

FILED

NOV 17 2020

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:)	DRE No. H-41553 LA
)	
JEFFREY JAMES HELLIGAR,)	OAH No. 2020040688
)	
Respondent.)	

DECISION

The Proposed Decision dated September 2, 2020, 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.

Page 1, paragraph 2, "...license with the Department, which was denied." shall be amended to remove "...which was denied."

Page 1 amended to switch paragraph 3 with paragraph 4.

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 Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department'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

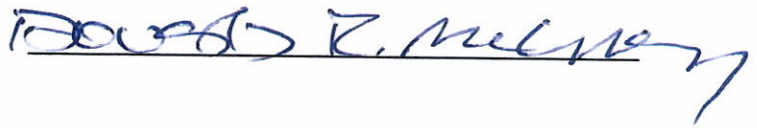
the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

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 DEC 08 2020.

IT IS SO ORDERED 10-20-20

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

A handwritten signature in blue ink that reads "Douglas R. McCauley". The signature is written in a cursive style and is positioned below the printed name of the Commissioner.

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

In the Matter of the Application of:

JEFFREY JAMES HELLIGAR, Respondent

Agency Case No. H-41553 LA

OAH No. 2020040688

PROPOSED DECISION

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 30, 2020 in Los Angeles.

Laurence D. Haveson, Real Estate Counsel, represented complainant Maria Suarez, a Supervising Special Investigator for the Department of Real Estate, State of California.

Respondent Jeffrey James Helligar represented himself.

Oral and documentary evidence was received and the record was closed. The matter was submitted for decision on July 30, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. These proceedings were brought pursuant to Business and Professions Code section 10100 and Government Code sections 11500 through 11528.
2. On September 18, 2018, respondent filed an application for a real estate salesperson license with the Department, which was denied.
3. On February 6, 2020, respondent filed a Notice of Defense, which requested a hearing to establish his qualification for licensure.
4. On December 10, 2019, complainant filed a Statement of Issues in her official capacity. Complainant filed a First Amended Statement of Issues on July 30, 2020. The evidence did not establish why complainant filed a Statement of Issues prior to receiving respondent's Notice of Defense. All jurisdictional requirements were satisfied.

Respondent's Convictions

5. On February 19, 1991, in the Ninth Judicial Circuit Court of Osceola County, Florida, case number CR 90-952, respondent was convicted, on his plea of guilty, of violating Florida Statute 784.045(1)(b) (aggravated battery), a second degree felony. The court sentenced respondent to serve a 30-month prison sentence and ordered respondent to pay restitution in the amount of \$9,355.63. Respondent served 11 months of his sentence, which was reduced because of credit given for his participation in a work-release program.

6. On October 4, 1993, in the Circuit Court of Orange County, Florida, case number CR 93-5261, respondent was convicted, on his plea of nolo contendere, of violating Florida Statute 893.13(1)(a)(1) (delivery of cocaine), a second degree felony. The court sentenced respondent to one day in the Orange County Jail, with credit for one day served, followed by a one-year probation.

7. In aggravation, on February 13, 1995, in the Circuit Court of Orange County, Florida, case number CR 94-11444, respondent was convicted, on his plea of nolo contendere, of violating Florida Statute 893.13(1)(a) (possession of cannabis with intent to sell), a third degree felony. The court placed respondent on two years of supervised probation.

Respondent's Rehabilitation

8. Respondent is 52 years old and has always been interested in real estate. He made a credible witness on his own behalf. Respondent acknowledged and accepted responsibility for making bad decisions when he was young.

9. Respondent grew up in a neighborhood in Florida where some of his friends and relatives were involved in various illegal activities. Respondent was convicted for the first time when he was 23 years old. Respondent's most recent conviction occurred when he was 27 years old.

10. In 2004, respondent married and left Florida with his wife in order to distance himself from friends and family involved in illegal activities. Respondent no longer has any contact with anybody in Florida.

11. Since arriving in California in 2004, respondent has completely changed his life. After arriving in California, respondent has had no further contact with law

enforcement. During his 25 years in California, respondent and his wife raised three children, now ages 26, 23, and 15. Respondent has worked multiple jobs in order to support his family. Prior to the Covid-19 pandemic, respondent was employed as the head server at Flappers Comedy, where he worked during the evening hours. Respondent also works as a driver for Door Dash and Postmates and he assists his wife in operating her catering business, Carmenita Helligar Events, Designs and Foods.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), provides, in pertinent part, that the Department may deny the issuance of a license to an applicant who has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee. Similarly, Business and Professions Code section 480, subdivision (a)(1), provides that a board may deny a license on the grounds that the applicant has been convicted of a crime, including a conviction following a plea of nolo contendere. Pursuant to Business and Professions Code section 475, subdivision (a)(2), conviction of a substantially related crime is a ground for denial of a license.

2. Cause exists to deny respondent's application for a real estate salesperson license under Business and Professions Code sections 10177, subdivision (b), 480, subdivision (a)(1), and 475, subdivision (a)(2), in that respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a real estate licensee, based on Factual Findings 5-6.

3. The Department's criteria of substantial relationship are set forth at California Code of Regulations, title 10, section 2910, subdivision (a). Respondent's convictions are for "substantially related" crimes because they involved doing an 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 and involved conduct which demonstrates a pattern of repeated and willful disregard of law. (Cal. Code Regs., tit. 10, § 2910, subds. (a)(8) and (a)(10).)

4. The statutes relating to real estate licenses are designed to protect the public from any potential risk of harm. (*Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.)

5. The Department's criteria for the purpose of evaluating the rehabilitation of an applicant for a license, which are set forth at California Code of Regulations, title 10, section 2911, have been considered. Respondent has not had any contact with law enforcement for 25 years and his convictions are very remote in time (subd. (a)(1)); respondent has completed his criminal probation (subd. (a)(5)); respondent has a stable family life and is a good father and husband (subd. (a)(8)); respondent moved away from a difficult environment in Florida and he no longer has any contact with his prior colleagues (subd. (a)(13)); and respondent has shown a change in attitude and has accepted responsibility for his past criminal conduct (subd. (a)(14)). (Factual Findings 8-11.)

6. Respondent established that he is sufficiently rehabilitated for issuance of a restricted salesperson license under the terms and conditions set forth in the Order below, which will protect the public from any potential risk of harm.

ORDER

Respondent Jeffrey James Helligar's application for a real estate salesperson license is denied; provided, however, that 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 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 said 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 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 (Rev. 4/88) 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

(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.

DATE: September 2, 2020

DocuSigned by:
Christopher Ruiz
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CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings