

COPY

FLAG
SAC
FILE
AUG 05 1986
DEPARTMENT OF REAL ES

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By C. Westbrook
C. Westbrook

In the Matter of the Application of)
MICHAEL LEON CARPENTER,)
Respondent.)

No. H-5655 SF
N 26935

DECISION

The Proposed Decision dated July 3, 1986, 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.

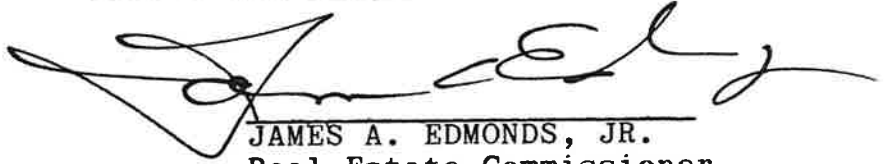
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may again be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the

Commissioner's Criteria of Rehabilitation is attached
hereto.

This Decision shall become effective at 12 o'clock
noon on August 25, 1986.

IT IS SO ORDERED 7-28, 1986.

A handwritten signature in black ink, appearing to read "James A. Edmonds, Jr.", written over a horizontal line.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)
MICHAEL LEON CARPENTER) No.H5655 SF
Respondent.) N 26935

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in San Francisco, California, on June 17, 1986.

Vera Winter Lee, Counsel, represented complainant.

Respondent Michael Leon Carpenter represented himself.

FINDINGS OF FACT

I

Edward V. Chiolo made the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Michael Leon Carpenter ("respondent") filed an application with the Department of Real Estate for a real estate salesperson license on October 2, 1985. The Real Estate Commissioner, in conformity with Business and Professions Code section 10152, requires further proof of respondent's honesty and truthfulness and has instituted this proceeding for that purpose.

III

On October 18, 1984, in the Municipal Court for the Oakland-Piedmont-Emeryville Judicial District, County of Alameda, State of California, respondent was convicted, upon his plea of nolo contendere, of a violation of Penal Code section 484 (Petty Theft), a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

Following his conviction, respondent was sentenced to 120 days in jail, however, execution of the sentence was suspended and respondent was placed on court probation for one year. He was not fined. Respondent successfully completed his probationary period.

V

Respondent's conviction occurred while he was working as a sales clerk at Emporium-Capwell's. Respondent "sold" two sport coats, a pair of slacks and shirts to a friend. However, respondent only rang up one of these items. Respondent and his friend were immediately apprehended. The value of the clothing was in excess of \$400.

VI

Respondent is 27 years old. He is currently employed five hours a day as an attendant at the YMCA and he has recently begun a training program with Pioneer Life Insurance of Sausalito, where he intends to work selling retirement programs. In addition, respondent and a friend have owned a carpet cleaning business for about a year.

Respondent has held many jobs. He has worked as a cook and a dishwasher, was a medical technician while in the Air Force, managed a Church's Chicken outlet in Florida and worked as an expeditor for Kaiser Steel. He is interested in becoming involved in commercial real estate and believes it is the kind of profession which will enable him to better himself and to support himself and his family.

Respondent did not graduate from high school, but took the proficiency exam to get his diploma. He is approximately twenty units short of receiving an AA degree in Business Administration.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Finding III, cause for denial of respondent's license application exists pursuant to Business and Professions Code sections 480(a) and 10177(b).

II

It is determined that it would not be against the public interest to issue respondent an appropriately restricted real estate salesperson license.

ORDER

1. Respondent's application for real estate salesperson license is denied.

2. A restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for that license within ninety (90) days of the effective date of this Decision.

3. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under the authority of section 10156.6 of that Code:

- (a) The restricted license 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee;
- (b) The restricted license 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 this restricted license;
- (c) 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 of the restricted license until two (2) years have elapsed from the date of issuance of the restricted license to respondent;
- (d) Respondent shall submit with his application for license under an employing broker--or his application for transfer to a new employing broker--a statement signed by the prospective employing broker which shall certify:

- (1) That he has read the Decision of the Commissioner which granted the right to a restricted license; and
- (2) That he will exercise close supervision over the performance of the restricted licensee of activities for which a real estate license is required.

DATED: July 3, 1986



MICHAEL C. COHN
Administrative Law Judge

MCC:hrs