), a felony and crime of moral turpitude. The crime constitutes the doing of a unlawful act with the threat of doing substantial injury to the person of another. Accordingly, the crime is substantially related to the qualifications, functions and duties of a real estate licensee.²

Rehabilitation

5. As a result of the 1999 conviction Respondent was placed on three years probation, the terms and conditions of which included payment of child support arrearages and monthly child support. Respondent was found in violation of probation. On November 19, 2001, probation was revoked and modified before being reinstated. New terms included serving 90 days in jail, which was stayed conditioned upon Respondent's compliance with payment of arrears of \$11,804.83, and monthly payments. Respondent did come into compliance with payment of arrears and did fulfill all conditions of probation. Respondent did file proof, at this hearing, that he is current in child support payments.

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¹ California Code of Regulations, title 10, section 2910, subdivision (a)(10).

² California Code of Regulations, title 10, section 2910, subdivision (a)(8).

6. As a result of the 2003 conviction imposition of sentence was suspended, and Respondent was placed on three years formal probation, and served approximately six weeks in jail and paid a restitution fine. Respondent did timely pay the fine and did comply with all conditions of probation. On October 18, 2006, the court found that Respondent had successfully completed probation and, therefore, granted Respondent's petition pursuant to Penal Code section 1203.4, that is, Respondent's conviction was set aside and the case dismissed.

7. Respondent has taken the courses necessary for licensure as Real Estate agent. Additionally on his own initiative, he took six additional Department approved real estate courses to increase his knowledge and understanding of the real estate business. Respondent, therefore, has completion of formal training courses for economic self-improvement.

8. Respondent is now married and he and his wife are parents of a four year old, well-behaved son, who attended the hearing with his parents. Respondent, through his work, provides for the financial support of the family unit. He attends church, on Sundays, at Mother of Sorrow Church. Respondent has stability of family life and does fulfill all familial and parental obligations.

9. Respondent is presently employed, in a position of responsibility, as a supervisor at B and B Car Wash. Previous to that employment he worked in construction. Since the time of his wrongful conduct Respondent has been productively employed and he has worked with honesty, trustworthiness and loyalty.

10. Respondent's wife and younger sister, with knowledge of Respondent's convictions and with knowledge of Respondent's subsequent attitude and behavioral patterns, gave credible testimony as to Respondent's present character and his present character traits of honesty, trustworthiness and fealty to family. A Director of Unity T.W.O. Inc. gave credible testimony as to the same character traits.

11. Unity T.W.O. Inc. is a private organization whose mission is to – with others – eliminate violence in the “inner city.” The motto of Unity T.W.O. is: “Healing Our Community One Day At A Time”. Unity T.W.O. has contracted with the City of Los Angeles to provide gang interventions, set up “peace treaties” between gangs and set up safe passages for school children. Their mortuary program is used to educate gang members by providing graphic examples of the end result of street violence. Unity T.W.O.’s Director/CEO testified as to the beneficial effect of Respondent’s volunteer work for Unity T.W.O. Respondent deals with gang youth in an honest and caring way and has been successful as a neutral arbiter. Respondent, therefore, has significant and conscientious involvement in community, and privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

12. Respondent's sponsoring broker is Prudential California Realty in Norwalk. Paul Britton, Norwalk Office Manager filed a letter of July 3, 2008 in support of Respondent. The letter states in part:

... I recently met with Mr. Ramos to discuss his current situation and real estate future. I found him to be very sincere with regards to his family and future, and contrite about his past mistakes. He was also personable and articulate:

Mr. Ramos joined our "Prudential system" through our classes and training to acquire his real estate license. He took this seriously, studying under Dave Wick, whom I consider one of the best real estate instructors, and passed the state exam the first time.

While fully cognizant of the seriousness of Mr. Ramos' past, crimes I personally abhor, I believe in second chances and am willing to give Mr. Ramos my support to fully realize his potential. . .

Prudential California Realty will provide support and supervision should Respondent receive a restricted license.

13. Respondent has a change in attitude from that which existed at the time of his wrongful conduct. That change was brought about by a number of factors: Respondent's maturation; Respondent's contrition and remorse; Respondent's family responsibilities; Respondent's church attendance and volunteer service; Respondent's work ethic and the support of friends and family. That change in attitude was demonstrated by the credible testimony of Respondent, the credible testimony of his wife, his sister and the Director/CEO of Unity T.W.O., Kevin Fletcher.

14. Respondent was open and honest during the Department's investigation of the conviction and during the application process. Respondent was open and honest in his testimony and has worked with integrity since the conviction. During the course of his life since 2003; Respondent has demonstrated the character traits of integrity, dependability, generosity, diligence and honesty. Respondent is, at present, a socially and professionally responsible person:

LEGAL CONCLUSIONS

Violations

1. Respondent's convictions, as set forth in Findings 3 and 4, constitute grounds to deny his application for a real estate license pursuant to Business and Professions Code sections 480, subdivision (a) and 10177, subdivision (b).

Licensing Considerations

2. California Code of Regulations, title 10, section 2911, sets forth criteria of rehabilitation that have been developed by the Department, pursuant to Business and Professions Code section 482, subdivision (a), to evaluate the rehabilitation of an applicant for issuance of a license in considering whether or not to deny the issuance on account of a crime or act committed by the Respondent. Additionally, the public interest must be considered, in that, the objective of an administrative proceeding relating to licensing is to protect the public. *Fahmy v. MBC* (1995) 38 Cal.App. 4th 810, 817; *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng. Rep. 1385. With regard to the public interest both crimes are remote in time. Over the last five years Respondent has achieved the substantial rehabilitation demonstrated in Findings 5 through 14. Accordingly, it would be in the public interest to allow Respondent to act as a real estate salesperson with restriction for a period of time to allow supervision and support of a real estate broker.

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 10153.5 of the Business and Professions Code. The restricted license issued to the Respondent shall be subjected 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 exercise 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 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:

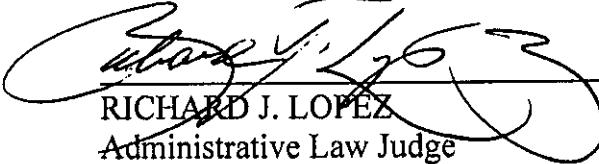
- (a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and
- (b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance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

4. Respondent's restricted real estate salesperson's 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 10153.5, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If 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.

5. Pursuant to section 10154, if Respondent has not satisfied the requirements for an unqualified license under section 10153.5, 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 10153.5 until four years after the date of the issuance of the preceding restricted license.

Dated:

July 22, 2008


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

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FILED
FEB 27 2008
DEPARTMENT OF REAL ESTATE
By *Laura B. Dunn*

10 BEFORE THE DEPARTMENT OF REAL ESTATE

11 STATE OF CALIFORNIA

12 * * * *

13 In the Matter of the Application of) No. H-34719 LA
14)
15 GEORGE A. RAMOS,) STATEMENT OF ISSUES
16)
17 Respondent.)
18)
19 _____

20 The Complainant, Maria Suarez, a Deputy Real Estate
21 Commissioner of the State of California, for Statement of Issues
22 against GEORGE A. RAMOS (hereinafter "Respondent"), alleges in
23 her official capacity as follows:

24 1.

25 On or about May 16, 2006, Respondent made application
26 to the Department of Real Estate of the State of California for a
27 real estate salesperson license.

28 2.

29 On or about April 1, 2003, in the Superior Court of
30 California, County of Los Angeles, in Case No. BA236871,
31 Respondent was convicted of violating Penal Code Section 245 (b)
32

1 (assault with a deadly weapon/semiautomatic firearm), a felony
2 and crime of moral turpitude which is substantially related to
3 the qualifications, functions and duties of a real estate
4 licensee. Imposition of sentence was suspended, and Respondent
5 was placed on three years formal probation, to include serving
6 365 days day in jail and payment of a restitution fine. On
7 October 18, 2006, Respondent's conviction was set aside and the
8 case dismissed pursuant to Penal Code Section 1203.4.

3.

10 On or about June 17, 1999, in the Municipal Court of
11 California, County of Los Angeles, in Case No. 9CR04259,
12 Respondent was convicted of violating Penal Code Section
13 166(A) (4) (contempt of court: disobeying court order), a crime
14 which is substantially related to the qualifications, functions
15 and duties of a real estate licensee. Respondent was placed on
16 three years probation, the terms and conditions of which included
17 payment of child support arrearages and monthly child support.
18 Respondent was found in violation of probation. On November 19,
19 2001, probation was revoked and modified before being reinstated.
20 New terms included serving 90 days in jail, which was stayed
21 conditioned upon Respondent's compliance with payment of arrears
22 of \$11,804.83, and monthly payments.

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1 These proceedings are brought under the provisions of
2 Section 10100, Division 4 of the Business and Professions Code of
3 the State of California and Sections 11500 through 11528 of the
4 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 salesperson
9 license to Respondent GEORGE A. RAMOS and for such other and
10 further relief as may be proper under the law.

11 | Dated at Los Angeles, California

12 this 25 day of December, 2008.

Maria Suarez
Deputy Real Estate Commissioner

23 cc: George A. Ramos
24 Mulhearn Realtors/Bruce Mulhearn
25 Maria Suarez
26 Sacto.