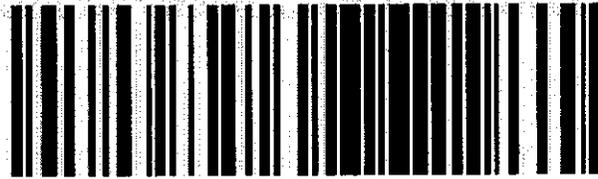
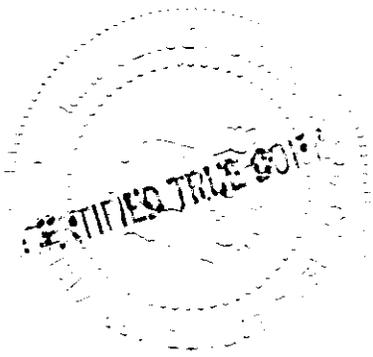


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF REAL ESTATE APPRAISERS

FILED
BOARD OF
REAL ESTATE APPRAISERS
James Hall 5/10/05
DR. JAMES S. HSU
Executive Director
Administrative Action

IN THE MATTER OF THE
APPLICATION OF

JOSEPH R. BONNER, JR.

TO OBTAIN A TRAINEE PERMIT
AS A REAL ESTATE APPRAISER
IN THE STATE OF NEW JERSEY

FINAL ORDER OF
DENIAL OF TRAINEE PERMIT

This matter was opened to the New Jersey State Board of Real Estate Appraisers ("the Board") upon receipt of the written application of Joseph R. Bonner, Jr. ("the applicant") for a trainee permit received by the Board on June 15, 2004. The applicant at the time of his application also forwarded to the Board materials related to his criminal history. He revealed the following offenses, to which he entered a guilty plea on June 21, 1995 before the Honorable Clarence C. Newcomer, of the United States District Court, Eastern District of Pennsylvania: 18 U.S.C. §371, conspiracy; 18 U.S.C. §1001, false statements; and 18 U.S.C. §1957, money

laundering from specified unlawful activity. The applicant was sentenced to four months home detention; payment of \$20,000 in restitution; and five years probation.

The transcripts of the applicant's guilty plea dated June 29, 1995, described the applicant's offense thusly:

[I]n or about June of '93 to January of '95, [Mr. Bonner had his partner] bid on and won approximately 95 U.S. Department of Defense supply contracts worth about \$784,954.58. . . [They] provided false credit references . . . for purchase orders to companies in order to receive goods on credit. T11-8 to 15.¹

The Court noted that the co-conspirators, the applicant and his partner, made false statements "in that Schweitzer [Bonner's partner], because he is debarred from bidding on defense government contracts, bid [on a defense contract] under the false name of Jim McVee." T11-20 to 12-2.

The Court went on to describe the specific conduct involved in the offense, which the applicant acknowledged:

[T]he defendants . . . bid on and won a large number of United States Department of Defense supply contracts . . . As Mr. Schweitzer had been debarred from participation in contracting by earlier order of this Court, he bid on Department of Defense contracts using the name Jim McVee. Other companies were set up to fill the government contracts which had been won. In order to obtain supplies for these companies, false credit references were sent by interstate wire to suppliers outside of the State of Pennsylvania from inside the State of Pennsylvania to which it would then supply to the defendant's own credit, based on a false credit references. Those goods were then supplied to the government in exchange for payment and payment was not made to the companies which had shipped the goods to Mr. Schweitzer and Mr. Bonner. The companies set up by Mr. Schweitzer and Bonner periodically changed due to demands being made by creditors on them at their location. T22-13 to 23-8.

¹ T = transcripts of guilty plea dated June 21, 1995.

The applicant was asked to appear before the Board on November 9, 2004 in order to answer questions about his criminal history and to provide an opportunity for him to establish rehabilitation. He described his criminal history in the following terms:

I went to work with another gentleman selling products to the Government. I thought that's all we were doing. In the meantime [my partner] was buying other products that accumulated to debt. We could not afford to pay for it. We started falsifying, getting credit. The Government came on January 21st of '95 and we were arrested and then the proceeding started . . . From the time I got out of jail until I went to court, I helped the Government return as much of the products and helped build a case against [my partner]. 2T7-8 to 8-1.²

The applicant's partner in this enterprise was the son of Mr. Bonner's former employer, whom he did not know personally. The applicant was out of work at the time the arrangement was proposed to him. 2T10-13 to 23. The applicant further explained to the Board:

[W]hen it started out I thought we were going to do business, what I had done prior, 15 years. It was more products than what we could pay for. I was hoping to get out of it, but it just got to be too much money. He would get a truck -- just go get a truck even though we never needed a truck. We lost that truck and he went and got a bigger truck. I couldn't control him or what he would buy. 2T15-8 to 18.

When asked whether he realized that he was engaging in criminal activities at the time, he responded: "I guess I knew it was a gray line. I didn't think it was going to get as bad as it did, by just saying we had credit when we really didn't." 2 T16-6 to 8.

Since the applicant's conviction, he has worked for Waste Management in Philadelphia, Pennsylvania, both in sales and as a dispatcher. He indicated that health problems have prompted him to seek a new career in real estate appraisal.

² 2T = transcripts of Board inquiry dated November 9, 2004.

The applicant had been sentenced to pay \$20,000 in restitution, and it was clear from the discussion between counsel and the Court at sentencing that this \$20,000 was based upon "the reasonable likelihood" of the applicant's ability to pay, 3T7-6,³ and that the amount owed to the business entities victimized by the criminal conspiracy was significantly more than that. There were approximately 40 or 50 entities that were victims. 3T6-1 to 7-12; 21-9 to 13.

The applicant indicated that he had paid half of the ordered restitution while he was on probation. When his probation was over, he "signed paperwork to continue paying and . . . never received a bill from anybody." 2T8-19 to 25. He therefore stopped paying restitution in October of 2000, and has not paid any since. He stated: "[N]o one has ever contacted me or come after me or put a lien against me." 2T9-10 to 13. He explained: "If they come after me -- I was going to pay." 2T9-17 to 18.

Pursuant to N.J.S.A. 45:14F-10.1, an applicant for licensure or certification as a real estate appraiser in the State of New Jersey is disqualified for licensure or certification if the applicant has been convicted of a disqualifying offense. Disqualifying offenses include those involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes or, "[i]n any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute [a disqualifying offense]." N.J.S.A. 45:14F-10.1. The criminal conduct of which the applicant was convicted constitutes deceptive conduct the nature of which is comparable to the conduct addressed in chapter 20 of Title 2C, such as theft by deception, and is deemed by the Board to constitute a disqualifying offense.

³ 3T = Transcripts of hearing dated October 30, 1995

However, although an applicant for licensure or certification is not statutorily eligible if convicted of a disqualifying offense, this disqualification may be overcome if the applicant can affirmatively demonstrate to the Board clear and convincing evidence of rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors are to be considered pursuant to N.J.S.A. 45:14F-10.1:

- (1) The nature and responsibility of the position which the convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense; and
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

The Board has considered the applicant's submissions, as well as the applicant's testimony in his appearance before the Board on November 9, 2004, the transcripts of his guilty plea dated June 21, 1995, and of his sentencing, dated October 30, 1995. In its consideration of the statutory factors, the Board notes that the applicant's criminal history consists solely of the federal offenses to which he pled guilty on June 21, 1995,

approximately ten years ago: he has no other criminal convictions. Moreover, it is clear that the applicant cooperated extensively with the authorities, which was plainly taken into account by Judge Newcomer in terms of sentencing. The applicant is a family man, with a wife and three grown children, as well as eight grandchildren. He has been engaged in productive work since his conviction, and appears to be living a law-abiding life.

On the other hand, the applicant's criminal conduct involved an intricate conspiracy which was of an ongoing nature, rather than an isolated act. At the time that he pled guilty, the applicant was 47 years old, a fully mature adult. A review of the applicant's description of his criminal conduct when testifying before the Board, if compared to Judge Newcomer's description, to which the applicant concurred in Court, suggests that he has not fully recognized the magnitude of his criminal conduct: he appears to blame his partner for leading him astray, rather than to accept that he himself was old enough and experienced enough to be fully responsible for his actions.

The Board finds it particularly troubling that the applicant's ethics appear to have a plainly situational component. This is not solely reflected in the applicant's permitting himself to be drawn into an intricate conspiracy, using the disingenuous rationale that the conduct was not "going to get as bad as it did, by just saying we had credit when we really didn't." The applicant's casual attitude towards restitution demonstrates the same mode of thinking: while on probation, when he was being monitored, he made payments towards the court-ordered restitution. However, when he was released from probation, and somehow his case was no longer being monitored in terms of restitution, his attitude was essentially to shut his eyes, take no action, and pay if "they" came after

him.

Of great significance to the Board is the fact that a trainee permit leads to licensure or certification as a real estate appraiser. Integrity is particularly important in real estate appraising. In light of the nature of the conspiracy in which the applicant engaged, the applicant's age at the time of the offense, the applicant's minimizing of his own role in the criminal conduct, and the applicant's conduct with respect to restitution, the Board preliminarily finds that the applicant has not established rehabilitation by clear and convincing evidence.

The Board set forth these findings of fact and conclusions of law in a Provisional Order of Discipline entered on February 24, 2005, provisionally denying the applicant a trainee permit. A copy of the Order was forwarded to the applicant by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal thereof by submitting a written request for modification or dismissal, setting forth any and all reasons why the Board's findings of fact and conclusions of law should be modified or dismissed and submitting the applicant's request for consideration and reasons therefor.

Although the record reflects that the Provisional Order was served upon the applicant at respondent's address of record, no written response has been received to date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary, and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 10th day of May, 2005,

ORDERED that:

1. The applicant's application for a trainee permit is hereby denied.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

Frank A. Willis

Frank A. Willis
President