

DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
DEANNA SABEY, DIRECTOR
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BEFORE THE DIVISION OF REAL ESTATE OF
THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

In the Matter of the Application of
RALPH D. NELSON, JR. to Act as a Sales
Agent

ORDER ON APPLICATION FOR
RENEWAL

Case No. RE-10-50716

On July 20, 2010, the Utah Division of Real Estate (Division) sent a notice of informal proceeding by certified mail to Ralph D. Nelson, Jr. (Applicant). The notice informed Applicant that an informal adjudicative proceeding would be held before the Utah Real Estate Commission (Commission) and the Director of the Division (Director) on August 18, 2010 at 3:00 P.M. Mountain Daylight Time to determine whether he meets the statutory requirements to practice as a sales agent. The hearing took place as scheduled. The Division was represented at the proceeding by Assistant Attorney General Traci Gunderson. Applicant appeared and represented himself. Kimberly King-Hansen, Applicant's principal broker, also appeared and testified on his behalf. The Director, pursuant to a grant of authority from the Commission and on its behalf, now enters the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

Applicant's license issued August 18, 2008 was placed on probation due to criminal activity during the renewal period preceding that date. Despite these circumstances, Applicant

submitted a renewal application on May 27, 2010 in which he answered "no" to the following questions:

During the past two years, have you had a license or registration of any kind in appraisal, mortgage, real estate, or any other occupation/profession, denied, restricted, suspended, placed on probation, or revoked?

Have you EVER been on probation, or ordered to pay a fine or restitution or complete community service, in connection with any criminal offense or licensing action? (Emphasis in the original.)

Applicant submitted the renewal application through the online system, which approved and issued the new license automatically and without changing the probationary status.

Applicant thereafter called Division staff to request that the probationary status be lifted. Upon further investigation, the Division hearing officer determined that Applicant's answers to the questionnaire he submitted through the online system were false. Therefore, on June 17, 2010, the Division issued an order stating that Applicant's license would remain on probation for the current licensing period. Applicant's appeal of that order is before the Commission and Director in this hearing.

Applicant testified that he completed the online renewal form in a rush and under stress, due to various circumstances. As his renewal deadline approached, he found that he did not have sufficient continuing education hours for renewal. Therefore, he had to delay submitting his application until he could take additional courses to meet the requirement. In addition, his family was waiting for him to complete the application so that they could leave for a vacation. Under these circumstances, his providing false answers to the disclosure questions was a mistake, and he assured the Commission and Director that he is an honest person. Ms. King-Hansen similarly

testified to Applicant's state of mind at the time he submitted the online renewal, as well as to his character.

CONCLUSIONS OF LAW

Utah Code Ann. § 61-2f-203(1) (2010) requires that the Division and Commission determine whether an applicant demonstrates honesty, integrity, truthfulness, reputation, and competency. As to Applicant's providing false answers in response to the online application questionnaire, the Commission and Director accept it as being an oversight. However, they cannot excuse it on those grounds. Applicant failed to remain current with the continuing education requirements, which caused him to delay his renewal until the last minute and thereby created a situation where he felt compelled to respond to the licensing questionnaire without carefully reading the questions.

A sales agent must guide clients in completing and attesting to legally binding documents such as seller disclosures. Applicant's approach to his application, which is a sworn document, raises concerns as to whether he is competent to represent clients in similar situations. Therefore, the Commission and Director find that Applicant does not meet the requirements of Section 61-2f-203(1) (2010) for unrestricted licensure.

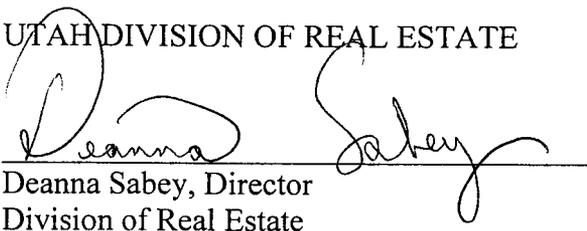
ORDER

Based on the above findings of fact and conclusions of law, Ralph D. Nelson Jr.'s application for licensure as a sales agent is granted, and the license is placed on probation for one year from his renewal date of May 31, 2010. As of May 31, 2011, the Division may lift the probationary status upon Mr. Nelson's written request. During the probationary period, Mr. Nelson 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 sales agent. This order shall be effective on the signature date below.

DATED this 24th day of August, 2010.

UTAH DIVISION OF REAL ESTATE


Deanna Sabey, Director
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 Executive Director of the Department of Commerce 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 24 day of August, 2010, a true and correct copy of the foregoing document was sent first class mail, postage prepaid, to the following:

Ralph D. Nelson, Jr.
1635 E. Apache Way
South Ogden, UT 84403

