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JAN 03 2023

DEPT. OF REAL ESTATE

By Eilleen Ding

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of LEO NOY LEE, Respondent.	No. H-42249 LA OAH No. 2022070519

STIPULATION AND WAIVER AND DECISION AFTER REJECTION

I, LEO NOY LEE, Respondent herein, acknowledge that I have received and read the Statement of Issues filed by the Department of Real Estate on July 1, 2022, 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 September 1, 2022, 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

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

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

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

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

I further understand that the restricted license issued to me 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 the Business and Professions Code.

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

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ORDER

Respondent's application for a real estate 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 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.

The restricted salesperson license issued to 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 the Business and Professions Code:

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:
   (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 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 two (2) years have elapsed from the date of issuance of the restricted

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

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 broker on a form approved by the Department of Real Estate wherein the employing broker 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 137013, Sacramento, CA 95813-7013. 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: 11-16-2022

Steve Chu, Counsel
Department of Real Estate

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

DATED: 11-09-2022

LEO NOY LEE
Respondent

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I have read the Statement of Issues filed herein. the Proposed Decision of the Administrative Law Judge dated September 30, 2022, and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a restricted salesperson license to Respondent.

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

This Order shall become effective at 12 o'clock noon on 2/2/2023.

IT IS SO ORDERED 12.15.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

FILED

OCT 21 2022

DEPT. OF REAL ESTATE

By [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LEO NOY LEE, Respondent.	)	DRE No. H-42249 LA OAH No. **2022070519**

NOTICE

TO: LEO NOY LEE, Respondent, and , his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated September 30, 2022, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated September 30, 2022, 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 Thursday, September 01, 2022, 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 Thursday, September 01, 2022, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

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

DATED: 10-18.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

LEO NOY LEE, Respondent.

Agency Case No. H-42249 LA

OAH No. 2022070519

PROPOSED DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by telephone and videoconference on September 1, 2022.

Steve Chu, Staff Counsel, represented complainant Veronica Kilpatrick. Official notice was taken that she brought the Statement of Issues in her official capacity as a Supervising Special Investigator for the Department of Real Estate (Department). Leo Noy Lee, respondent, represented himself.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on September 1, 2022.

STATEMENT OF THE CASE

Learning his mother was released from the hospital, respondent drank excessively while celebrating and then collided with another vehicle on his way home. He thought he caused no damage and failed to give the other driver his contact and insurance information. In 2018, he was convicted of drinking and driving and hit-and-run. His welding business failed during the COVID-19 pandemic. Now an office manager for his wife, a licensed real estate broker, respondent seeks to be licensed to take on more responsibility. He presented other evidence of rehabilitation, but of concern is his failure to disclose his convictions to the Department.

ISSUES

Whether it is safe to trust respondent with a real estate license in light of his evidence of rehabilitation and taking into account that he failed in his application to the Department to disclose his convictions.

FINDINGS OF FACT

1. Respondent timely sought a hearing by submitting his July 8, 2022 Notice of Defense on Application in response to the Statement of Issues, which was served on July 1, 2022.

Convictions

2. On March 8, 2018, in the California Superior Court, County of Los Angeles, case number 8DN00648, on pleas of nolo contendere, respondent was

convicted of two misdemeanors, driving with a BAC, Blood Alcohol Content, of 0.08 percent or more, a violation of Vehicle Code section 23152, subdivision (b), and hit-and-run, failing to stop following an accident, a violation of Vehicle Code section 20002, subdivision (a).

3. Regarding the hit-and-run offense, the court suspended imposition of sentence and placed respondent on summary probation for three years on terms and conditions, including that respondent: (i) pay fines, fees, and assessments totaling $1,371, except that in lieu of paying a fine of $390 respondent could perform two days of community labor; (ii) complete a nine-month first-offender alcohol and other drug education and counseling program; (iii) not drive a vehicle with any measurable alcohol or drugs in his system and submit to a blood or other test upon request of a peace officer; (iv) complete HAM, the Hospital and Morgue Program; (v) complete VIP, the Victim Impact Program sponsored by MADD, Mothers Against Drunk Driving; (vi) install an ignition interlock device if ordered by DMV, the Department of Motor Vehicles.

4. Regarding the alcohol-related offense, the court suspended imposition of sentence and placed respondent on summary probation for three years on terms and conditions, including that respondent: (i) pay assessments totaling $75; and (ii) pay restitution to the victims in an amount that was to be determined after a hearing.

5. The circumstances underlying the convictions are that respondent's elderly mother was released from the hospital on August 14, 2017. To celebrate, respondent and a friend drank alcoholic beverages that evening at respondent's welding shop. Respondent's BAC was later measured at 0.21 percent when, on his way home, respondent collided with another vehicle. Respondent thought he caused no damage because the front end of his vehicle was low and did not directly impact the

other vehicle's back fender. Respondent testified that he spoke to the other driver and left the scene believing they were agreed there was no need to exchange information. The other driver called police after respondent left to report a hit and run.

6. The DMV suspended respondent's driver's license for some period not established in the record. The suspension was lifted and respondent is again licensed to drive.

Application

7. Respondent submitted an application for a salesperson license on January 23, 2020. There was some delay in processing the application because respondent had not completed the mandatory Live Scan Service Request Form and had not submitted fingerprints under the Department of Justice Live Scan Program. In a July 26, 2021 letter the Department advised respondent that more information was required and that his application had been sent to the Licensing Background Review Unit, after which it would be examined by a Staff Services Analyst. The application had not disclosed respondent's convictions.

8. Matthew Dargan, a Special Investigator for the Department, interviewed respondent on November 22, 2021. According to Special Investigator Dargan's memorandum of the interview, respondent told him that he had exchanged information with the other driver at the scene. Asked during the hearing whether this was true, respondent said he was not sure. By the time of the interview, respondent had fulfilled all terms ordered by the criminal court and was no longer on probation.

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Respondent's Written Explanations

9. Respondent was asked for and on August 20, 2021 completed a Conviction Detail Report and Interview Information Statement.

10. Describing circumstances underlying his convictions, respondent wrote in the one-page Conviction Detail Report, Exhibit 5, page A52: "On 08/14/17 around 8:15 PM" he rear-ended another vehicle, after which both drivers "moved out of the street" to a parking lot and "because of the alcohol and darkness, I couldn't see the [d]amage of both vehicle [*sic*] so I told the other driver there's no damage. I left the parking lot. Shortly afterward a South Gate Police pulled me over and that's why I had three counts of crime."

11. In explanation of the crimes, respondent wrote in the Conviction Detail Report: "[T]his is not an excuse to drink and drive. That morning I got a call from my sister said that my mom is back home from the hospital and she is in good condition. I was so happy with the news. Later in the evening my friends came over so we started drinking."

12. The Conviction Detail Report is concerned with rehabilitation efforts, although it provides little space for an answer, inasmuch as it asks: "What positive changes have you made in your life since this conviction? (Criteria for rehabilitation is stated in regulations 2911 and 2912 of the Real Estate Commissioner.)" Respondent's answer in its entirety is: "Don't Drink and Drive. Mr. Felippe an instructor at DUI Alhambra Traffic School, 626-723-8467."

13. Regarding why he did not disclose the convictions in his application, respondent wrote in the Conviction Detail Report: "I was told that DUI is not a Felony

by the DUI instructor at the traffic school, a Doctor, a lawyer, a professor and all kinds of professionals had it, so Don't Drink and Drive. Therefore I did not disclosed [*sic*]."

14. Respondent attached to the Interview Information Statement a printout from the criminal court showing the disposition of his convictions. In response to the form's inquires, respondent noted that his business, established in 1992, was forced to close in June 2020 because of the pandemic, he and his wife have no children, he is not active in social, civic, or community groups, and he considers himself to have no problem with substance abuse, whether alcohol or other substances.

Other Evidence

15. Respondent told Special Investigator Dargan and reiterated with conviction at the hearing that he will never again drink and drive, in part because he has learned from his mistakes, as well as because he is determined to do and be better, especially as a licensed professional.

16. At the hearing, respondent emphasized that he denies nothing in the police report of his arrest and accepts full responsibility for his wrongdoing. Respondent considers it an indication of his rehabilitation that the DMV has lifted the suspension of his driver's license.

17. Respondent believes that his 30 years operating his own business shows that he is responsible and honest. The closing of the business does not, in respondent's view, detract from his character because it was due to general misfortune caused by the COVID-19 pandemic.

18. If licensed, respondent would work with his wife, Evelyn Lee, a licensed real estate broker who operates Angels 789 Realty, with an office at 5112 Hollywood

Boulevard, Los Angeles. Ms. Lee supervises one agent at this office. Respondent currently works as the office manager.

19. Respondent considers himself a responsible citizen compared to people he has read about who, though under court orders to pay child support, fail to do so, and are yet able to obtain a real estate license. Respondent testified that there are similar cases in the news of people who commit crimes but are given a second chance when a licensing agent grants them licensure. Respondent argued that he too should be given a second chance.

20. Respondent noted that he was about to turn 66 years old and, though others might consider him of retirement age, he does not wish to retire or be in effect "eliminated" from society. Respondent wants rather to be of use to society as a real estate licensee, for his own good and for the good of others, in the years remaining to him which he said, given his age, might be few.

PRINCIPLES OF LAW

1. Complainant presented a prima facie case based on respondent's convictions. It is then respondent's burden under Evidence Code sections 115 and 500 to demonstrate by a preponderance of the evidence circumstances and good character which would warrant licensure.

2. Under Business and Professions Code section 475, grounds to deny a license include, under subdivision (a)(2), conviction of a crime, and under subdivision (a)(3), an applicant's commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the applicant or another, or substantially injure another.

3. Subdivision (a)(1) of section 480 of the Business and Professions Code provides that a board or department such as DRE may deny a license based on a conviction in the seven years preceding a license application that is "substantially related to the qualifications, functions, or duties of the business or profession for which the application is made . . . ."

4. The Statement of Issues alleges that subdivision (a)(2) of section 480 of the Business and Professions Code is applicable, but there is no evidence respondent "has been subjected to formal discipline by a licensing board in or outside California."

5. Business and Professions Code section 10177, subdivision (b)(1), provides that the Real Estate Commissioner may deny a license if the applicant "[e]ntered a plea of guilty or no contest to, or been found guilty of, or been convicted of . . . a crime substantially related to the qualifications, functions, or duties of a real estate licensee . . . ."

6. The Real Estate Commissioner has promulgated regulations pertinent to license applications. All such regulations cited below are sections of title 10 of the California Code of Regulations.

7. Under Regulation 2910, subdivision (a)(8), a crime or act may be deemed substantially related to licensure if it involves an unlawful act that threatens substantial injury to the person or property of another.

8. Under Regulation 2910, subdivision (c):

> The nature and gravity of the offense, the number of years that have elapsed since the date of the offense, and the nature and duties of a real estate licensee shall be taken

into consideration when determining whether to deem an offense to be substantially related to the qualifications, functions or duties of a licensee. The Department's consideration of these factors in assessing the substantial relationship of an offense does not alter, or act in place of, consideration of these same factors in the Criteria for Rehabilitation.

9. Regulation 2911, subdivision (a), which refers to the Department's previous designation as a Bureau, provides the Rehabilitation Criteria:

(1) The time that has elapsed since commission of the acts(s) or offense(s):

(A) The passage of less than two years after the most recent criminal conviction or act of the applicant that is a cause of action in the Bureau's Statement of Issues against the applicant is inadequate to demonstrate rehabilitation.

(B) Notwithstanding subdivision (a)(1)(A), above, the two year period may be increased based upon consideration of the following:

(i) The nature and severity of the crime(s) and/or act(s) committed by the applicant.

(ii) The applicant's history of criminal convictions and/or license discipline that are "substantially related" to the qualifications, functions, or duties of a real estate licensee.

However, no rehabilitation shall be required where the sole proven basis or bases for denial of an application is an expunged conviction as described in Business and Professions Code Section 480(c).

(2) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant, or escheat to the State of these monies or other properties if the victim(s) cannot be located.

(3) Expungement of criminal convictions.

(4) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

(5) Successful completion or early discharge from probation or parole.

(6) Abstinence from the use of controlled substances and/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 and/or alcohol.

(7) Payment of the fine and/or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.

(8) 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.

(9) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.

(10) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

(11) Correction of business practices resulting in injury to others or with the potential to cause such injury.

(12) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(13) 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 Bureau action sought.

(14) Change in attitude from that which existed at the time of the conduct in question as evidenced by the following:

(A) Testimony and/or other evidence of rehabilitation submitted by the applicant.

(B) Evidence from family members, friends and/or other persons familiar with applicant's previous conduct and with his or her subsequent attitudes and/or behavioral patterns.

(C) Evidence from probation or parole officers and/or law enforcement officials competent to testify as to applicant's social adjustments.

(D) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(E) Absence of subsequent felony convictions, misdemeanor convictions, or other conduct that provides grounds to discipline a real estate licensee, which reflect an inability to conform to societal rules when considered in light of the conduct in question.

ANALYSIS

1. Respondent's 2018 convictions are not closely related to licensure, primarily because of the number of years that have elapsed since the date of the offense, one of the factors to consider under Regulation 2910, subdivision (c). It has been more than five years since respondent's offenses in August 2017. His criminal probation ended about one year ago.

2. With respect to their nature and severity respondent's offenses were of relatively little consequence. Respondent was fortunate. As respondent learned in completing court-ordered programs such as that offered by MADD, while respondent's level of intoxication was above the legal limit and in choosing to drive a motor vehicle in that condition his actions threatened, within the meaning of Regulation 2910, subdivision (a)(8), grave injury to himself and others. The threat was

great because it might even have caused death. Instead there was only slight property damage.

3. A hit-and-run may be considered egregious, no matter how slight the accident, because it may show dishonesty and disregard for the law. A real estate licensee, on the other hand, must be always mindful of the law, not only general laws, but also the detailed duties imposed by law on practitioners of the real estate profession. A licensee must likewise be scrupulous in fulfilling all legal duties. Respondent was not acting dishonestly or with disregard. Rather, being inebriated, he was mistaken. He pulled over and spoke to the other driver, but he failed to take the last step, to exchange information, because he thought there was no property damage. Respondent's offenses do not suggest a firm relationship to licensure.

4. The lapse of time since commission of respondent's offenses is long, as explained above. The two-year period with which Regulation 2911, subdivision (a)(1)(A), in concerned, has been exceeded, and need not be lengthened under Regulation 2911, subdivision (a)(1)(B), as a barrier to licensure. Respondent has no history of criminal conduct except only the 2017 offenses.

5. Respondent has not reoffended in the five years that have elapsed since his offenses. He has convincingly vowed never again to drink and drive. He committed that offense in unusual circumstances, in a celebration that got out of hand in a manner that is not likely to be repeated.

6. Respondent has moreover, under Regulation 2911, subdivision (a)(9), used the time well since his offenses to educate himself and pass the real estate examination. He has kept busy as an office manager in his wife's real estate office. Not

only the lapse of time, but also how respondent has spent the time, tell in favor of rehabilitation.

7. Some measure of rehabilitation is shown under Regulation 2911, subdivision (a)(5), by respondent's successful completion of his criminal probation. This includes that he paid all fines and monies as ordered by the criminal court, a rehabilitation factor under Regulation 2911, subdivision (a)(7).

8. Under Regulation 2911, subdivision (a)(8), respondent has a stable family life, as he has been working with his wife and hopes to work with her more, with greater responsibilities.

9. Other Regulation 2911 rehabilitation criteria have relatively little bearing here. A most important criterion is set out in subdivision (a)(14)(E) of the regulation, a change in attitude, and more specifically change discernible from an absence of more convictions. This criterion may not be particularly important to respondent's rehabilitation, though he does meet it, because his misconduct should be considered an unusual departure from his normal life. Respondent did not have to change his attitude much, because he was, as he emphasized, hardworking and upright for decades before the August 2017 collision.

10. Respondent's evidence of rehabilitation was quite encouraging, even if not as full as it might be. For instance, respondent had no evidence of significant involvement in the community or in service to societal goals. There remains doubt about respondent in light of some inconsistency, as he led Special Investigator Dargan to believe that he had exchanged information with the other driver after the collision, yet was arrested for a hit-and-run and at the hearing could not affirm how he acted in this regard. Other doubt whether respondent has been entirely forthcoming to the

Department arises from his failure to disclose the 2018 convictions when he applied. Respondent's explanation for this failure was unclear and unconvincing.

11. On balance, however, the public safety will be adequately protected if respondent's application for a license is granted with a short probationary period.

CONCLUSIONS OF LAW

Respondent's evidence of rehabilitation, even after taking into account his failure to disclose his convictions when applying to the Department, supports a finding that respondent is capable of performing the duties of a Department licensee in a manner consistent with public health, safety, and welfare, with a short period of probation.

Respondent's evidence of rehabilitation, even after taking into account that he failed to disclose his convictions when applying to the Department, supports a finding that it is safe to trust respondent with a real estate license with a short period of probation.

ORDER

The application of respondent, Leo Noy Lee, for a real estate salesperson license is granted, provided, however, the license is immediately revoked and a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

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

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

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. 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.

DATE: 09/30/2022

Thomas Lucero

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings