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NOV 15 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

LINDSAY ALLYN ROBERTS,

Respondent.

No. H-1818 FR

ORDER GRANTING UNRESTRICTED LICENSE

On November 3, 2005, a Decision was rendered herein denying Respondent's application for a 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 December 20, 2005, and Respondent has operated as a restricted licensee since that time.

On February 25, 2010, 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 my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of

///

1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
4 restrictions is granted and that a real estate salesperson license be issued to Respondent if
5 Respondent satisfies the following requirements:

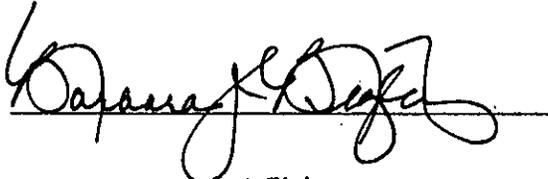
6 1. Submits a completed application and pays the fee for a real estate
7 salesperson license within the 12 month period following the date of this Order; and

8 2. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed
11 application, or (ii) within the 12 month period following the date of this Order.

12 This Order shall become effective immediately.

13 IT IS SO ORDERED 11/1/16

14 JEFF DAVI
15 Real Estate Commissioner

16 

17
18 BY: Barbara J. Bigby
19 Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

LINDSAY ALLYN ROBERTS,

Respondent.

Case No. H-1818 FR

OAH No. N2005080807

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on October 7, 2005.

John Van Driel, Staff Counsel, Department of Real Estate, State of California, represented complainant John Sweeney, Deputy Real Estate Commissioner.

Lindsay Allyn Roberts (respondent) appeared and was represented by Richard J. Pabst, Esq.

Evidence was received and the matter deemed submitted on October 7, 2005.

FACTUAL FINDINGS

1. On July 18, 2005, John 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 August 5, 2004, respondent submitted an executed Salesperson License Application to the Department. Said application for licensure is pending.

3. On July 11, 2000, in the Superior Court of California, County of Kern, respondent, then 18, was convicted of a misdemeanor violation of Penal Code section 488 (petty theft), a crime involving moral turpitude substantially related to the qualifications, functions or duties of real estate licensee. The facts and circumstances underlying respondent's conviction are that she and a friend entered a Macy's department store. While shopping the two

teenage girls each decided to take some items without paying. They did. And they were apprehended by loss prevention officers upon exiting the store. The local police were notified, and the girls cited for petty theft. Respondent was placed on probation for 36 months and ordered, inter alia, to obey all laws and pay \$400 in fines.

4. Respondent, now age 23, readily acknowledges her sole conviction and underlying errant conduct. She displays sincere remorse and takes no particular pride in either her conviction or underlying conduct. She attributes this conviction to puerile behavior, and extremely poor judgment. Without seeking to shift any responsibility for her misconduct to her friend, respondent accepts her personal responsibility for her conviction. Following graduation from high school, she undertook undergraduate study and employment. She has found regular and rewarding employment in a real estate office as a transaction coordinator. In this capacity she assists over 40 Department licensed real estate agents in the paperwork attendant to real estate transactions. She now seeks to be a licensed real estate agent. Respondent appears to be a young woman who has emerged from this singular indiscretion with proper circumspection, responsibility, and maturity.

Circumstances in Aggravation

5. Respondent suffered a conviction of a crime involving moral turpitude.

Circumstances in Rehabilitation

6. Respondent, following years as an assistant physical therapist, found employment in a real estate office and discovered an occupation and profession that meets both her interest and career goals. She seeks licensure to expand her opportunities in real estate.

7. Respondent successfully completed her probation.

8. Respondent obtained Penal Code section 1203.4 relief.

9. Respondent volunteers in her community, has acquired her first home, and has engaged in no further violations of the law.

10. Respondent has gained particular insight into the nexus between her errant conduct and Department licensure.

11. Respondent presented numerous letters of reference from co-workers and Department licensees aware of her conviction, who confirm her work ethic, reformation, and honest character.

12. Respondent was fully candid and cooperative in the disciplinary process.

LEGAL CONCLUSIONS

1. Cause exists to deny the application of respondent for licensure as a real estate salesperson for a conviction of a crime involving moral turpitude substantially related to the qualifications, functions or duties of a real estate professional pursuant to 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.

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.¹

The law, however, looks with favor on one who is reformed. Respondent has clearly presented rehabilitation worthy of salutary consideration. Accordingly, mindful of the conduct underlying the Accusation (Legal Conclusion 1) and the circumstances in aggravation (Findings 6 through 9) and rehabilitation (Findings 10 through 17);² the public interest will not be adversely affected by the issuance of a properly conditioned real estate salesperson's license to respondent.

ORDER

Respondent Lindsay Allyn Roberts' 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

¹ *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

² See California Code of Regulations, title 10, section 2911.

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

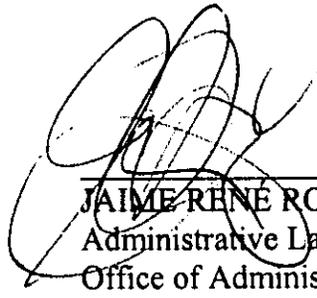
B. That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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 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 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 two 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/her 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 she engaged during the period covered by the report.

Dated: 10-13-05



JAI ME RENE ROMAN
Administrative Law Judge
Office of Administrative Hearings

1 DEIDRE L. JOHNSON, Counsel
SBN 66322
2 Department of Real Estate
P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED
JUL 20 2005

DEPARTMENT OF REAL ESTATE

By Juan Antonio

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

11 * * *

12 In the Matter of the Application of)
13 LINDSAY ALLYN ROBERTS,) NO. H- 1818 FR
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, JOHN SWEENEY, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Statement
18 of Issues against LINDSAY ALLYN ROBERTS, alleges as follows:

19 I

20 LINDSAY ALLYN ROBERTS (hereafter Respondent), pursuant
21 to the provisions of Section 10153.3 of the Business and
22 Professions Code, made application to the Department of Real
23 Estate of the State of California for a real estate salesperson
24 license on or about August 5, 2004, with the knowledge and
25 understanding that any license issued as a result of said
26 application would be subject to the conditions of Section 10153.4
27 of the Business and Professions Code.

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II

Complainant, JOHN 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 July 11, 2000, in the Superior Court of California, County of Kern, Respondent was convicted of a violation of Penal Code Section 488 (PETTY THEFT), a crime involving moral turpitude, and/or a crime 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

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

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.


JOHN SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California
this 15th day of July, 2005.