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FILED
FEB - 8 2012
DEPARTMENT OF REAL ESTATE

By C-_____

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	No. H-37599 LA
)	
RYAN ELDRED,)	L-2011110380
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated January 5, 2012, 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. 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
February 28, 2012.

IT IS SO ORDERED 1/25, 2012.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Barbara J. Bigby

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

Ryan Eldred,

Respondent.

Case No. H-37599 LA

OAH No. 2011110380

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on December 6, 2011. It was consolidated for hearing with *In the Matter of the Accusation of Ryan Eldred*, Case No. H-37125 LA, OAH No. 2011061227.

Lissete Garcia, Staff Counsel, represented Complainant Sylvia Yrigollen, Deputy Real Estate Commissioner in the Department of Real Estate (Department).

Respondent Ryan Eldridge represented himself.

Oral and documentary evidence was received and the matter was submitted December 6, 2011.

The Department of Real Estate brings this Statement of Issues to deny Respondent's application for a mortgage loan originator endorsement to his real estate salesperson license. For the reasons set out below, the denial of respondent's application is upheld.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Statement of Issues in her official capacity.
2. Respondent obtained a real estate salesperson license in February 2007. On July 28, 2010, he applied to the Department for a mortgage loan originator endorsement. The Department denied his application and Respondent timely requested a hearing. The expiration date of respondent's license was September 11, 2011. There was no evidence as to whether he attempted to renew the license while his application was pending, but under Business and Professions Code section 10201, he retains the right to renew his license until

September 11, 2013. Under Business and Professions Code section 10103, the Department retains jurisdiction to proceed in this matter.

Felony Convictions

3. On September 24, 2009, in Orange Superior Court, Case No. 09SF0761, respondent was convicted on his guilty plea of possessing marijuana for sale, in violation of Health and Safety Code section 11359, a felony. Respondent was arrested after sheriff's deputies discovered marijuana in his home while executing a search warrant, and respondent admitted (to the court in 2009 and at hearing of this matter) selling marijuana to make money. The court sentenced respondent to 60 days in county jail, three years of formal probation, and fines and assessments of \$290. The jail time was to be served on 20 alternating weekends, totaling 40 days. The remaining 20 days were to be served under electronic supervision.

4. On February 18, 2011, in Orange County Superior Court, Case No. 11HF0098, respondent was convicted on his guilty plea of being an accessory after the fact (in violation of Penal Code section 32) to aggravated assault (in violation of Penal Code section 245, subdivision (a)(1), by aiding the principal in the felony to avoid arrest, a felony. Respondent's friend's car was towed and impounded after being parked illegally. On November 4, 2010, the friend drove the car off the impound lot without paying the impound fee, in the process actually striking the worker at low speed, injuring her arm. Respondent abetted by opening the lot gate, and then by bringing gasoline after his friend's car ran out of gasoline on the way home. Respondent was sentenced to 60 days in county jail (with credit for 24 days served), three years of formal probation and \$270 in fines and assessments.

LEGAL CONCLUSIONS

Cause exists to deny the application (as alleged in Paragraph 5 of the Statement of Issues) under Business and Professions Code section 475, subdivision (a)(2), which allows a board to deny a license application if the applicant has been convicted of a crime, and section 10166.05, subdivision (b), which requires the Department to deny an application for a mortgage loan originator endorsement if the applicant has been convicted of a felony within seven years before the date of application. Subdivision (b)(2) is substantially identical to — and indeed was enacted to implement — a 2008 federal statute, Title 12 United States Code section 5104(b)(1)(B). The Department has promulgated regulations making it clear that a felony conviction seven years or less before the date of application creates an absolute ban on a mortgage loan endorsement: California Code of Regulations title 10, section 2945.3 provides, "These restrictions constitute a ban on the real estate licensee's ability to apply for a license endorsement. These restrictions are not subject to mitigation or rehabilitation." The Department is legally precluded from granting respondent's application.

ORDER

Ryan Eldred's application for a mortgage loan originator endorsement is denied.

DATED: January 5, 2012

A handwritten signature in cursive script, reading "Howard Posner", written in black ink.

HOWARD POSNER

Administrative Law Judge

Office of Administrative Hearings

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FILED
OCT 19 2011
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Application of)

NO. H-37599 LA

12 RYAN ELDRED,)

STATEMENT OF ISSUES

13 Respondent.)

Mortgage Loan Originator
License Endorsement

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16 The Complainant, SYLVIA YRIGOLLEN, in her official capacity as a Deputy
17 Real Estate Commissioner of the State of California, for cause of Statement of Issues against
18 RYAN ELDRED ("Respondent") is informed and alleges as follows:

19 1.

20 Respondent is presently licensed by the California Department of Real Estate
21 ("Department") as a real estate salesperson, license number 01814960.

22 2.

23 On or about July 28, 2010, Respondent made application to the Department for a
24 mortgage loan originator license endorsement ("license endorsement").

25 ///

26 ///

27 ///

3.

On or about September 24, 2009, in the Superior Court of the State of California for the County of Orange, Case No. 09SF0761, Respondent was convicted of violating California Health & Safety Code Section 11359(a) (possession of marijuana for sale), a felony.

4.

On or about February 18, 2011, in the Superior Court of the State of California for the County of Orange, Case No. 11HF0098, Respondent was convicted of violating California Penal Code Section 32 (accessory after the fact: harbor, conceal or aid another with intent that he avoid and escape arrest, trial conviction or punishment for violation of PC 245(a)(1) (aggravated assault)), a felony.

5.

The facts alleged in Paragraphs 3 and 4, above, constitute cause for denial of Respondent's application for a license endorsement under Sections 475(a)(2) and 10166.05(b) (Conviction of Felony Crime) of the Business and Professions Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Statement of Issues, and that upon proof thereof, a decision be rendered that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a mortgage loan originator license endorsement to Respondent RYAN ELDRED, and for such other and further relief as may be proper under the provisions of law.

Dated at Sacramento, California,

this 12th day of October, 2011.


SYLVIA YRIGOLLEN
Deputy Real Estate Commissioner

cc: Ryan Eldred
Sylvia Yrigollen
Sacto.