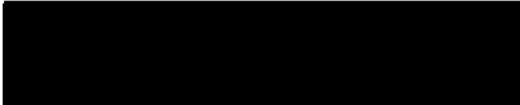


If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on 10/22/2024.

IT IS SO ORDERED 10/15/2024

Chika Sunquist
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

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

In the Matter of the Statement of Issues Against:

BILLEY LEROY DOOLEY, JR.,

Respondent.

Agency Case No. H-42886 LA

OAH No. 2024060811

PROPOSED DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 8, 2024.

Lisete Garcia, Staff Counsel, represented complainant Veronica Kilpatrick, a supervising special investigator for the Department of Real Estate (Department). Billey Leroy Dooley, Jr. (respondent) represented himself and was present throughout the hearing.

At the conclusion of the hearing, the record closed and the matter was deemed submitted.

SUMMARY

Complainant seeks to deny respondent's application for a real estate salesperson examination and license based on his criminal history. Respondent expressed remorse and accountability for his actions as well as evidence establishing mitigating circumstances and substantial rehabilitation. Nonetheless, because respondent's crime involves dishonesty and other conduct incompatible with the fiduciary responsibilities of a Department licensee, granting him a restricted license for a period of time is necessary for the protection of the public.

FACTUAL FINDINGS

Jurisdictional Matters

1. On February 8, 2024, respondent applied to the Department for a real estate salesperson examination and license. The Department denied the application and respondent appealed.
2. A Statement of Issues dated May 14, 2024, and signed on behalf of complainant alleges respondent's application should be denied because of criminal convictions he incurred.
3. On June 3, 2024, respondent signed a Notice of Defense requesting a hearing to present his defense to the allegations contained in the Statement of Issues. Thereafter, this hearing ensued.

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Respondent's Criminal Conviction

4. On May 22, 2014, in the Circuit Court of the County of Chesterfield, Commonwealth of Virginia, Case Numbers CR 14F00329-01, CR14F00329-02, and CR14F00329-03, Respondent pled guilty and the court convicted him of violating one count of Virginia Code section 182.2-186 (false statement to obtain credit), and two counts of Virginia Code section 182.2-186.3 (identity theft/fraud), all felonies. The court sentenced respondent to 15 years in prison (five years for each charge), suspended the sentence, and placed him on supervised probation with terms and conditions including submitting to DNA testing, staying away from the victim, and paying unspecified court costs. Upon the district's probation office's recommendation, respondent was released early from probation, effective May 5, 2016.

5. The facts and circumstances underlying the criminal conviction are that respondent attended a conference for entrepreneurs where he met some people. These people recruited him to work with them on a fraud scam consisting of using stolen identifying information to obtain personal loans. Respondent used the information to apply for several loans from various banking institutes. The victim had placed a fraud alert on his credit file and so was contacted by the banks when the applications bearing his name were received before disbursing the funds. The victim confirmed that he was not applying for loans. Respondent was arrested when he went to one of the banks to finalize the application. At the time of respondent's arrest, multiple identification documents for several different individuals were found on his person.

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Respondent's Evidence

6. Respondent testified at the hearing. He stated the crime occurred after he had been discharged from the military and was very much down on his luck, poverty-stricken to the point of being homeless, unemployed and without much direction. The people he met at the entrepreneurs' conference turned out to be a white-collar crime ring who engaged in multiple fraudulent schemes. He accepted their representation that the scheme with which he was involved was essentially victimless but after he was arrested and spent some time in jail, respondent recognized that was not the case and came to feel deep regret over what he had done.

7. Respondent further stated his life up to the point of his arrest and criminal conviction was chaotic and difficult. He was the product of the foster care system and had no family support, relying on himself since the age of 15. He hoped the military would help him achieve structure and a productive path but this turned out not to be the case. On the contrary, respondent suffers from post-traumatic stress disorder and other injuries from his service.

8. Since his release from probation, respondent has done several things to improve himself and achieve rehabilitation. He met and married his wife with whom he shares a five-year-old son and they are expecting a second child. He has worked for an ATM repair and maintenance company, first full-time and more recently on an intermittent basis. According to his manager, Steven Wayne Park, who testified at the hearing, respondent is routinely entrusted with tens of thousands of dollars in cash as part of that work.

9. Respondent also became religious. After returning to the Southern California area, he joined a church where he is active in its men's group and also

facilitates several groups for veterans. Respondent also returned to school where he earned his undergraduate degree in divinity studies from California Baptist Church and is continuing graduate studies with the objective of earning two masters' degrees.

10. Kevin Ellstron, a real estate broker licensed in California since 2007 is willing to act as respondent's supervising broker if respondent is granted his real estate salesperson license. Mr. Ellstron and several other individuals, mostly from respondent's church, testified at the hearing or wrote letters of support. They all expressed belief in respondent's changed attitude and inherent integrity.

LEGAL CONCLUSIONS

1. "Protection of the public shall be the highest priority for the Department 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." (Bus. & Prof. Code, § 10050.1.) (Further statutory citations are to the Business and Professions Code unless otherwise designated.)

2. The Department may deny an application for a real estate license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee. (§§ 480, subd. (a)(1), 10177, subd. (b).) (Section 480 limits consideration of crimes for purposes of license denial to ones occurring within the seven year period preceding the date of the license application with certain exceptions including financial crimes classified as felonies; as respondent's convictions is for such a crime, it is not subject to the seven-year limitation.)

3. California Code of Regulations, title 10 (Reg. or Regulations), section 2910 sets out the standards for determining whether a crime is substantially related to the qualifications, functions or duties of a licensee of the Department. Among the circumstances when a crime will be found to be substantially related are if the crime involves any of the following:

(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

(2) Counterfeiting, forging or altering of an instrument or the uttering of a false statement.

[¶] [¶]

(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

[¶] [¶]

(8) Doing of any unlawful act 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.

4. Respondent's crime, appropriating another person's identity to fraudulently obtain a loan, involve many of the factors listed above and is clearly substantially related to the qualifications, functions or duties of a real estate salesperson.

5. Regulation section 2910, subdivision (c) also provides in relevant part:

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.

6. Respondent's crime is serious. Although respondent was ultimately unsuccessful in his attempts to fraudulently obtain funds, the effort evinces characteristics of dishonesty inconsistent with the nature and duties of real estate licensees who act in a fiduciary capacity in their professional duties and are expected to be honest and trustworthy. However, the crime occurred over ten years ago, a substantial amount of time, and nothing in the record indicates respondent has incurred any other criminal convictions since then

7. Based on the application of Regulation section 2910, because respondent's crime meets the "substantially related" criteria, it constitutes grounds for denying his application for licensure.

8. Even though cause exists for denial of respondent's application, the Commissioner may issue respondent a license if he can prove sufficient rehabilitation. Respondent bears the burden of proof to establish by a preponderance of the evidence that he is rehabilitated. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1959) 52 Cal.2d 259, 266; Evid. Code, §§ 115, 500.)

9. Regulation 2911, subdivision (a) sets out the criteria for evaluating the rehabilitation of an applicant with a criminal record. The relevant criteria to be considered in the case include: the passage of more than two years since the most

recent conviction or act; expungement of the criminal conviction; successful completion of probation; payment of fines and monetary penalties; stability of family life and fulfillment of parental responsibilities; completion of educational and vocational training courses; significant or conscientious involvement in community programs designed to provide social benefits or ameliorate social problems; new and different social relationships from those which existed at the time of the criminal offenses; and a change of attitude from that which existed at the time of the offense.

10. Respondent satisfies most of the rehabilitation criteria. His crime occurred well over the two year period referenced in the criteria; he completed his probationary period and was released early; he now enjoys a stable family life; he has completed his undergraduate education and is working on two graduate degrees; and he volunteers at his church where he has met new people who have offered their support and belief in him. Considering the evidence as a whole, it is sufficient to conclude respondent is a much different person than the one who engaged in identity theft and attempted to procure funds through a fraudulent scheme.

11. Because of the extraordinarily sensitive nature of the work real estate licensees are entrusted with however, and its need for honesty and integrity, issuing respondent a restricted license for a period of time is necessary for the public safety.

ORDER

Respondent Billey Leroy Dooley's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to him pursuant to section 10156.5. The restricted license issued to the respondent shall be subject to all of the provisions of section 10156.7 and to the

following limitations, conditions, and restrictions imposed under authority of Section 10156.6:

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 Commission or conditions attaching to this restricted license.

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

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

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(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 Real Estate Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate. 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: 09/09/2024



Deena R. Ghaly (Sep 9, 2024 11:40 PDT)

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings