

DIVISION OF REAL ESTATE
JONATHAN C. STEWART, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146711
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
Telephone: (801) 530-6747

BEFORE THE DIVISION OF REAL ESTATE OF
THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

In the Matter of the Application of
KENNETH D. ALLRED to Act as a Sales
Agent

ORDER ON APPLICATION

Case No. RE-12-60035

On May 14, 2012, Kenneth D. Allred (Applicant) submitted to the Utah Real Estate Commission (Commission) and the Division of Real Estate (Division) an application for a license to practice as a sales agent. He did not disclose any criminal history. In reliance on Applicant's representations, the license was issued conditionally, pending receipt of his criminal background report. The background report indicated that Applicant failed to disclose certain criminal history, thus triggering an informal proceeding to determine whether he meets the licensing requirements of Utah Code § 61-2f-203(1) (2010). The presiding officer, on behalf of the Division and pursuant to a grant of authority from the Commission, now makes the following analysis and order.

REASONS FOR DECISION

Applicant failed to disclose the following criminal history:

1. On March 3, 1983, Applicant was arrested for driving under the influence – with accident. The background report indicates that Applicant was convicted in the Circuit Court of Ogden, sentenced to serve two days in jail, fined \$200, and placed on

- probation for 183 days. The level of the offense is not indicated.¹ Due to the age of the offense, court records are not available.
2. On December 3, 1983, Applicant was convicted of interfering with police officer (Circuit Court of Ogden). The level of the offense is not indicated.² Due to the age of the offense, court records are not available.
 3. On July 25, 1984, Applicant was convicted of theft (Circuit Court of Ogden). The level of the offense is not indicated.³ Due to the age of the offense, court records are not available.
 4. On October 28, 1986, Applicant was convicted in case number 862002884 (Second District Court, Weber County, Utah) of obstructing justice, a class B misdemeanor. Applicant should have disclosed this conviction in response to the application disclosure questionnaire.
 5. On May 10, 1987, Applicant was convicted in case number 872200776 (Second District Court, Weber County, Utah) of driving under the influence of alcohol/drugs, a class B misdemeanor. Applicant should have disclosed this conviction in response to the application disclosure questionnaire.

¹Utah Code § 41-61-503 states that the offense of driving under the influence is, at minimum, a class B misdemeanor. Therefore, it is likely that Applicant should have disclosed this conviction in response to the application disclosure questionnaire; however, it cannot be conclusively determined that this criminal case is directly responsive to the question posed on the application.

² Utah Code § 76-8-305 states that the offense of interference with an arresting officer is a class B misdemeanor. Therefore, it is likely that Applicant should have disclosed this conviction in response to the application disclosure questionnaire; however, it cannot be conclusively determined that this criminal case is directly responsive to the question posed on the application.

³ There is insufficient evidence in the record to direct the presiding officer to a section in the Utah state statutes for guidance as to the level of this offense. It cannot be conclusively determined that this criminal case is directly responsive to the question posed on the application.

6. On April 22, 1996, Applicant was convicted of misdemeanor criminal entry (Laramie, Wyoming). The level of the offense is not indicated.⁴ Applicant has been unable to obtain court records due to the age of the offense and the difficulty in working long distance, across state lines.

Utah Code § 61-2f-203(1) (2010) requires that the Division and Commission determine whether an applicant demonstrates honesty, integrity, truthfulness, reputation, and competency. Utah Administrative Code § R162-2f-201 requires the Division and the Commission to consider an applicant's past, particularly his criminal history, in making this determination.

Applicant's criminal history is not recent and is unrelated to the profession of real estate. Therefore, the primary issue to address is Applicant's failure to accurately disclose his criminal history in responding to the application questionnaire. His misrepresentation in this respect would represent a lack of honesty if he deliberately attempted to conceal his past or, alternatively, a lack of competency if he failed to carefully read the questions or failed to research his record in order to ensure that his answers were accurate. Therefore, Applicant does not meet the requirements of Section 61-2f-203(1) (2010) for unrestricted licensure

The presiding officer wishes to put Applicant on notice that his failure to disclose his criminal history on his application is considered falsification of a sworn document. The Division and the Commission take such matters very seriously and wish to emphasize to Applicant that real estate professionals must be thorough and accurate in the documents that they complete and attest to in representing their clients. In these circumstances, the presiding officer finds that issuing a probationary license is justified.

⁴ There is insufficient evidence in the record to direct the presiding officer to a section in the Utah state statutes for guidance as to the level of this offense. It cannot be conclusively determined that this criminal case is directly responsive to the question posed on the application.

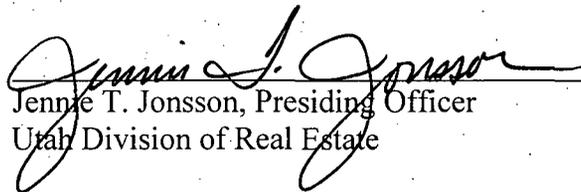
ORDER

Based on the above analysis, Kenneth D. Allred's application for licensure as a sales agent is granted with restriction. The license is placed on probation for the remainder of the initial licensing period. During the term of his license, Mr. Allred shall comply with all laws and with the rules regulating his profession, and shall conduct himself in a way that demonstrates his qualification and fitness for continuing licensure as a real estate professional.

This order shall be effective on the signature date below.

DATED this 10th day of July, 2012.

UTAH DIVISION OF REAL ESTATE


Jennie T. Jonsson, Presiding Officer
Utah Division of Real Estate

Notice of Right to Administrative Review

Review of this order may be sought by filing a written request for administrative review with the Director of the Division of Real Estate within thirty (30) days after the issuance of this order. Any such request must comply with the requirements of Utah Code Ann. § 63G-4-301 and R151-46b-12 of the departmental rules.

CERTIFICATE OF MAILING

I hereby certify that on the 10 day of July, 2012, a true and correct copy of the foregoing document was sent first class mail, postage prepaid, to the following:

Kenneth D. Allred
1085 West 4150 South
Riverdale, UT 84405

Renda Christensen