

By: Jeffrey Mason  
Chief Deputy Commissioner

**BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues  
Against:

ANTHONY TODD STEFANI,

Respondent.

Case No. H-38371 LA

OAH No. 2012110635

**PROPOSED DECISION**

This matter was heard on March 26, 2013, by Laurie R. Pearlman, Administrative Law Judge with the Office of Administrative Hearings, in Los Angeles.

Julie To, Staff Counsel, represented Robin Trujillo (Complainant), a Deputy Real Estate Commissioner for the Department of Real Estate (Department), State of California.

Anthony Todd Stefani (Respondent) was present during the proceedings and was represented by Brian H. Getz, Attorney-At-Law.

Oral and documentary evidence was received and argument was heard. The matter was submitted for decision on March 26, 2013.

**FACTUAL FINDINGS**

1. Complainant filed the Statement of Issues in her official capacity on August 22, 2012.

2. On May 31, 2011, Respondent applied to the Department for a real estate salesperson license. Respondent had previously been licensed by the Department as a real estate broker on August 19, 2004. That license expired on August 18, 2008.

*Respondent's Conviction*

3. On October 15, 2007, in the United States District Court for the Central District of California, case number SACR 04-00068(A)-JVS, Respondent was convicted after trial of violating Title 18 United States Code section 371 (conspiracy)

and Title 26 United States Code section 7206, subdivision (2) (aiding and assisting in the preparation of false tax returns), both felonies. He was sentenced to 27 months in federal prison, was ordered to pay a special assessment of \$400, and placed on supervised release for two years. On Respondent's motion, his period of supervised release was terminated six months early, on April 26, 2011.

4. The facts and circumstances underlying this conviction are that in 2001, while Respondent was teaching high school, a friend asked him if he might be interested in working part-time as an income tax preparer for Western Tax Service (WTS) and Respondent agreed to do so. From February 2001 through April 2001, he worked after school preparing approximately 300 income tax returns over a 45-day period. He earned approximately \$50,000 (fifteen percent of the income tax preparation fee charged by WTS.) WTS did not provide him with any training. Respondent prepared income tax returns by conducting face-to-face interviews with WTS' clients and inputting their financial information, using tax preparation software provided by WTS. In the summer of 2001, the Internal Revenue Service investigated WTS and determined that from 1998 through 2001, the company had been routinely fabricating or inflating the amount of clients' Schedule A itemized deductions for charitable contributions, employee business expenses and depreciation. This resulted in a loss of at least \$40 million in tax revenue to the United States Treasury. Because he did not consider himself to be part of any criminal scheme, Respondent chose to reject a plea bargain which would have resulted in no imposition of prison time. Instead, he went to trial and was convicted.

#### *Respondent's Application*

5. On his license application, Respondent disclosed the information as to his criminal conviction.

#### *Rehabilitation*

6. Respondent appeared sincere in his demeanor while testifying and he was respectful of the proceedings. He now recognizes that he made gross errors in judgment while working for WTS. He has broken all ties with the individuals who worked at WTS and he has not prepared income tax returns since 2001. His wife divorced him while he was incarcerated. He obtained joint custody of his son, pays child support, and spends as much time with his son as possible, including attending all school functions and Little League games. Respondent is highly motivated to move on with his life and to serve as a role model for his 12-year-old son

7. After graduating from high school, Respondent served in the United States Air Force from 1984 until his honorable discharge in 1989. While in the Air Force, Respondent had a top secret security clearance. After discharge, he returned to school and earned a B.S. degree and an M.B.A. degree. He has been licensed in the State of California as a teacher, an insurance agent, a securities dealer and a real

estate broker, with no complaints made against any of his licenses. Each of these licenses has now expired.

8. Respondent is currently employed as a project manager at Fueling & Service Technologies, Inc., which provides outside sales to service stations. He supervises the installation of equipment used at service stations.

9. Respondent attends services at the Church of the Open Door and does volunteer work at the Veterans Administration Hospital in Long Beach.

10. Respondent completed his prison sentence, paid the special assessment as ordered and fully complied with all terms and conditions of his supervised release, which was terminated early.

### LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides, in pertinent part, that the Department may deny the issuance of a license to an applicant who has been found guilty of a felony which is substantially related to the qualifications, functions, or duties of a real estate licensee. Similarly, Business and Professions Code section 480, subdivision (a)(1), provides that a board may deny a license on the grounds that the applicant has been convicted of a crime. Pursuant to Business and Professions Code section 475, subdivision (a)(2), conviction of a crime is a ground for denial of a license.

2. The Department's criteria of substantial relationship are set forth at California Code of Regulations, title 10, section 2910. Respondent's crimes are substantially related to the qualifications, functions and duties of a real estate licensee because they involved doing an unlawful act with the intent of conferring a financial benefit upon the perpetrator. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8).)

3. Cause exists to deny Respondent's application for a real estate salesperson license under Business and Professions Code sections 10177, subdivision (b), 480, subdivision (a)(1), and 475, subdivision (a)(2), in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a real estate licensee, based on the matters in Factual Findings 3 and 4 and Legal Conclusion 2.

4. The statutes relating to real estate licenses are designed to protect the public from any potential risk of harm. (*Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.) The Department's criteria for evaluating the rehabilitation of an applicant for a license, which are set forth at California Code of Regulations, title 10, section 2911, have been considered.

5. Respondent has established sufficient rehabilitation for issuance of a restricted salesperson license. Respondent is fulfilling his parental responsibilities. (Cal. Code Regs., tit. 10, § 2911, subd. (h).) Providing for his son and being a good father is a motivating factor for Respondent to keep his life on the right track. He appeared sincere in expressing his determination to do so. The actions underlying Respondent's conviction occurred 12 years ago. Respondent has demonstrated remorse for his actions. Five and a half years have passed since Respondent's conviction. (Cal. Code Regs., tit. 10, § 2911, subd. (a).) Respondent has fully paid the special assessment, as ordered. (Cal. Code Regs., tit. 10, § 2911, subd. (g).) Respondent obtained early termination of supervised release. (Cal. Code Regs., tit. 10, § 2911, subd. (e).) Respondent does volunteer work at the Veterans Administration Hospital in Long Beach (Cal. Code Regs., tit. 10, § 2911, subd. (l).) Respondent has new and different social and business contacts from those he had at the time of the criminal conduct. (Cal. Code Regs., tit. 10, § 2911, subd. (m).) And finally, Respondent established at hearing that he has undergone a change in attitude. (Cal. Code Regs., tit. 10, § 2911, subd. (n).) A restricted salesperson license, under the terms and conditions set forth in the Order below, will protect the public from any potential risk of harm.

#### ORDER

Respondent Anthony Todd Stefani'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 10156.5 of the Business and Professions Code. The restricted license issued to the 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 said Code:

1. The license shall not confer any property right in the privileges to be exercised, 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 the 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 shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: April 25, 2013



LAURIE R. PEARLMAN  
Administrative Law Judge  
Office of Administrative Hearings