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MAY - 5 2009

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

R. Medelhoff

* * * * *

In the Matter of the Application of)

No. H-35543 LA

EDDIE SCOTT, JR.,

L-2009010551

Respondent.

DECISION

The Proposed Decision dated April 2, 2009, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on MAY 26 2009.

IT IS SO ORDERED

4-28-09

JEFF DAVI
Real Estate Commissioner

Jeff Davi

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

EDDIE SCOTT, JR.,

Case No. H-35543 LA

OAH No. 2009010551

Respondent.

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on March 24, 2009.

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

Eddie Scott, Jr. (Respondent) was present and represented himself.

Oral and documentary evidence was received, and the matter argued.

The case was submitted for decision on March 24, 2009.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in this proceeding in her official capacity.
2. On September 23, 2005, Respondent applied to the Department for a real estate broker license.
3. On April 12, 2007, in the California Superior Court, County of Los Angeles, Respondent, on his guilty plea, was convicted of violating Penal Code Section 246.3, willful discharge of a firearm, a felony. The court placed Respondent on formal probation for a period of three years upon certain terms and conditions including,

Respondent serving ninety days in the county jail and paying \$3,200.00 in fines and fees. Respondent has completed the jail sentence. He no longer has to report directly to his probation officer but checks in regularly at a kiosk. He has paid approximately \$1,400.00 of the fines and fees. He remains on probation until 2010.

4. The facts and circumstances resulting in Respondent's conviction are as follows: Respondent's grandmother called Respondent to come to her house to help get control of his brother-in-law who lived in the grand parent's house. Respondent went to the house and got into an argument with the brother-in-law. The argument escalated as Respondent tried to get the brother-in-law to vacate the house. As the escalation continued, Respondent decided to get a gun another relative had left in the house. The gun was loaded. In the course of the continuing argument, Respondent discharged a single shot from the gun. This scared everyone and Respondent put the gun in a nearby vehicle where it was subsequently recovered by the police. Fortunately, no one was hit by the bullet.

5. Respondent is hoping to get off probation after eighteen months if he can raise the money to pay off the outstanding fines and fees.

6. Respondent realizes that he made a terrible mistake in getting the gun. He stated that he never intended to harm anyone. He stated that he had a lot of pent up anger over how his brother-in-law treated Respondent's sister. Respondent completed an anger management course on his own to better equip him to handle such problems in the future.

7. Respondent has no other criminal convictions and no administrative matters have been filed against him.

8. Respondent has completed all of the courses necessary to qualify for a broker license.

9. Respondent is self employed. He does loan processing for a lending company. He has done this for the past six years.

10. Respondent had a teaching credential that was revoked as a result of his criminal conviction. He taught in the Adult Division of the Los Angeles Unified School District.

11. Respondent volunteers his time helping a youth and family services organization plan events.

12. Respondent is a graduate of California State University Los Angeles where he majored in philosophy and pre-law.

13. Respondent was candid, direct and forthright in his testimony.

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 criminal conviction set for in Factual Findings 3, and 4, involves moral turpitude and is substantially related to the qualifications, functions or duties of a licensee of the Department as more fully set described in the California Code of Regulations, title 10, section 2910, subdivision (a) (8) in that it involved doing an unlawful act with the intent or threat of doing substantial injury to the person or property of another.

3. Pursuant to Business and Professions Code Sections 475, subdivision (a) (2); 480, subdivision (a) (1); and 10177, subdivision (b) cause exists to deny Respondent's application for a real estate license, in that Respondent has been convicted of a felony involving moral turpitude that is substantially related to the qualifications, functions or duties of a licensee of the Department.

4. The Department's Criteria of Rehabilitation, set forth in California Code of Regulations, title 10, section 2911, provide the factors to be considered in evaluating the rehabilitation of an applicant for a license issued by the Department. Under the criteria, two years are required to have elapsed since the latest criminal conviction. While it has been barely two years since Respondent's felony conviction, he remains on probation until 2010. Under these circumstances, more time is required to evaluate Respondent's rehabilitation.

ORDER

The application of Respondent Eddie Scott, Jr. for a real estate salesperson license is denied.

Dated: April 2, 2009.


N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

CRITERIA OF REHABILITATION (*Denial*)

RE 573 (Rev. 10/03)

Your application for a real estate license or your petition to reinstate your real estate license has been denied. The reason(s) for denial is on the grounds set forth in the attached Decision or Order Denying Reinstatement. Set forth below is the Criteria of Rehabilitation. These criteria have been developed by the Department of Real Estate as guidelines to assist an applicant or former licensee to establish a rehabilitation program and in the presentation of his or her case should application again be made for licensure or a petition filed for either reinstatement of a license or removal of restrictions from a restricted license.

Not all of the factors listed in the criteria will be applicable in the case of every person who has had a license application or petition for reinstatement or removal of restrictions denied. Nor will each factor necessarily be given equal weight in evaluating the person's rehabilitation. Each person must decide which of these factors are applicable to his or her case and should then take appropriate steps toward rehabilitation to the end of satisfying the Real Estate Commissioner that it would not be against the public interest to grant the license in question.

2911. Criteria of Rehabilitation (*Denial*). The following criteria have been developed by the department pursuant to Section 482(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 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.

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FILED
DEC 11 2008
DEPARTMENT OF REAL ESTATE

R. Medsker

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of	)	NO. H- 35543 LA
	)	
EDDIE SCOTT, JR.,	)	
	)	<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 EDDIE SCOTT, JR., ("Respondent"), is informed and alleges as follows:

1.

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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2.

Respondent made application to the Department of Real Estate of the State of California for a real estate broker license on or about September 23, 2005.

3.

(CRIMINAL CONVICTION)

On or about April 12, 2007, in the California Superior Court, County of Los Angeles, in Case No. GA067185, Respondent was convicted of violating California Penal Code Section 246.3 (Willful Discharge of Firearm in Public), a felony. This criminal conviction involves moral turpitude and bears a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

The crime of which Respondent was convicted, as alleged herein above in Paragraph 3, constitutes cause for denial of Respondent's application for a real estate license under Business and Professions Code Sections 475(a)(2); 480(a)(1); and/or 10177(b).

The Statement of Issues is brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 and 11529 of the Government Code.

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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, EDDIE SCOTT, JR., and for such other and
6 further relief as may be proper in the premises.

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8 Dated at Los Angeles, California

9 This 5th day of December, 2008.

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13 Maria Suarez
14 Deputy Real Estate Commissioner
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25 Cc: EDDIE SCOTT, JR.
26 Maria Suarez
27 Sacto.