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**FILED**

MAY - 3 2013

BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

BY: 

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In the Matter of the Accusation of	)	DRE No. H-38361 LA
	)	
MYRON JOHNSON,	)	OAH No. 2012100727
	)	
	)	
Respondent.	)	
_____	)	

DECISION

The Proposed Decision dated March 20, 2013, 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 23, 2013.

IT IS SO ORDERED

*4/30/2013*

REAL ESTATE COMMISSIONER

  
WAYNE S. BELL

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of

MYRON JOHNSON,

Respondent.

Case No. H-38361 LA

OAH No. 2012100727

**PROPOSED DECISION**

This matter came on regularly for hearing on March 6, 2013, at Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Robin Trujillo (Complainant) was represented by Julie To, Real Estate Counsel.

Myron Johnson (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

**FACTUAL FINDINGS**

1. Complainant, who is a Deputy Real Estate Commissioner of the State of California, made the Accusation while acting in her official capacity.

2. Respondent was issued a license as a real estate salesperson by the Department of Real Estate (Department) on May 31, 2007. The license will expire on June 2, 2015 unless renewed.

3. On January 9, 2012, in the Superior Court of California, County of Los Angeles, in Case No. YA082987, Respondent pled nolo contendere and was convicted of violating Penal Code section 12021, subdivision (a)(1) (felon in possession of a firearm), a felony substantially related to the qualifications, functions and duties of a real estate salesperson pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(10).

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4. Respondent was placed on formal probation for a period of three years under various terms and conditions including incarceration for 270 days<sup>1</sup> less three days' credit, payment of fines and assessments totaling \$270, and a prohibition against the use and/or possession of narcotics, dangerous or restricted drugs, and marijuana, and their respective paraphernalia.

5. The facts and circumstances underlying the conviction are that Los Angeles County Sheriff's officers observed Respondent driving on a city street at approximately 60 miles per hour. He was not wearing a seat belt. After initiating a traffic stop, the officers found a 9 mm semi-automatic pistol and a .38 caliber revolver inside a backpack that was stored in the trunk of Respondent's car. Both weapons were loaded. Neither weapon was registered. Respondent's uncle was a passenger in the car at the time of the traffic stop. He admitted to being a member of the "Eight Tre Gangster Crips," a group known to police as a "criminal street gang."

6. During the booking process at the county jail, Respondent was found to be in possession of a small amount of marijuana.

7. Several years before the 2012 conviction, Respondent was convicted of violating Penal Code section 245, subdivision (a)(1), assault with a deadly weapon. The felony conviction was later reduced to a misdemeanor.

8. At the administrative hearing, Respondent explained that (1) he had been under the impression that he was entitled to carry a firearm after his felony conviction for assault with a deadly weapon was reduced to a misdemeanor and he was no longer on probation for that conviction; (2) he carried the weapons for protection in connection with a furniture moving business in which he was involved because the business required him to exchange cash in what he termed "questionable areas;" (3) he was on the way to a moving job to drop off his uncle at the time of the traffic stop; and (4) he intended to drop off the guns at a friend's house because he did not want to keep the guns in his home where his children lived.

9. Respondent's explanation was not entirely credible. If he used the weapons for protection in "questionable areas" in connection with his moving business, and if he was enroute to a moving job at the time of the traffic stop, it is illogical that he would have the weapons inside a backpack stored in the trunk where he would be unable to quickly access them in an emergency situation.

10. Respondent also testified that, at the time of his arrest, he had not yet had an opportunity to register the firearms. However, he admitted he had never registered any firearm.

11. Although he expressed sincere remorse, Respondent did not offer any evidence demonstrating attempts at rehabilitation.

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<sup>1</sup> Respondent was released from jail on May 15, 2012.

12. Respondent produced 15 character letters at the hearing. Approximately nine of those letters were from family members. The letters reflect Respondent's good reputation in his community as a real estate salesperson and business man. However, they reference little, if any, information concerning what steps toward rehabilitation Respondent has taken since his conviction last year. Instead, several of the letters refer to what occurred at the time of Respondent's arrest as a mistake.

13. In the Accusation, Complainant requested reimbursement for the costs of investigation and enforcement. However, Complainant offered no evidence of those costs at the hearing.

### LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's real estate salesperson's license pursuant to Business and Professions Code sections 490, and 10177, subdivision (b), for conviction of a crime substantially related to the qualifications, functions and duties of the licensed activity, as set forth in Findings 3, 4, 5, 6, 7, 8, 9, and 10.

2. Cause does not exist to grant Complainant's request for reimbursement of the costs of investigation and enforcement, as set forth in Finding 13.

3. California Code of Regulations, title 10, section 2912, sets forth the Department's criteria for rehabilitation for consideration when determining whether discipline should be imposed and the nature of the discipline to be imposed against a licensee. The regulation reads:

The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of 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.

(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts 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 licensee.

- (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the 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 criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- (h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- (j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.
- (k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) Change in attitude from that which existed at the time of the commission of the criminal acts 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 the licensee's previous conduct and with 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, clinical psychologists, sociologists 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.

4. Respondent has failed to satisfy a substantial number of the Department's criteria for rehabilitation. Less than two years have passed since the conviction, and the conviction has not been expunged. Respondent remains on formal probation for the conviction. He offered no evidence of abstinence from controlled substances, continued education, community involvement outside of his business practices, or a change in attitude from that which existed at the time of the traffic stop.

5. What occurred on the day of Respondent's arrest was more than a mistake. Although he entered into a plea agreement according to which he was convicted of only one offense, on the day of the incident, he was not only a felon in possession of a firearm, he was also driving at a very high rate of speed down a city street; he was not wearing a seat belt; he was in possession of marijuana; and the two guns he unlawfully possessed were not registered. Those factors, together with the recency of the conviction and the lack of rehabilitation evidence preclude continued licensure.

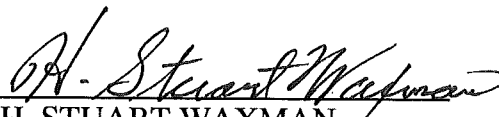
#### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Respondent's real estate salesperson's license is revoked.

2. Complainant's request for reimbursement of the costs of investigation and enforcement is denied.

DATED: March 20, 2013

  
H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings