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BUREAU OF REAL ESTATE
By @Deloio

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	CalBRE No. H-40535 LA
)	
WILLIAM RYAN LENOCKER,)	OAH No. 2017030016
)	
Respondent.)	

DECISION

The Proposed Decision dated June 12, 2017, 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.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 JUL 25 2017.

IT IS SO ORDERED 6/29/17.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

Daniel J. Sandri

By: DANIEL J. SANDRI
Chief Deputy Commissioner

Prior License Discipline

3. On September 11, 2012, the Bureau entered into a Stipulation and Agreement (ex. 5) with Respondent and Key Asset Solutions Inc., the corporation for which he was the designated officer, in Case number H-37114 LA, which provided that Respondent's license would be suspended for 90 days, with the suspension stayed on condition that he pay a \$6,000 penalty and the cost of audits up to \$7,293.60.

4. In the Stipulation and Agreement, Respondent agreed, for purposes of that proceeding "or any other proceeding in which [the Bureau, then called the Department of Real Estate], the state or federal government, or any other agency of this state, another state or federal government is involved," that he did not contest allegations in a March 8, 2011 Accusation that he had:

a. Failed to place trust funds, including earnest money deposits, into the hands of the owner of the funds, a neutral escrow or a trust fund account within three business days, in violation of Business and Professions Code section 10145 and California Code of Regulations (CCR), title 10, section 2832, subdivision (d);

b. Misrepresented to a seller that Key Asset Solutions held an earnest money deposit for a buyer, in violation of Business and Professions Code section 10176, subdivision (a);

c. Employed and compensated an unlicensed person as an real estate salesperson, in violation of Business and Professions Code section 10137; and

d. Failed to supervise the operations of Key Asset Solutions adequately or monitor its compliance with the Real Estate Law, in violation of Business and Professions Code sections 10159.2 and 10177, subdivision (h), and CCR 2725.

Failure to Disclose Prior License Discipline

5. In his Mortgage Loan Originator Endorsement Application (ex 3), Respondent answered No to five questions in part K that asked whether any state or federal regulatory agency ever:

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

(4) entered an order against you in connection with a financial services-related activity?

(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

(9) entered an order against you in connection with any license or registration?

Respondent also answered No to Question M, which asked:

Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency . . . ever taken any of the actions listed in [part K] against any organization?

All of these answers were false because they concealed the disciplinary action described in Factual Findings 3 and 4.

6. Respondent testified at hearing that he answered incorrectly because he misread the application and thought the questions applied only to actions by a state other than California, and that after talking to a state investigator he sent in a second application. On that application he changed only the answers to questions M and K(9), and answered No to questions K(2), (4) and (6). He admitted at hearing that he should have answered Yes.

Mitigation, Aggravation and Rehabilitation

7. Respondent informed the Oregon Real Estate Agency of his stayed suspension in 2013. In his letter to that agency (ex. A), he wrote, "While I deny the allegations I was advised that it would be cheaper and easier to agree to a stipulated suspension with stay."

8. Respondent's testimony about the previous disciplinary action was largely exculpatory, despite his previous stipulation that he would not contest the allegations of violations in any proceeding before a government agency. He described his actions as merely technical violations.

9. Respondent testified that he has sold over 600 homes and has a five-star review on Zillow.

LEGAL CONCLUSIONS

1. As paragraph 5 of the Statement of Issues alleges, the previous license discipline is cause for denying Respondent's application for a mortgage loan originator endorsement under CCR section 2945.2, subdivision (b), which provides:

Where a real estate licensee was subject to a real estate license discipline action filed by the Department on January 1, 2010, or later, resulting in a revocation, a suspension, a voluntary surrender of a real estate license, a public reproof, and/or a bar order, such discipline alone may be cause for denial of a subsequent mortgage loan originator license endorsement.

2. The previous license discipline is cause for denying Respondent's application for a mortgage loan originator endorsement under Business and Professions Code section 10166.05, subdivision (c), which provides that a mortgage loan originator endorsement cannot be issued without a finding that the applicant "has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently[.]"

3. Respondent's false responses to questions on his mortgage loan originator endorsement application are cause to deny the application under Business and Professions Code section 10166.051, subdivision (b), which provides for denial if the applicant "withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal." Respondent answered No to five questions that would have revealed prior license discipline if he had answered correctly. Even when he filed a second application, he corrected only two of the answers, continuing to answer No to the three most specific questions. (Factual Finding 5.)

4. Respondent has the burden of showing fitness for a mortgage loan originator endorsement. (*Martin v. Alcoholic Beverage Control Appeals Bd. of Cal.* (1959) 52 Cal.2d 259.) His evidence of fitness consisted of a few uncorroborated statements about his proficiency as a salesman, and considerably more testimony minimizing or denying his culpability for the violations that led to the earlier discipline. Mortgage loan origination requires rigorous adherence to required procedure and scrupulous accuracy in documentation. Respondent's previous license discipline indicated a lax attitude about both of those things, and his testimony at hearing about that discipline and his failure to ensure the accuracy of his own application indicates that his attitude has not changed.

ORDER

Respondent William Ryan Lenocker's application for a mortgage loan originator endorsement is denied.

DATED: June 12, 2017

DocuSigned by:

Howard Posner

HOWARD POSNER

Administrative Law Judge

Office of Administrative Hearings