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MAY 20 2008

DEPARTMENT OF REAL ESTATE

By H. Max

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of)	No. H-1693 FR
SHARILYN HELEN CANTRELL,	)
Respondent.	)

ORDER GRANTING UNRESTRICTED LICENSE

On September 8, 2004, a Decision was rendered herein denying the Respondent's application for real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on October 25, 2004, and Respondent has operated as a restricted licensee since that time.

On July 25, 2007, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's Petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to

1 my satisfaction that Respondent meets the requirements of law for  
2 the issuance to Respondent of an unrestricted real estate  
3 salesperson license and that it would not be against the public  
4 interest to issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's  
6 petition for removal of restrictions is granted and that a real  
7 estate salesperson license be issued to Respondent subject to the  
8 following understanding and conditions:

9 1. The license issued pursuant to this order shall  
10 be deemed to be the first renewal of respondent's real estate  
11 salesperson license for the purpose of applying the provisions  
12 of Section 10153.4.

13 2. Within nine (9) months from the date of this  
14 order respondent shall:

15 (a) Submit a completed application and pay the  
16 appropriate fee for a real estate salesperson license, and

17 (b) Submit evidence of having taken and successfully  
18 completed the courses specified in subdivisions (a) (1), (2),  
19 (3), (4) and (5) of Section 10170.5 of the Real Estate Law for  
20 renewal of a real estate license.

21 3. Upon renewal of the license issued pursuant to  
22 this order, respondent shall submit evidence of having taken and  
23 successfully completed the continuing education requirements of

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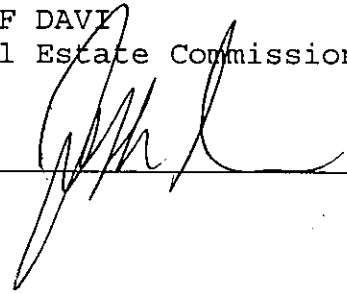
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1 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a  
2 real estate license.

3 This Order shall become effective immediately.

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5 IT IS SO ORDERED 5-14, 2008.

6 JEFF DAVIS  
7 Real Estate Commissioner

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FILED

SEP 16 2004

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Ann Shann

\* \* \*

In the Matter of the Application of )	
SHARILYN HELEN CANTRELL, )	NO. H-1693 FRESNO .
Respondent. )	OAH NO. N-2004070309

DECISION

The Proposed Decision dated August 27, 2004, 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.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon on OCTOBER 7, 2004.

IT IS SO ORDERED Sept. 8, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

SHARILYN HELEN CANTRELL,

Respondent.

CASE No. H-1693 FR

OAH No. N2004070309

**PROPOSED DECISION**

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on August 10, 2004.

Truly Sughrue, Staff Counsel, Department of Real Estate, State of California, represented Complainant John W. Sweeney, Deputy Real Estate Commissioner, State of California.

Respondent Sharilyn Helen Cantrell (respondent) appeared, represented herself, assisted, in part, by her husband, Gordon Mathis Cantrell, Jr.

Evidence was received and the matter submitted on August 10, 2004.

**FACTUAL FINDINGS**

1. On May 27, 2004, complainant John W. Sweeney, Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Statement of Issues in his official capacity against respondent.
2. On December 12, 2003, respondent made application to the Department for the issuance of a real estate salesperson license. Her application was denied. Respondent appeals.
3. On May 16, 1995, in the Superior Court of California, County of Kern, respondent, then 23, was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision (a) (driving while under the influence), a crime substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was placed on probation for a period of the three years. Respondent relates that she was at an office party where she

consumed a number of beers. She drove herself home and was stopped just as she arrived there.

4. On August 28, 2003, in the Superior Court of California, County of Kern, respondent, then 31, was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision (a) (driving while under the influence), a crime substantially related to the qualifications, functions or duties of a real estate licensee. Respondent was placed on probation for a period of the three years: Respondent relates attending a birthday party with friends. She consumed a number of drinks comprised of cranberry juice and vodka. She telephoned her husband, a State of California correctional peace officer, who went to the wrong location. After waiting a period of time, her keys were given by the waiter and she decided to drive home. She was subsequently stopped and arrested.

5. Respondent readily and candidly acknowledges both her convictions and errant conduct. She attributes the conduct leading to her convictions to sheer stupidity. Respondent, as a consequence of her second conviction, refrains from the ingestion of alcoholic beverages.

#### Circumstances in Aggravation

6. Respondent has engaged in two acts involving moral turpitude.
7. Respondent's most recent conviction occurred a year ago.
8. Respondent is on probation to the Superior Court for her last conviction.

#### Circumstances in Mitigation

9. Respondent, 32, is engaged and, as a result of both convictions, possessed of particular self-reflection.

10. Respondent has been forthright in candidly revealing and explaining her convictions. Regularly employed as an assistant to a mortgage broker, she seeks Department licensure to undertake mortgage lending.

11. Respondent presented competent evidence in the form of witnesses and numerous letters attesting to her laudable reputation for self-awareness, professional competency, honesty, community and family service, and responsibility.

12. Respondent was both candid and cooperative in this proceeding.

13. Respondent expressed and displayed sincere remorse.

14. Respondent is a devoted wife and mother who devotes substantial time to her family, professional career, and her three children's activities. She has also assisted over the

last five years in the support, care, and housing of two other children whose mother's incarceration rendered them homeless.

15. What has emerged is a young woman who compounded a singular mistake with a similar mistake nearly a decade later. However, it is readily apparent from the focus of the Superior Court and this professional disciplinary action that respondent comprehends the import of her errant conduct on professional licensure. Treated as a first offender, she has completed all terms and conditions but the period of her probation.

## LEGAL CONCLUSIONS

1. Complainant alleges that Vehicle Code section 23152, subdivision (a) is a crime of moral turpitude. Each of respondent's convictions did not appear to involve conduct of dishonesty or deceitfulness. Nor does she appear to have an ongoing history of inebriety combined with the imprudent operation of a motor vehicle,<sup>1</sup> or prior failures to abide by a court order,<sup>2</sup> or a demonstrated pattern of disregard for the law,<sup>3</sup> to be provided the nexus necessary to conclude extant moral turpitude.<sup>4</sup> Accordingly, cause exists to deny the application of respondent for licensure as a real estate salesperson only for criminal convictions substantially related to the qualifications, functions or duties of a Department licensee pursuant to the provisions of Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), in conjunction with California Code of Regulations, title 10, section 2910, and as set forth in Findings 2 through 5, inclusive.

2. A fundamental objective of the Department is to protect the public, the licensed profession, maintain integrity, high standards, and preserve public confidence in the Department's licensure process.<sup>5</sup>

Against this backdrop, the law looks with favor on one who is reformed. Respondent has clearly presented a rehabilitation worthy of salutary consideration. That being said, the recency of her last conviction compels continued scrutiny by the Department. Accordingly, mindful of the conduct underlying the Accusation (Legal Conclusion 1) and the circumstances in aggravation (Findings 6 through 8) and mitigation (Findings 9 through 14); the public interest will not be adversely affected by the issuance of a properly conditioned real estate salesperson's license to respondent.

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<sup>1</sup> California Code of Regulations, title 10, section 2910, subdivision (a), paragraph (11).

<sup>2</sup> California Code of Regulations, title 10, section 2910, subdivision (a), paragraph (9).

<sup>3</sup> California Code of Regulations, title 10, section 2910, subdivision (a), paragraph (10).

<sup>4</sup> *People v. Rivera* (2003) 107 Cal.App.4th 1374.

<sup>5</sup> *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

## ORDER

Respondent Sharilyn Helen Cantrell's application for a real estate salesperson license is denied; provided, however, upon payment of any applicable fees, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

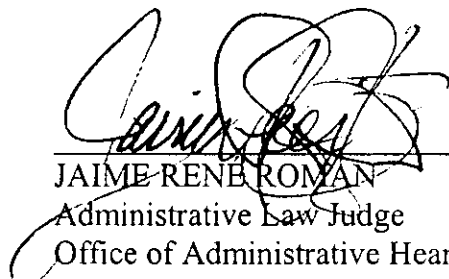
1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
  - (a) The conviction of respondent (including a plea of nolo contendere or admission or determination of a violation of court probation) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or
  - (b) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license.
3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by any prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:
  - (a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and
  - (b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.
4. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If



respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

5. Respondent's restricted real estate salesperson license is issued subject to the requirements of Business and Professions Code section 10153.4, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Business and Professions Code section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting of the suspension. Pursuant to Business and Professions Code section 10154, if respondent has not satisfied the requirements for an unqualified license under Section 10153.4, respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.
6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in respondent's custody and control and periodic summaries of salient information concerning each real estate transaction in which he engaged during the period covered by the report.

Dated: 8-27-04

  
\_\_\_\_\_  
JAIME RENE ROMAN  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
JUL 23 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

SHARILYN HELEN CANTRELL

By Shelly Ely

Case No. H-1693 FR

OAH No. N2004070309

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITES 340/360, SACRAMENTO, CALIFORNIA 95814 on TUESDAY--AUGUST 10, 2004, at the hour of 2:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: JULY 23, 2004

By Truly Sughrue  
TRULY SUGHRUE, Counsel (S.E.)

1 LARRY A. ALAMAO, Counsel  
2 State Bar No. 47379  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0789

FILED  
JUN 18 2004

DEPARTMENT OF REAL ESTATE  
By *Sharilyn Cantrell*

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*  
12 In the Matter of the Application of )  
13 SHARILYN HELEN CANTRELL, ) NO. H-1693 FR  
14 Respondent. ) STATEMENT OF ISSUES  
15 \_\_\_\_\_ )

16 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate  
17 Commissioner of the State of California, for Statement of Issues  
18 against SHARILYN HELEN CANTRELL (hereinafter "Respondent"), is  
19 informed and alleges as follows:

20 I  
21 Respondent made application to the Department of Real  
22 Estate of the State of California for a real estate salesperson  
23 license on or about December 12, 2003, with the knowledge and  
24 understanding that any license issued as a result of said  
25 application would be subject to the conditions of Section 10153.4  
26 of the Business and Professions Code.

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II

Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about May 16, 1995, in the Municipal Court, County of Kern, Respondent was convicted of a violation of Section 23152(a) of the California Vehicle Code (Driving While Under the Influence), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

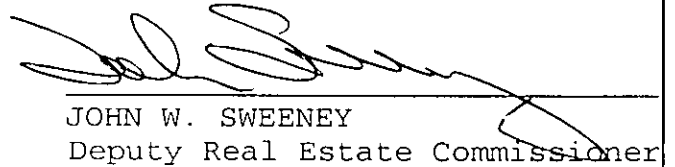
On or about August 28, 2003, in the Superior Court, County of Kern, Respondent was convicted of a violation of Section 23152(a) of the California Vehicle Code (Driving While Under the Influence), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

The crimes of which Respondent was convicted, as alleged above, constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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1                   WHEREFORE, the Complainant prays that the above-  
2 entitled matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent, and for such other and further relief as  
6 may be proper under other provisions of law.

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10                     
11                   JOHN W. SWEENEY  
12                   Deputy Real Estate Commissioner

13  
14 Dated at Fresno, California,  
15 this 27<sup>th</sup> day of May, 2004.  
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