

DIVISION OF REAL ESTATE  
DEPARTMENT OF COMMERCE  
P.O. BOX 146711  
160 EAST 300 SOUTH  
SALT LAKE CITY, UTAH 84114-6711  
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BEFORE THE DIVISION OF REAL ESTATE OF  
THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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In the Matter of the Application of  
**BREE VAN WAGENEN** to Act as a Sales  
Agent

ORDER ON APPLICATION  
Case No. RE-10-51820

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On September 20, 2010, Bree Van Wagenen (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. The application was reviewed in an informal proceeding to determine whether Applicant meets the licensing requirements of Utah Code Ann. § 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**

On December 18, 1995, Applicant was charged in case number 208407 with assault, a class B misdemeanor. She was convicted on April 17, 1996. On February 7, 1999, Applicant was charged in case number 991000416 with domestic criminal mischief, which charge was later amended to disorderly conduct, a class C misdemeanor. She was convicted on August 12, 1999 and sentenced to a suspended jail term of 90 days, 12 months of probation, and a fine of \$1,000.

Despite these convictions and sentence, Applicant answered "no" to the following questions on her application:

Have you EVER been convicted of or pled guilty or no contest to, or entered a plea in abeyance or diversion agreement to, a felony or misdemeanor in any jurisdiction? **Consult court records to determine the nature of any offenses, including traffic offenses which may be felonies or misdemeanors.** (Emphasis in the original.)

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.)

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 Admin. Code § R162-2-2.11 requires the Division and the Commission to consider an applicant's past, particularly her criminal history, in making this determination.

In her letter of explanation, Applicant stated that each of the incidents outlined above resulted from a domestic altercation with an abusive boyfriend. Given these circumstances and the fact that Applicant has had no criminal activity in over 11 years, the convictions themselves are not particularly troubling to the presiding officer. It is troubling, however, that Applicant failed to disclose them in response to the application questionnaire. Applicant explained that she did not disclose them because she was under the impression that any conviction over 10 years old would no longer be part of her record. However, this is incorrect.

In acting on her incorrect assumption about what might appear on her background check, rather than researching her criminal record so as to ensure that she was accurately answering the questions as stated, Applicant falsified her application, which is a sworn statement. These circumstances reflect negatively on her competency. 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.

Although concerned about Applicant's falsified application, the presiding officer notes that Applicant's criminal offenses do not involve fraud, misrepresentation, or deceit and that she has no record of criminal behavior since 1999. Therefore, the presiding officer finds that issuing a restricted license is justified.

**ORDER**

Based on the above analysis, Bree Van Wagenen's application for licensure as a sales agent is granted with restriction. The license is immediately suspended for a period of 30 days and shall thereafter be issued in good standing. During the initial licensing period Ms. Van Wagenen shall comply with all laws and with the rules regulating her profession, and shall conduct herself in a way that demonstrates her qualification and fitness for continuing licensure as a real estate professional.

This order shall be effective on the signature date below.

DATED this 29<sup>th</sup> day of September, 2010.

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 29 day of September, 2010, a true and correct copy of the foregoing document was sent first class mail, postage prepaid, to the following:

Bree Van Wagenen  
9842 South 570 East  
Sandy, UT 84070

Renda Christensen