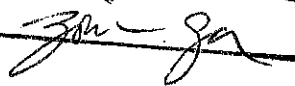


FILED

JUL 18 2017

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	CalBRE No. H-40583 LA
)	
CLAUDE AARON GONZALES,)	OAH No. 2017040085
)	
)	
<u>Respondent.</u>		

DECISION

The Proposed Decision dated June 22, 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 Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

Factual Findings, Page 3, Paragraph No. 7, Line 2, (Dean's List in for Fall Quarter 2014,) is amended to read (Dean's List for Fall Quarter 2014,)

Order, Page 6, Paragraph No. 3, Line 3, (Office Box 137000, and Sacramento, CA 95818-7000.) is amended to read (Office Box 137013, and Sacramento, CA 95818-7013.)

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent.

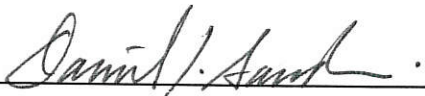
Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever 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.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on AUG - 7 2017.

IT IS SO ORDERED 7/11/17

WAYNE S. BELL
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:

CLAUDE AARON GONZALES,

Respondent.

Case No. H-40583 LA

OAH No. 2017040085

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on May 23, 2017.

Judith Vasan, Staff Counsel, represented Complainant Maria Suarez, Supervising Special Investigator of the State of California.

Attorney Rizza Gonzales represented Respondent Claude Aaron Gonzales.

Oral and documentary evidence was received at the hearing, and the matter was submitted May 23, 2017.

Complainant brings this Statement of Issues to deny Respondent's application for a real estate salesperson license. Respondent was convicted of a felony robbery five years ago and was on parole until 2016, but because he has demonstrated substantial rehabilitation, a restricted license is granted.

FACTUAL FINDINGS

Jurisdiction

1. Complainant issued this Statement of Issues solely in her official capacity.
2. On October 3, 2016, Respondent applied for a real estate salesperson license. The Bureau denied the application, and Respondent timely requested a hearing.

Criminal Conviction

3. On July 20, 2012, in the Superior Court of California, Los Angeles County, case number KA098388, Respondent was convicted on his no contest plea of second-degree robbery (Pen. Code, § 211), a felony. Sentencing was continued repeatedly while Respondent remained in county jail; he preferred to stay there rather than state prison. On March 10, 2014, he was sentenced to two years in state prison, but given credit for 733 days (637 days in actual custody and 96 days “good time/work time”), assessed fines and fees of \$390, and released on three years of parole.

Mitigation, Aggravation and Rehabilitation

4. The crime occurred June 20, 2012, a few days after Respondent graduated high school. He had been a good student and member of the track team (running the 400 and 800 meters, and mile and two miles) and was accepted to both California State Polytechnic University, Pomona and Laverne University for the fall 2012 semester. But during the spring of 2012 he had fallen in with some young men a year or two older, who wanted to recruit him into a gang. He smoked marijuana constantly with them, often staying intoxicated all day. His parents’ attempt to intervene by taking him to his grandparents’ house in Temecula had no effect.

5. Respondent and two confederates conceived the robbery of a tobacco store in Covina to get money to buy marijuana. By that time, Respondent testified at hearing, the constant intoxication had Respondent “hallucinating and twitching.” They planned to buy an item at the store so that the proprietor would open the cash register, then have two of them restrain him while the third took the money in the register. When one confederate jumped over the counter, the proprietor screamed, at which point Respondent panicked, took smaller-denomination bills from the register, and fled the store. The confederate responsible for restraining the proprietor did it by choking him. The two confederates were arrested that day. Respondent turned himself in three days later, and stayed in jail until March 2014. The lack of marijuana in jail ended his marijuana habit. He no longer consumes it.

6. In 2014, Respondent was accepted into the Reintegration Academy, an eight-week program that takes parolees recommended by their parole officers and reintegrates them into society by, among other things, enrolling them at Mt. San Antonio College. The program is selective: Respondent is one of 30 admitted out of 500 applicants in 2014. The program involves group discussions, counseling, guest speakers, and preparation for life as students rather than as prisoners. Its founder and administrator, Cal Poly Pomona professor Renford Reese, testified at hearing that the participants get a meal card in the first week of the program and a free laptop computer the fifth week. In the sixth week they are enrolled at Mt. San Antonio College. In the eighth and last week they have a job fair. Reese testified that Respondent was “humble and hungry,” two traits that Reese looks for in choosing parolees for the Reintegration Academy; he believes humility is a “good test of character.” In the program Respondent, who was considerably younger than most other participants, was punctual and attentive, and “a consummate team player.” Reese got Respondent an

interview with the Cal Poly Pomona administration when he learned that Respondent had already been accepted there in 2012, so Respondent was able to enroll there rather than at Mt. San Antonio College in 2014.

7. Respondent expects to graduate from Cal Poly Pomona in 2018. He made the Dean's List ~~xx~~ for Fall Quarter 2014, but his grades fluctuate considerably. He is majoring in business administration with an emphasis in computer science. He will do web design or information technology work if he does not get a real estate license. Respondent introduced a letter from Wesley Avery, a licensed real estate salesperson and certified bankruptcy specialist attorney who teaches a business law course at Cal Poly Pomona, in which Respondent was enrolled in the 2017 Spring Quarter. Avery mentioned Respondent's felony conviction and remorse for his conduct, and was impressed by Respondent's performance in his class, describing him as bright, earnest and enthusiastic.

8. Respondent is a member of Project Rebound, a program for ex-convicts enrolled in the California State University system. Since "graduating" from the Reintegration Academy, he has returned to speak to current participants. He has spoken to one of Reese's graduate classes about his experiences, and made himself available for graduate students to interview him. He has spoken to groups of young persons who are in the criminal justice system.

9. In 2014, Respondent's parents opened a shoe store called Elite Running in West Covina. Respondent worked as a salesman there until 2015, then ran the store until its lease expired and it closed in 2017. Respondent built the store's website. His father, who has worked as an accountant with the City of Los Angeles for the last 16 years but has also held a real estate salesperson license since 2005 and works in real estate part time, testified at hearing that Respondent handled his duties in the store capably and was good at handling the occasional difficult customer.

10. Respondent's interest in real estate led him to intern for a month at a Marquez & Millichap office in early 2015, and for about two months at a Keller Williams office in early 2016. Beginning a few months before the hearing, he has worked with Eric Guzman, a real estate salesperson working with Re/Max in Diamond Bar. Guzman was in the first Reintegration Academy class in 2008 (he had served two years in state prison for felony vandalism), and met Respondent when he returned to speak to Respondent's class in 2014. Guzman has been licensed for four years. Although there was a two-year restriction period on Guzman's license, it is still restricted because he has not applied to have the restriction removed. Respondent has assisted him with putting on open houses, passing out fliers, putting up signs and other activity not requiring a license. Guzman testified at hearing that Respondent has a great work ethic and is honest and trustworthy.

11. Respondent met Marisa Marquez in a mathematics class in September 2014. He told her about his conviction when he walked her to her car shortly after that. By the end of 2014 they were engaged. She testified at hearing that he is giving, selfless, passionate about whatever he is working on, and embarrassed and regretful about the robbery. Her father, a Los Angeles Police Department officer, wrote a letter mentioning Respondent's

conviction and supporting his licensure. Respondent's father testified that she is a good influence on Respondent.

12. Respondent introduced a total of eight character letters; the ones not mentioned specifically above were from family members and his fiancée's mother. All were aware of his conviction and jail time, but did not mention anything specific about the crime.

13. Respondent completed parole and paid all fines and fees. He was discharged from parole in April 2016. He has not seen his co-felons from the robbery since 2012. He has no other convictions.

14. Renford Reese testified at hearing that he owns real estate and wants Respondent to work with his properties.

15. Respondent was a credible witness who was forthcoming in his testimony and took responsibility for his actions.

LEGAL CONCLUSIONS

1. There is cause to deny the application under Business and Professions Code sections 480 and 10177,¹ as paragraph 4 of the Statement of Issues alleges. Section 480, subdivision (a)(1) (which, under section 475, governs a license denial under these circumstances) allows a board to deny a license to an applicant who has been "convicted of a crime" that is "substantially related to the qualifications, functions, or duties of the business or profession for which application is made." (§ 480, subd. (a)(3)(B).) Section 10177, subdivision (b), which applies specifically to the Bureau, similarly allows it to deny a license to an applicant who has been convicted of "a crime substantially related to the qualifications, functions, or duties of a real estate licensee[.]" Respondent's robbery conviction (Factual Finding 3) is substantially related under CCR section 2910, subdivision (a)(8), because the crime was an unlawful act committed with "the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another."

2. Respondent has the burden of showing rehabilitation. He meets most of the applicable criteria of rehabilitation in CCR section 2911:

(a) It has been more than four years since his conviction (CCR § 2911, subd. (a); Factual Finding 3), and five years since he committed the offense. (Factual Finding 4.)

(b) He has paid all monetary penalties. (CCR § 2911, subd. (g); Factual Finding 13.)

¹ "Section" or "§" will refer to the Business and Professions Code, unless preceded by "CCR," which denotes title 10 of the California Code of Regulations.

(c) He has successfully completed parole. (CCR § 2911, subd. (e); Factual Finding 13.)

(d) His volunteer work in speaking to college classes, youth in the justice system, and Reintegration Academy classes (Factual Finding 8) is “involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.” (CCR § 2911, subd. (l).)

(e) He has been enrolled in formal education since shortly after leaving jail (CCR § 2911, subd. (i); Factual Findings 6 and 7.)

(f) He has established “[n]ew and different social and business relationships from those which existed at the time” of his conviction.” (CCR § 2911, subd. (m); Factual Findings 10, 11 and 13.)

(g) The evidence shows a change in attitude. (CCR § 2911, subd. (n).) Respondent takes responsibility for the actions that led to his conviction, and has pursued education and seized opportunities to learn the real estate business. He has stayed away from the social milieu that got him into trouble.

(h) He stopped consuming marijuana in 2012. (CCR § 2911, subd. (f); Factual Finding 5.)

3. The principal issue standing between Respondent and licensure is his recent felony parole. Given the extensive rehabilitation Respondent has shown, remaining concerns about him are best dealt with by granting a restricted a license.

ORDER

The application of Respondent Claude Aaron Gonzales for a real estate salesperson license is denied, but 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 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 that 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 or for the removal of any of the conditions, limitations or restrictions of a restricted license until two years after this Decision's effective date.

3. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 137000, and Sacramento, CA 95818-7000. The letter shall state the arrest date, 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 be grounds to suspend or revoke that license.

4. Respondent shall submit with any application for license under a real estate employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker, on a form RE 552 (Rev. 4/88) approved by the Bureau of Real Estate, certifying:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the restricted licensee relating to activities for which a real estate license is required.

DATED: June 22, 2017

DocuSigned by:
Howard Posner
031275E9B98E4BA...
HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings