

MARYLAND REAL ESTATE COMMISSION

**IN THE MATTER OF THE
APPLICATION OF GIRARD E. CURRY
FOR A REAL ESTATE SALESPERSON
LICENSE**

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* **CASE NO. 2016-RE-434**

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OPINION AND FINAL ORDER

Girard E. Curry applied to the Maryland Real Estate Commission (“Commission”) for a real estate salesperson license on January 22, 2016. The application was received by the Commission on January 25, 2016. On the application he indicated that he had been convicted of a felony or misdemeanor in a State or Federal Court. The Commission reviewed the application for a real estate salesperson license and determined that the application should be denied. (See Commission Exhibit 4.) Mr. Curry subsequently requested that the Commission conduct a hearing to permit him to present evidence in support of his position that he should be granted a real estate salesperson license.

A hearing was held by a panel of Commissioners, consisting of Commissioners Karen Baker, Marla S. Johnson and J. Nicholas D’Ambrosia, on April 20, 2016. Jessica Berman Kaufman, Assistant Attorney General, appeared on behalf of the Commission. The proceedings were electronically recorded and the applicant was placed under oath. Mr. Curry acknowledged that he had been advised that he had a right to be represented by counsel and had waived that right.

SUMMARY OF EVIDENCE

Six exhibits were entered into the record on behalf of the Commission. Eleven exhibits were entered into the record on behalf of the Applicant. (It should be noted that Applicant's exhibit 6 is identical to Applicant's exhibit 7.)

FINDINGS OF FACT

From the testimony and exhibits presented, and with an opportunity to observe the demeanor of the Applicant for license renewal, the Commission finds the relevant facts to be as follows:

1. Mr. Curry is 32 years old. He is single and the father of one child.
2. Mr. Curry graduated from Frederick Douglas High School in 2001.
3. Mr. Curry was employed as a loan officer between 2004 and 2009 with Savings First Mortgage then Maritime Mortgage which was later acquired by Loyola Financial.
4. Mr. Curry was employed by Rent-A-Center during 2012 as an account manager.
5. Mr. Curry then was employed by Serco as a data analyst.
6. He has also worked in the past for Foot Locker for approximately 4 years as a store manager.
7. Mr. Curry worked, upon completion of high school for Delta Airlines and also as a "pick and pack" worker for Proctor and Gamble.
8. Mr. Curry stated that he is currently unemployed. He has most recently worked with investor, Rashid Mills, to purchase and repair properties. In that capacity, he has hired contractors to do repair work on houses on Whitelock Avenue and in Parkville, Maryland.
9. Mr. Curry is currently living with his mother and acting as her caretaker.

10. Mr. Curry was convicted on September 10, 2012 of violating 18 U.S.C. §§1344 and 2 by aiding and abetting bank fraud in the United States District Court for the Northern District of West Virginia based upon his guilty plea.

11. As a result of his conviction, Mr. Curry was sentenced to a term of 21 months imprisonment in the United States Bureau of Prisons. He was also sentenced to five years of supervised probation upon his release from imprisonment.

12. Mr. Curry was also ordered to pay \$48,500.00 in restitution via monthly payments of \$200.00.

13. Mr. Curry stated that he was incarcerated for 18 months and was released on April 18, 2014.

14. Mr. Curry will be on probation until April 18, 2019.

15. In describing the circumstances which led up to his conviction, he stated that he drove with an acquaintance to a bank, the acquaintance went into the bank and when the acquaintance left the bank, they drove to a casino. He stated that the acquaintance was arrested and his arrest followed. He contended that his conviction stemmed from being in the company of the acquaintance. Despite questioning by the Commission, he did not offer any further details regarding the bank fraud which he was convicted of aiding and abetting.

16. Mr. Curry stated that he has been complying with the terms of his probation and making restitution payments. He did not offer any documentation in support of these claims.

17. Mr. Curry stated that he has met all of the course requirements and paid the fees associated with obtaining a real estate salesperson license. He contended that there is nothing in the stated required conditions for obtaining a license that informs an applicant that they are not eligible for a license if they have a criminal conviction. He alleged that the requirement of good

character and reputation is “vague” and “up for interpretation”. He stated that if he had known that he would be denied a license he would not have spent three months and \$700 in applying for the license.

18. Mr. Curry submitted three signed, character reference letters and five unsigned, character reference letters to the Commission.

DISCUSSION

The purpose of licensure by the Commission is to protect the public by allowing only those individuals with good character and reputation, as well as sufficient education, to obtain a real estate salesperson license. See Section 17-303, Business Occupations and Professions Article, *Annotated Code of Maryland* (“Md. Bus. Occ. and Prof. Art.”). Since Mr. Curry was convicted of a felony approximately three and one-quarter years prior to his request for a real estate salesperson license, the Commission must consider the following factors, pursuant to Md. Bus. Occ. and Prof. Art., §17-322(d) in determining whether he should be granted a license:

- (1) the nature of the crime;
- (2) the relationship of the crime to the activities authorized by the license;
- (3) with respect to a felony, the relevance of the conviction to the fitness and qualifications of the applicant or licensee to provide real estate brokerage services;
- (4) the length of time since the conviction; and
- (5) the behavior and activities of the applicant or licensee before and after the conviction.

The Commission must also consider, pursuant to Section 1-209, Criminal Procedure Article, *Annotated Code of Maryland*:

- (1) the policy of the State expressed in subsection (c) to wit: It is the policy of the State

to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State;

- (2) the specific duties and responsibilities required of a licensee or certificate holder;
- (3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate;
- (4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;
- (5) the seriousness of the offense for which the applicant was convicted;
- (6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and
- (7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

The Commission finds that the crime for which Mr. Curry was convicted, aiding and abetting bank fraud, was very serious as evidenced by the fact that he was sentenced to 21 months incarceration, restitution in the amount of \$48,500.00 and five years of supervised probation upon his release from incarceration. The Commission also notes that Mr. Curry was extremely vague when questioned regarding the circumstances surrounding his conviction when questioned by the Commission thereby making it impossible to determine if there were any facts which would mitigate against the seriousness of the offense. Mr. Curry's period of supervised probation is not currently scheduled to terminate for approximately 3 years, on April 18, 2019. He has been on probation for approximately two years. Mr. Curry did not present any documentary evidence of successful compliance with the terms of his probation to the Commission. It has been the practice of the Commission not to give a license to a convicted

felon until that person has been on probation for a long enough period of time to give the Commission confidence that he or she has shown satisfactory compliance with the terms ordered by the judge. In the instant case, Mr. Curry failed to provide the Commission with such evidence. See In the Matter of the Application of Lakisha A. Brooks, Case No. 130-RE-2014, In the Matter of the Application of Jeffrey J. Vinson, Case No. 2012-RE-459, In the Matter of Yoland Crawley, Maryland Real Estate Salesperson License No. 602840, In the Matter of the Application of Enoch Moon, Case No. 2007-RE-695, and In the Matter of the Application of Kharii Wilstan A. Brodie, Maryland Real Estate Salesperson License No. 05-527724.

The Commission further concludes that the crime for which Mr. Curry was convicted does have a relationship to activities authorized by a real estate salesperson's license and negatively impacts his fitness and qualifications to provide real estate brokerage services in that there is the potential for fraudulent handling of trust monies by a real estate salesperson. A real estate salesperson is responsible for obtaining deposits from buyers and conveying those funds to the salesperson's broker.

It has been three and one-half years since Mr. Curry's conviction and he is currently on supervised probation for approximately another three years. He was released from incarceration approximately two years ago. Mr. Curry is currently 32 years of age and was 28 years of age at the time of conviction of the crime of aiding and abetting bank fraud. Mr. Curry was gainfully employed for a number of years prior to his conviction. He stated that he has recently worked in the field of real estate investment (as evidenced by his Exhibits 4 and 11) but is currently unemployed.

Mr. Curry did submit eight letters of recommendation; however, only three of those letters were signed by the authors. None of the authors of the character reference letters

appeared at the Commission's hearing to authenticate the letters; to give testimony on Mr. Curry's behalf; or to answer any questions which their letters of reference may have raised.

The Commission further finds that it has an interest in protecting the parties to a real estate transaction from any potential fraudulent behavior by a real estate agent involved in the transaction. See Code of Maryland Regulations ("COMAR") 09.11.02.01C. In the instant case, Mr. Curry has a recent conviction for fraudulent behavior.

The Commission having evaluated each of the factors set forth in Section 17-322(d) Md. Bus. Occ. and Prof. Art. and Section 1-209, Criminal Procedure Article, *Annotated Code of Maryland*, finds that due to the serious nature of Mr. Curry's conviction and his reluctance to provide the Commission with details regarding the circumstances surrounding his conviction which may have mitigated the seriousness of the conviction; the length of time during which he will remain on probation; the lack of documentary evidence that he is successfully complying with all of the terms of his probation; and the Commission's interest in protecting the public from fraudulent behavior on the part of its licensees, Mr. Curry does not currently meet the requirements of good character and reputation set forth in Section 17-303(b) Md. Bus. Occ. and Prof. Art. Therefore, the Commission concludes that Mr. Curry is not eligible to be licensed as a real estate salesperson.

CONCLUSIONS OF LAW

Based on the Findings of Fact, and for the reasons set forth in the above Discussion, the Commission concludes that Girard E. Curry does not currently meet the requirements of good character and reputation set forth in Section 17-303(b), Md. Bus. Occ. and Prof. Art. and is, therefore, ineligible to be granted a real estate salesperson license by the Commission.

ORDER

In consideration of the Findings of Fact and Conclusions of Law, it is this 20th day of May, 2016 by the Maryland Real Estate Commission, **ORDERED** that

1. The request of Girard E. Curry for the issuance of a real estate salesperson license is hereby **DENIED**; and
2. The records and publications of the Maryland Real Estate Commission reflect this decision.

MARYLAND REAL ESTATE COMMISSION

By: SIGNATURE ON FILE
Commissioner

NOTE: A judicial review of this Final Order may be sought in the Circuit Court of Maryland in which the Appellant resides or has his principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.