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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

JUL 05 2016

BUREAU OF REAL ESTATE

By P. dew

<p>In the Matter of the Accusation of</p> <p style="padding-left: 40px;">JEREMY JACK JARROUCHE,</p> <p style="padding-left: 80px;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CalBRE No. H-11940 SF</p> <p>OAH No. 2016030734</p>
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DECISION

The Proposed Decision dated May 11, 2016, 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:

On Page 2 of the Proposed Decision, #3, paragraph 5, insert "time" after "Within a short...", and correct "Cummins," to read "Cummings,".

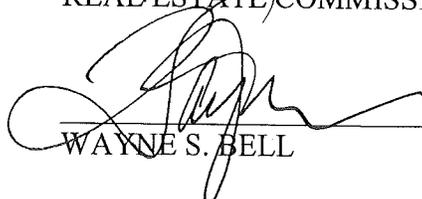
On Page 2 of the Proposed Decision, #4, correct "chief examination proctor" to read "Chief Examination Proctor".

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau'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.

This Decision shall become effective at 12 o'clock noon on JUL 26 2016.

IT IS SO ORDERED 6/30/2016.

REAL ESTATE COMMISSIONER



WAYNE S. BELL

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Preliminary Bar Order
and Notice of Intention to Issue Final Bar
Order Against:

JEREMY JACK JARROUCHE,

Respondent.

Case No. H-11940 SF

OAH No. 2016030734

PROPOSED DECISION

Administrative Law Judge Perry O. Johnson, Office of Administrative Hearings, State of California, heard this matter on April 20, 2016, in Oakland, California.

Real Estate Counsel Mary F. Clarke represented complainant, Jeffrey Mason.

Respondent Jeremy Jack Jarrouche was present for the hearing, but he was not otherwise represented.

On April 20, 2016, the parties submitted the matter for decision and the record closed.

FACTUAL FINDINGS

1. Jeffrey Mason (complainant), Deputy Real Estate Commissioner of the Bureau of Real Estate (bureau), State of California, filed a Preliminary Bar Order and Notice of Intention to Issue Final Bar Order (bar order) on February 2, 2016, against respondent Jeremy Jack Jarrouche (respondent). Complainant's bar order alleges that when respondent entered a bureau examination room, which was restricted to the administration of the Real Estate Salesperson License Examination, he possessed a prohibited cellular phone, took a digital image of an examination question, and he was expelled from the examination room on a determination by examination proctors that he had engaged in an act of cheating on the bureau's examination. Respondent filed a Notice of Defense and requested a hearing.

2. At no time has respondent been licensed by the bureau.

Complainant's Evidence

MR. TERRIS M. MURPHY

3. Terris M. Murphy is employed as a Chief Examination Proctor for the real estate examination administered by the bureau. He offered persuasive testimony at the hearing of this matter.

On September 18, 2015 (the incident date), at the bureau's examination suite of rooms on the Seventh Floor of the Elihu M. Harris Oakland State Building, at 1515 Clay Street, Oakland, California, (bureau's examination site), Mr. Murphy was assigned as the examination proctor tasked with interacting with examinees immediately before such persons may be placed at respective computer stations designated for the examination.

At the hearing of this matter, Mr. Murphy detailed the set of prohibited items of personal property that persons taking the bureau's examination may not carry or possess within the confines of the actual examination room. Those items are listed on a sign posted on the wall of the anteroom for the examination room. Also, an examination proctor voices oral instructions to all persons sitting for the examination regarding the items that may not be taken by the examinees into the examination room. Those items include all personal property that may be placed within pockets including a cellular telephone (cell phone).

Mr. Murphy vividly recalls interacting with respondent at the threshold of the examination room on the incident date. At the time upon which respondent presented himself to the area for the bureau's proctor station at the threshold of the examination room, Mr. Murphy asked respondent whether he possessed a cell phone. Respondent proclaimed he did not possess a cell phone on his person because he had forgotten the device, which remained at his residence. Mr. Murphy replied that it was exceedingly peculiar for a young person, such as respondent, not to possess a cell phone. Respondent in reply said that he was ready to take the examination in that he had previously failed the examination on an earlier occasion and that he was focused on passing the examination. At that point, Mr. Murphy placed into respondent's possession a computer accessory device (mouse) that was specifically assigned a code that identified respondent and permitted the synchronization of the mouse with the computer by which an examinee can access the bureau's examination. And then, respondent was assigned to an examination table.

Within a short after respondent was seated for the examination, Mr. Murphy became aware that another Chief Examination Proctor, Ms. Paula Cummins, was escorting respondent from the examination room.

4. On the incident date at a time immediately before he entered the bureau's examination room, respondent lied to Mr. Murphy when he told the chief examination proctor that respondent's cell phone was not in his possession at the bureau's premises.

MS. PAULA LYNNE CUMMINGS

5. Paula Lynne Cummings (Ms. Cummings) is employed as a Chief Examination Proctor for the real estate examination administered by the bureau. She offered persuasive testimony at the hearing of this matter.

On the incident date, Ms. Cummings was acting as the actual Examination Room Proctor at the time respondent was present for the examination. The duties of the "in room" proctor include escorting each examinee to an assigned examination table. On the incident date, Ms. Cummings observed the peculiar act of respondent of walking into the room while grasping the area of his "crotch." She then positioned respondent at the assigned examination table.

After other examinees entered the examination room and the examination process began, Ms. Cummings engaged in her usual function of walking the aisles between examination stations. Her task was to observe that shoes remained on feet and loose items were not located on the floor near an examination station. Being aware of "proctor protocol," Ms. Cummings was very much knowledgeable that all bureau examinees are prohibited from possessing a cell phone within the confines of the examination room.

As she walked towards the examination station occupied by respondent, at approximately 8:40 a.m. on the incident date, Ms. Cummings saw unusual light emitting from beneath the desk near respondent's lap. Thereupon, Ms. Cummings detected that the light seen by her was coming from the screen of a cell phone located in the hands of respondent. Immediately, Ms. Cummings reached down to respondent's lap to grasp the cell phone. Upon taking possession of the cell phone, Ms. Cummings informed respondent that he was dismissed from the examination room, and she escorted him to the quiet room for him to wait for an interview by a bureau investigator. Then, Ms. Cummings asked another bureau chief ~~examination proctor to telephone the Sacramento bureau office to report respondent's acts and~~ to summon a bureau investigator to immediately come to the bureau's examination site. Upon the arrival into the room of Bureau Special Investigator Johannes Wong to interview respondent, and after she placed the cell phone into the possession of the special investigator, Ms. Cummings left the area where respondent was located.

Later that morning, another bureau examinee named Marissa Hawk made a statement to Ms. Cummings regarding that examinee having heard respondent's statements to Proctor Murphy during the check in process before each examinee entered the examination room. Ms. Cummings directed Ms. Hawk to prepare a memorandum of her observations of respondent's remarks to the other examination proctor.

MS. MARIE ROJO

6. Marie Rojo (Ms. Rojo) is employed as a Chief Examination Proctor for the real estate examination administered by the bureau. She offered credible testimony at the hearing of this matter.

On the incident date, Ms. Rojo performed the assignment as the proctor who announced the bureau's rules for the benefit of all persons taking the bureau's examination. (Also, the statements voiced by Ms. Rojo regarding the lists of prohibited items were printed upon a sign located on the wall to the anteroom to the examination site, and before any examination date the lists of prohibited items are sent to prospective examinees.)

On the morning on the incident date, Ms. Rojo interacted with respondent who was wearing a hat, which was prohibited. Upon being informed that he could not wear a hat into the examination room, respondent informed Ms. Rojo that he wished to use the bathroom. Respondent left the area of the anteroom to the examination room and remained away from the examination site for approximately 15 minutes. After his return, Ms. Rojo directed respondent to go to the desk occupied by Mr. Murphy.

Within a short time after sending respondent towards the examination room, Ms. Rojo became aware of the acts of Ms. Cummings in approaching respondent, reaching down to respondent's midsection, and seizing a cell phone from respondent's possession. After seeing Ms. Cummings escort respondent from the examination room, Ms. Rojo telephoned the bureau's Sacramento office and received instructions to dismiss respondent from the examination room.

INVESTIGATOR JOHANNAS WONG

7. Mr. Johannas Wong is a Special Investigator for the bureau. He offered credible testimony at the hearing of this matter.

On the incident date, while on duty at the State Building in Oakland, Special Investigator Wong was summoned to interview respondent in the area near the bureau's examination site. During the interview of respondent, Special Investigator Wong heard respondent make admissions that: after he entered the examination room, he used his cell phone's camera to take a digital image of a question on the bureau's examination; he had seen signs and other notices that no cell phone may be carried into the examination room; and, he did not know the answer to a particular question on the bureau's examination so that the digital image would allow him to locate the answer later during his research on the Internet. Also, respondent told Special Investigator Wong that he had failed the bureau's examination earlier in the year.

Respondent used his cell phone to send an email attachment to the cell phone number for the device belonging to Special Investigator Wong. The bureau's investigator examined

the email attachment, which reflected the digital image of the bureau's examination question that respondent captured on his cell phone's camera.

MS. MARISSA HAWK

8. Ms. Marissa Hawk offered credible testimony at the hearing of this matter.

Ms. Hawk is a recent bureau real estate salesperson licensee. She acquired licensure after taking the bureau's examination on September 18, 2015.

Ms. Hawk was present in line of examinees at the bureau's examination site as respondent spoke with Mr. Murphy, who was fulfilling duties as the Chief Examination Proctor who presented examinees with the device necessary to take the bureau's examination. Ms. Hawk observed that as Mr. Murphy voiced introductory marks to him, respondent said to the Examination Proctor that in light he had previously taken the bureau's examination, he knew "all the rules" prohibiting items being carried into the examination room. While standing in line behind respondent, she heard respondent proclaim to Mr. Murphy that he was not carrying a cell phone because he had left the device at his residence. Also, Ms. Hawk was present within the bureau's examination room when Ms. Cummings seized respondent's cell phone and dismissed him from the examination room.

Respondent's Admissions at the Hearing

9. At the hearing of this matter, respondent made admissions acknowledging that he had violated the bureau's rules for taking the examination to acquire licensure. Respondent proclaimed that he had taken his cellular phone into the examination room and he deliberately took an image of a question on the bureau's examination.

Respondent's Claimed Mitigation Evidence

10. Respondent sat for the bureau's examination on two dates before the incident date of September 18, 2015. He failed the examination that had been offered on those two earlier dates.

11. On the incident date, upon beginning the bureau's examination process, respondent reviewed the examination's question number two. Because he did not comprehend the question, he took a cell phone from beneath his clothing to take an image of the question. Respondent felt frustrated with the examination due to the fact of his past failure and due to the time and expense he had invested in his preparation for the examination.

12. During cross-examination, respondent acknowledged that his act of using his cell phone to take an image of the bureau's examination question constituted cheating. Respondent, therefore, made an admission of dishonesty in the act regarding the bureau's examination by knowingly copying a question within of the bureau's examination materials.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10087, subdivision (a)(1), provides, in part:

[T]he commissioner may, after appropriate notice and opportunity for a hearing, by order . . . bar from any position of employment, management, or control, or bar from participation in an examination for licensure, for a period not exceeding 36 months . . . an unlicensed person issued an order under Section 10086, if the commissioner finds . . . [t]hat the suspension or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the public.

Business and Professions Code section 10153.01, subdivision (a), states, in pertinent part:

No person shall cheat on, subvert, or attempt to subvert a licensing examination given by the department. Cheating on, subverting, or attempting to subvert a licensing examination includes, but is not limited to, engaging in, soliciting, or procuring any of the following:

[¶] . . . [¶]

(5) The unauthorized reproduction by any means of any portion of the actual licensing examination.

Business and Professions Code section 10153.01, subdivision (b), establishes that, “[t]he commissioner may bar any candidate who willfully cheats on, subverts, or attempts to subvert an examination from taking any license examination and from holding an active real estate license under any provision of this code for a period of up to three years.”

California Code of Regulations, title 10, section 2763, prescribes the Examination Rules for the bureau. The subdivision (a)(4) of the regulation sets out, in pertinent part:

(a) A person taking an examination for a license issued by the Bureau shall abide by all of the following rules from the time of entry into the examination room until the examinee has completed the examination and left the examination room:

[¶] . . . [¶]

(4) The copying of questions and the making of any notes of examination materials by an examinee is prohibited.

And, California Code of Regulations, title 10, section 2763, subdivision (b), provides that “[a] violation of any of the above rules or verbal directives of an examination proctor is ground to disqualify an examinee and to initiate appropriate administrative action to deny the issuance of a license to the examinee.”

2. Cause exists to affirm the Preliminary Bar Order and to issue a Final Bar Order in accordance with Business and Professions Code section 10087, subdivision (a)(1), as that statute interacts with Code section 10153.01, subdivision (a)(5), and California Code of Regulations, title 10, section 2763, subdivision (a)(4), by reason of Factual Findings 3 through 9, along with Legal Conclusion 2.

3. Respondent’s acts on September 18, 2015, constituted a violation of the Real Estate Law. His acts of cheating on the bureau’s examination indicate that he has a disposition to place his personal interests before the bureau’s regulations and state law. And, cheating, on the bureau’s licensure examination, shows a propensity for dishonesty, which cannot be tolerated for a real estate professional.

4. Under the authority of Business and Professions Code section 10153.01, subdivision (b), the Real Estate Commissioner may bar respondent, who has willfully cheated on an examination, from taking the bureau’s license examination as well as bar respondent from holding an active involvement in matters relating to licensed real estate practices, for a period up to three years. Respondent offered no competent evidence in either mitigation or rehabilitation that would warrant shortening the maximum period of the bar order.

ORDER

For a period of 36 months from the effective date of this decision, respondent Jeremy Jack Jarrouche is barred and prohibited from engaging in any of the following activities in the State of California:

- (a) Holding any position of employment, management, or control in a real estate business or property management business;
- (b) Participating in any business activity of a real estate salesperson or a real estate broker;
- (c) Participating in an examination for licensure for a real estate salesperson or a real estate broker license or holding a real estate salesperson or a real estate broker license;

(d) Engaging in any real estate related business activity on the premises where a property management company, real estate salesperson or real estate broker is conducting business; and

(e) Participating in any real estate related business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, title company, or underwritten title company.

DATED: May 11, 2016

DocuSigned by:

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PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

Step

1 BUREAU OF REAL ESTATE
1651 Exposition Blvd.
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

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BUREAU OF REAL ESTATE
By L. Just

4 Telephone: (916) 263-8672
-or- (916) 263-7303 (Direct)
5 -or- (916) 263-3767 (Fax)

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7
8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 To:) No. H-11940 SF
11)
12 JEREMY JACK JARROUCHE.) PRELIMINARY BAR ORDER
13) AND NOTICE OF INTENTION TO
ISSUE BAR ORDER

14 TO: JEREMY JACK JARROUCHE
379 Hines Court
15 San Jose, CA 95111

16 Pursuant to Sections 10087 and 10153.01(b) of the California Business and
17 Professions Code ("Code"), you, JEREMY JACK JARROUCHE ("Respondent"), are hereby
18 notified of the intention of the California Real Estate Commissioner ("Commissioner") to issue
19 a Bar Order pursuant to Section 10087(a)(1) of the Code on the following grounds:

- 20 1. On about September 18, 2015, Respondent entered the Real Estate
21 Salesperson License Examination ("Exam") room at the Oakland, California
22 Examination Center with his cell phone in his pocket, which he knew or
23 should have known was prohibited.
24 2. At all times herein mentioned, Respondent failed to inform the Exam
25 proctor that he had entered the Exam room with a cell phone.
26 3. At all times mentioned herein, Respondent used his cell phone to take a
27 picture of a portion of the actual licensing examination, in violation of

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Section 10153.01(a)(5) of the Code and Section 2763(a)(4) and (6) of Chapter 6, Title 10, of the California Code of Regulations.

4. A Bar Order is in the public interest in that Respondent has violated provisions of the Code, which violations were known to Respondent, or should have been known to Respondent.

Please take notice that the Commissioner seeks to bar and prohibit you for a period of thirty-six (36) months from the effective date of the Bar Order from engaging in any of the following activities in the State of California:

- (A) From participation in an examination for licensure;
- (B) Holding any position of employment, management, or control in a real estate business;
- (C) Participating in any business activity of a real estate salesperson or a real estate broker;
- (D) Engaging in any real estate related business activity on the premises where a real estate salesperson or real estate broker is conducting business; and,
- (E) Participating in any real estate related business activity of a finance lender, residential mortgage lender, bank credit union, escrow company, title company, or underwritten title company.

YOU ARE IMMEDIATELY PROHIBITED FROM ENGAGING IN ANY BUSINESS ACTIVITY INVOLVING REAL ESTATE THAT IS SUBJECT TO REGULATIONS UNDER THE REAL ESTATE LAW.

NOTICE OF RIGHT AND OPPORTUNITY FOR A HEARING

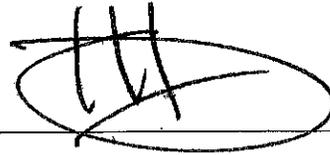
Pursuant to Section 10087 of the Code, you have the right to request a hearing under the California Administrative Procedure Act (Chapter 4.5 – commencing with Section 11400 of the Government Code). If you desire a hearing, you must submit a written request within fifteen (15) days after the mailing or service of this “Notice of Intention to Issue Bar Order and Preliminary Bar Order.” The request may be in any form provided it is in writing,

1 includes your current return address, indicates that you want a hearing, is signed by you or on
2 your behalf, and is mailed to the Bureau of Real Estate, P. O. Box 137007, Sacramento,
3 California 95813-7007, attention: Legal Section; or, delivered personally to the offices of the
4 Bureau of Real Estate, 1651 Exposition Boulevard, Sacramento, California.

5 If no hearing is requested within said fifteen (15) day time period, your failure to
6 request a hearing shall constitute a waiver of the right to a hearing.

7
8 It is so ordered this 31st day of DECEMBER, 2015.

9
10 WAYNE S. BELL
11 REAL ESTATE COMMISSIONER

12
13 

14 By: **JEFFREY MASON**
15 Chief Deputy Commissioner