

FILED**OCT 30 2018****DEPT. OF REAL ESTATE**By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-40958 LA
)	
DAVID MIN KIM,)	OAH No. 2018040832
)	
Respondent.)	
)	

STIPULATION AND WAIVER AND DECISION AFTER REJECTION

I, DAVID MIN KIM, Respondent herein, acknowledge that I have received and read the Statement of Issues filed by the Department of Real Estate on March 2, 2018, and the Statement to Respondent sent to me in connection with the Statement of Issues.

I hereby admit that the allegations contained in the Statement of Issues filed against me are true and correct and constitute a basis for the denial of my real estate salesperson license application.

I further acknowledge that the Real Estate Commissioner held a hearing on this Statement of Issues on June 18, 2018, before the Office of Administrative Hearings for the purpose of proving the allegations therein. I was present at the hearing and represented myself. Further, I have had an opportunity to read and review the Proposed Decision of the Administrative Law Judge.

I understand that pursuant to Government Code Section 11517(c), the Real

1 Estate Commissioner has rejected the Proposed Decision of the Administrative Law Judge.
2 I further understand that pursuant to the same Section 11517(c), the Real Estate Commissioner
3 may decide this case upon the record, including the transcript, without taking any additional
4 evidence, after affording me the opportunity to present written argument to the Real Estate
5 Commissioner.

6 I further understand that by signing this Stipulation and Waiver, I am waiving
7 my right to obtain a dismissal of the Statement of Issues through proceedings under
8 Government Code Section 11517(c) if this Stipulation and Waiver is accepted by the Real
9 Estate Commissioner. However, I also understand that I am not waiving my rights to further
10 proceedings to obtain a dismissal of the Statement of Issues if this Stipulation and Waiver is not
11 accepted by the Real Estate Commissioner.

12 I hereby request that the Real Estate Commissioner in his discretion deny my
13 application for a real estate salesperson license and issue to me a restricted real estate
14 salesperson license under the authority of Section 10156.5 of the Business and Professions
15 Code.

16 I agree that by signing this Stipulation and Waiver, the conditions, limitations,
17 and restrictions imposed on my restricted license, identified below, may be removed only by
18 filing a Petition for Removal of Restrictions ("petition") with the Real Estate Commissioner,
19 and that my petition must follow the procedures set forth in Government Code Section 11522.

20 I further understand that the restricted license issued to me shall be subject to all
21 of the provisions of Section 10156.7 of the Business and Professions Code and to the following
22 limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the
23 Business and Professions Code.

24 By reason of the foregoing and solely for the purpose of settlement of the
25 Statement of Issues without further administrative proceedings, it is stipulated and agreed that
26 the Commissioner shall adopt the following Order:

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The conditions, limitations, and restrictions imposed on the restricted
salesperson license issued to Respondent, identified below, may be removed only by filing a
Petition for Removal of Restrictions (“petition”) with the Real Estate Commissioner, and the
petition must follow the procedures set forth in Government Code Section 11522.

1. The license shall not confer any property right in the privileges to be exercised including the right of renewal, 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:

2. Respondent shall not be eligible to petition 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 five (5) years have elapsed from the date of issuance of the restricted


1 license to Respondent. Respondent shall not be eligible to apply for any
2 unrestricted licenses until all restrictions attaching to the license have
3 been removed.

4 3. With the application for license, or with the application for transfer to a
5 new employing broker, Respondent shall submit a statement signed by
6 the prospective employing broker on a form approved by the Department
7 of Real Estate wherein the employing broker shall certify as follows:

- 8 (a) That the employing broker has read the Decision which is the
9 basis for the issuance of the restricted license; and
10 (b) That the employing broker will carefully review all transaction
11 documents prepared by the restricted licensee and otherwise
12 exercise close supervision over the licensee's performance of acts
13 for which a license is required.

14 4. Respondent shall notify the Commissioner in writing within 72 hours of
15 any arrest by sending a certified letter to the Commissioner at the
16 Department of Real Estate, Post Office Box 137013, Sacramento, CA
17 95813-7013. The letter shall set forth the date of Respondent's arrest,
18 the crime for which Respondent was arrested and the name and address
19 of the arresting law enforcement agency. Respondent's failure to timely
20 file written notice shall constitute an independent violation of the terms
21 of the restricted license and shall be grounds for the suspension or
22 revocation of that license.

23
24 DATED: 10-3-2018



Steve Chu, Counsel
Department of Real Estate

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1 I have read the Stipulation and Waiver and its terms are agreeable and
2 acceptable to me. I understand that I am waiving my rights given to me by the California
3 Administrative Procedure Act (including but not limited to Section 11506, 11508, 11509, and
4 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those
5 rights, including the right to seek reconsideration and the right to seek judicial review of the
6 Commissioner's Decision and Order by way of a writ of mandate. I can signify acceptance and
7 approval of the terms and conditions of this Stipulation and Waiver by mailing the original
8 signed Stipulation and Waiver to: Steve Chu, Department of Real Estate, 320 West 4th Street,
9 Suite 350, Los Angeles, California 90013-1105.

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11 DATED: 9/29/2018


12 DAVID MIN KIM
13 Respondent

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1 I have read the Statement of Issues filed herein, the Proposed Decision of the
2 Administrative Law Judge dated August 22, 2018, and the foregoing Stipulation and Waiver
3 signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a
4 restricted salesperson license to Respondent.

5 Therefore, IT IS HEREBY ORDERED that the application for real estate
6 salesperson license of Respondent be denied and a restricted real estate salesperson license be
7 issued to Respondent if Respondent has otherwise fulfilled all of the statutory requirements for
8 licensure. The restricted license shall be limited, conditioned and restricted as specified in the
9 foregoing Stipulation and Waiver.

10 This Order shall become effective at 12 o'clock noon on NOV 20 2018.

11 IT IS SO ORDERED October 22, 2018

12 DANIEL J. SANDRI
13 ACTING REAL ESTATE COMMISSIONER

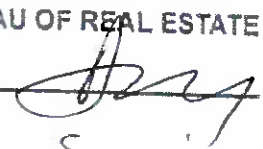
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FILED

SEP 20 2018

BUREAU OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	DRE No. H-40958 LA
)	
DAVID MIN KIM,)	OAH No. 2018040832
)	
Respondent.)	

NOTICE

TO: DAVID MIN KIM, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 08, 2018, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 08, 2018, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on Monday, June 18, 2018, and any written argument hereafter submitted on behalf of respondent and complainant.

Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of Monday, June 18, 2018, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause

1 shown.

2 Written argument of complainant to be considered by me must be submitted within
3 15 days after receipt of the argument of respondent at the Los Angeles Office of the Department of
4 Real Estate unless an extension of the time is granted for good cause shown.

5 DATED: September 17, 2018.

6 DANIEL J. SANDRI
7 ACTING REAL ESTATE COMMISSIONER

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

DAVID MIN KIM,

Respondent.

Case No. H-40958 LA

OAH No. 2018040832

CORRECTED PROPOSED DECISION

Eileen Cohn, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on June 18, 2018, in Los Angeles.

Steve Chu, Counsel, represented Maria Suarez (complainant), Supervising Special Investigator of the State of California, Department of Real Estate (Department).

David Min Kim (respondent) was present and represented himself.

Oral and documentary evidence was received at the hearing. The record remained open until July 10, 2018, and was submitted on that date, so that respondent could submit additional documentation including missing pages from exhibits A and B, and character evidence letters, including commitments of employment. Respondent did not submit the missing pages and exhibit A, which was a partial document written by a forensic psychologist for the Board of Parole Hearings and reviewed by a senior psychologist of that Board was not admitted, as expert testimony was not offered at the hearing and, accordingly, the partial document did not meet the requirements of administrative hearsay, pursuant to Government Code section 11513, by supporting and explaining such testimony. Exhibit B was admitted as administrative hearsay. Respondent further supplied employment letters, marked as exhibit E and an uncertified Board of Parole decision, marked as exhibit F; both exhibits E and F were admitted as administrative hearsay over Complainant's objection.¹

¹ Complainant's written objections to respondent's exhibits were marked for identification only as exhibit 6.

This corrected decision is issued solely to amend the caption by deleting the reference to the Department of Consumer Affairs.² (Cal. Code. Regs., tit. 1, § 1048, subd. (c).) No other corrections have been made to this decision.

SUMMARY

Complainant alleges that respondent's real estate salesperson's license application should be denied based on respondent's criminal conviction and incarceration for murder. Respondent admitted complainant's factual allegations and offered persuasive evidence of rehabilitation. As discussed below, respondent's application for an unrestricted real estate salesperson license is denied, and instead he shall be issued a restricted real estate salesperson license for a period of five years.

FACTUAL FINDINGS

Parties and Jurisdiction

1. On July 10, 2017, respondent submitted an application to the Department for a real estate salesperson license. The Department denied the application, and respondent appealed.

2. Complainant brought the Statement of Issues in her official capacity as a Supervising Special Investigator for the Department. Respondent timely submitted a Notice of Defense.

Respondent's Conviction

3. A. The court docket sets forth the history of respondent's conviction (exhibit 2.) On November 26, 1997, respondent was convicted after a jury found him guilty, in the Superior Court of California, County of Los Angeles, case number PA025056, of violating Penal Code section 187, subdivision (a), with enhancement, pursuant to Penal Code section 1203.06, subdivision (a)(1) and 12022.5, subdivision (a)(1), murder in the second degree with enhancement for use of a handgun, a felony.

B. On February 3, 1998, the court sentenced respondent. The court denied probation, and ordered respondent to serve 19 years to life in prison with credit for 482 days in custody, with 420 days actual custody and 62 days for good time/work time. In addition, the court ordered respondent to pay restitution in the amount of \$1000.

² The Bureau of Real Estate became the Department of Real Estate on July 1, 2018. The Department is no longer within the Department of Consumer Affairs. (Senate Bill 173 (Stats. 2018, ch. 828); Bus. & Prof. Code, § 10050.)

C. On February 24, 2000, respondent's sentence was reversed, and on March 16, 2000, the court set the matter for retrial, and the new trial commenced on March 15, 2000. On March 18, 2000, the court declared a mistrial.

D. On August 24, 2000, the jury convicted respondent of the same counts set forth in Finding 3A above. On November 21, 2000, respondent was sentenced to 15 years to life for the base count of second degree murder, with an additional four years, the mid-term sentence for enhancement. Respondent was credited with 1,077 days, plus 62 days good time/work time as of February 3, 1998, plus 38 days good time/work time from March 10, 2000 through November 21, 2000, for a total of 1,177 days credit, with all remaining credits to be determined by the Department of Corrections. Respondent was further ordered to pay a restitution fine of \$1000, with an additional amount of \$1000 stayed, with the stay becoming permanent upon successful completion of parole. Respondent satisfied his restitution obligation; his parole obligation is stayed.

4. Respondent was released from prison on April 22, 2014. (Ex. F.) At the hearing, respondent was still on active parole supervision for an indefinite period of time. (Ex. D.) His parole officer makes bi-monthly unannounced visits and they have a positive relationship. Respondent is hopeful that he will be released from parole in February 2019, five years after his release from prison.

5. A. The circumstances underlying this conviction occurred in October 25, 1996. When respondent was 18 years old, he shot and killed a young male individual during an altercation at a house party that turned into a brawl. (Ex. D.)

B. Complainant conducted cross-examination with the intent of demonstrating the seriousness of respondent's crime and also his dishonesty, especially with regard to a collateral issue of whether respondent's trip to Korea after the crime, was preplanned or an attempt to flee, which was not part of the conviction. The conviction is conclusive evidence of respondent's guilt³ Given the seriousness of the offense, the details, and the passage of time, the details of the circumstances prior to his conviction by a jury are irrelevant. Respondent's attempt to explain himself in response to complainant's questioning was credible given the conclusiveness of his guilt, the relevance and scope of the questions posed, and the passage of time. In his application, respondent stated: "There is no excuse. I accept full responsibility for my actions. I spent nearly two decades in prison and I am filled with remorse. I will never be able to make amends and I will never stop trying." (Ex. 5.) At hearing respondent sought to assure the complainant that he was not being evasive. He was "sorry" for objecting to questions about the basis of his convictions. Understandably, he was "reticent" about "rehashing a very painful and terrible choice." (Respondent's testimony.)

³ See *Arneson v. Fox* (1980) 28 Cal.3d 440, 449 (holding, in a case involving a plea agreement, that the Board of Real Estate is not required to relitigate the issue of guilt and "[r]egardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged.")

Rehabilitation

6. Respondent's crime took place in his youth, 22 years ago. Respondent took full responsibility for his crime. He disclosed his conviction and fully cooperated with the Department; its investigator found respondent "cooperative and forthright." (Ex. D.) Respondent provided a Board of Parole decision to grant post-conviction credits for time served which supported and explained his testimony about his exemplary conduct during his incarceration. "Upon further review the record reflects that Mr. Kim demonstrated exceptional performance and exemplary conduct in his rehabilitative programs and his institutional behavior during three years of his incarceration for which it is recommended he be awarded 12 months additional post-conviction credit pursuant to CCR, Title 15, section 2410(b)." (Ex. F.)

7. Since his release from prison, respondent has had no arrests or incidents of any kind. Respondent has an incentive to be lawful. He remains on parole until at least early 2019, and any infraction might result in his incarceration. Nevertheless, respondent has actively pursued a new life; he obtained employed in a licensed profession, got married, purchased a home and, at the time of the hearing, was about to become a parent. Respondent is looking forward to parenthood and is serious about his obligations to his family.

8. Respondent is currently employed as a mortgage loan originator with licenses issued in 2016 by the State of California, Department of Business Operations (DBO1441090), and the State of Washington. He has an unblemished record as a mortgage loan originator licensee. Respondent wants to become a real estate salesperson to advance his career and to meet his stated commitment to provide financial support for his growing family. He needs to be licensed before he can secure a real estate salesperson position.

9. Respondent has addressed the problems which he believes led to his crime. He has taken anger management classes during his incarceration, and was not been involved in any incident during his incarceration. During his incarceration he served in many supporting positions including as a mental health service assistant, and hospice care provider for terminally-ill prisoners. He also assisted in the education department helping inmates prepare for their General Education Development Diploma (GED). (Ex. B.) He was commended for his participation in a wide-range of programs. (*Ibid.*) He also enrolled in correspondence courses in business administration through a community college. (*Id.*; Ex. D.) In addition, he participated in a program designed for children where he advised them about prison and cautioned them not to become criminals. (Ex. D.)

10. Respondent turned to religion during his incarceration, and remains involved in his church to this day. Through his church, respondent volunteers as a member of the praise team and ministry and with efforts to serve the homeless population. Respondent's conduct after his release confirms that he has embraced a different approach to relationships. Respondent does not associate with the individuals that were around him at the time of the murder.

11. Respondent provided one relevant letter from Jacob Choi, a licensed real estate broker, supporting and explaining his testimony that he has one employment opportunity as a real estate salesperson. Mr. Choi acknowledged in his letter of June 29, 2018 the obstacle of respondent's "current licensing situation" and that "an official offer" will be extended only "when the license is approved." (Ex. E.)

12. Based on the totality of the evidence, the public will be adequately protected by granting respondent a restricted license for a period of five years.

LEGAL CONCLUSIONS

1. Respondent bears the burden of proving she meets all prerequisites necessary for the requested license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.) This burden requires proof by a preponderance of the evidence. (Evid. Code, § 115.)

2. The Real Estate Commissioner "has full power to regulate and control the issuance and revocation . . . of all licenses to be issued . . ." (Bus. & Prof. Code, § 10071.)⁴ "Protection of the public shall be the highest priority for the Department of Real Estate in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (§ 10050.1.)

3. The Real Estate Commissioner may deny an application for a license if the applicant has been convicted of a crime, including a felony, which is substantially related to the qualifications, functions or duties of a licensed real estate salesperson. (§§ 475, subd. (a)(2), 480, subds. (a)(1), (a)(1)(B), and (b), and 10177, subd. (b).)

4. A crime is substantially related to the qualifications, functions, or duties of a real estate licensee if it involves the any unlawful act with doing of any unlawful act...[¶] with the intent or threat of doing substantial injury to the person or property of another. (Cal. Code Regs., tit. 10, § 2910, subds. (a)(8).)

5. Cause exists to deny respondent's real estate salesperson license application under sections 475, subd. (a)(2), 480, subdivisions (a)(1), (a)(1)(B), and (b), and 10177, subdivision (b) because respondent was convicted of murder in the second degree, with enhancement, a felony involving the use of a weapon with the intent of doing substantial injury to another person, a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee.

⁴ All statutory references will be to the Business and Professions Code unless otherwise designated.

6. Cause for denial of respondent's application having been established, respondent also bears the burden of proving that he is sufficiently rehabilitated to warrant licensure. (See *Martin v. Alcoholic Beverage Control Appeals Bd.* (1950) 52 Cal.2d 259, 264-265; *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.) Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940), but remorse, while necessary, is insufficient to demonstrate rehabilitation. A truer indication of rehabilitation than a mere expression of remorse is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) "The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct." (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

7. California Code of Regulations, title 10, section 2911 contains the criteria to which the Bureau looks in evaluating the rehabilitation of an applicant for whom cause exists to deny a license application. The regulation provides in relevant part:

The following criteria have been developed by the Bureau pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the Bureau action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.

(c) Expungement of criminal convictions resulting from immoral or antisocial acts.

(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 conduct which is the basis to deny the Bureau action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the Bureau action sought.
- (i) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.
- (n) Change in attitude from that which existed at the time of the conduct 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 applicant's previous conduct and with his 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 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.

8. The rehabilitation criteria summarized above have been formulated in an attempt to gauge whether criminal conduct is likely to be repeated. The court in *Singh v. Davi* (2012) 211 Cal.App.4th 141, 149 determined in this regard that, of the many rehabilitation criteria, arguably the most important in predicting future conduct is subdivision (n), change in attitude from that which existed at the time of the conduct in question. "California courts have considered various factors in reaching their decision as to the type of discipline or whether a person was a threat to the public. In real estate licensee disciplinary cases, some of these factors have included: (1) the likelihood of recurrence of the crime; (2) whether the person led an exemplary life before and after the incident which led to the conviction; and (3) whether the person was contrite and remorseful." (*Brandt v. Fox* (1979) 90 Cal.App.3d 737, 745-747.) Respondent has satisfied critical factors (1) and (3), and has been leading an exemplary life after his release from prison, if not before, over 22 years ago.

9. Respondent has established many critical components of his rehabilitation and has fully acknowledged the wrongfulness of his criminal act. Respondent's substantially related conviction is a heinous crime involving the murder of another individual. However, his criminal act occurred 22 years ago when he was 18. He was incarcerated for at least 17 years, if pre-conviction time is added and during that time he matured, participated in activities to move his life forward from his past, including anger management and college courses and also was actively involved in helping others through his work with inmates taking their GED or in hospice, his work with community youth to discourage them from engaging in criminal behavior, and his involvement with the church. Respondent is still on parole and has not been pardoned, and won't be for about a year, at the earliest, and as such, he has an incentive to follow the law. (See *In Re Gossage* (2000) 23 Cal.4th 1080, 1099.)⁵ Respondent, however, has been engaged in licensed activity as a mortgage loan originator without incident. He has demonstrated in his application and through his interaction with the Department's investigator his cooperation and candor. Since his conviction, respondent has been employed, gotten married, purchased a home, and is looking forward to the responsibilities that come with parenthood. Although many components of the rehabilitation guidelines have not been fulfilled at this time, and respondent has not yet been released from parole, respondent has demonstrated that he can participate responsibly and without incident

⁵ "Since persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that a bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole."

in a licensed activity. The interests of public protection therefore can be satisfied by denying respondent's application, and providing him a restricted license for a period of five years subject to the limitations, and conditions identified in the Order below.

ORDER

The application of respondent David Min Kim for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent for a period of five years pursuant to section 10156.5. The restricted license shall be subject to all of the provisions of section 10156.7 and the following limitations, conditions, and restrictions imposed under authority of section 10156.6 (see Cal. Code Regs., tit. 10, §2930, subds. 13, 19.):

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.

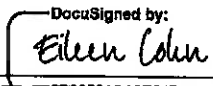
3. While working as a real estate salesperson under his restricted license, and with any application for an unrestricted license or transfer to a new employing broker, respondent shall submit to the Department a statement signed by any current or prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department, 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 137000, Sacramento, CA 95813-7000. 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: August 22, 2018

DocuSigned by:

EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings