

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
SHANE STEVEN STARK to Act as a Sales
Agent

ORDER ON APPLICATION
Case No. RE-10-50717

On July 20, 2010, the Utah Division of Real Estate (Division) sent a notice of informal proceeding by certified mail to Shane Steven Stark (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 3:30 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. 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 disclosed the following criminal history in response to the questions on the licensing application:

1. Case number 891003331 (December 6, 1989) in which Applicant was prosecuted for theft and forgery.

2. Case number 171838 (January 2, 1991), in which Applicant was prosecuted for forgery – issuing bad checks.
3. Case number TX 101015A (June 24, 1996), in which Applicant was prosecuted for theft of services.
4. Case number TX 101015A (December 29, 1997), in which Applicant was prosecuted for theft of services.
5. Case number TX 101255J (April 10, 2001), in which Applicant was prosecuted for theft of services.
6. Case number IKE-02-0000629 CR (April 27, 2002), in which Applicant was prosecuted for driving while intoxicated.

Applicant testified that the cases outlined above all arose during a time when he was drinking heavily and irresponsibly. He offered no excuses or justifications for his actions. Rather, he asked the Commission and the Director to take into consideration that he has been sober for almost eight years and that he has had no criminal history since 2002. In addition, he assured the Commission and the Director that he has learned from his mistakes and, having served time in prison, has no desire to engage in behavior that would put his freedom in jeopardy. In support of this testimony, Applicant submitted two letters attesting to his character, one of which was written by his current employer. He also provided evidence that he has obtained an insurance license in Utah.

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. Utah Administrative Code § R162-2-2.11 requires the Division and the

Commission to consider an applicant's past, particularly his criminal history, in making this determination.

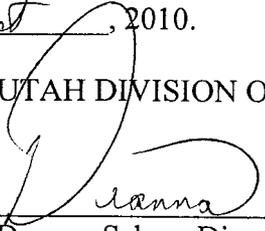
Acts of theft and forgery are inherently dishonest, and the Commission and Director take them very seriously, particularly when they consider issuing a license that would allow a person access to the homes, belongings, and personal information of others. Because Applicant has committed multiple acts of intentional dishonesty in the past, he does not meet the requirements of Section 61-2f-203(1) (2010) for unrestricted licensure. In mitigation, the Commission and Director were impressed with Applicant's candor and honesty in the hearing. In addition, the Commission and Director find their concerns allayed by the fact that Applicant's current employer knows about his past and is nevertheless willing to act as his principal broker. Therefore, the Commission and Director find that issuing a probationary license is justified.

ORDER

Based on the above findings of fact and conclusions of law, Shane Steven Stark's application for licensure as a sales agent is granted with restriction. The license is placed on probation for the initial licensing period. During the probationary period, Mr. Stark 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:

Shane Steven Stark
503 First Ave. #6
Salt Lake City, UT 84103

Renda Christensen