

FILED

SEP 22 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of

CHERYL LYND JOHNSON,

No. H-2178 FR

Respondent.

ORDER GRANTING UNRESTRICTED LICENSE

On February 4, 2008, 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 February 21, 2008, and Respondent has operated as a restricted licensee since that time.

On February 11, 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 subject to
5 the following understanding and conditions:

6 1. The license issued pursuant to this order shall be deemed to be the first
7 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
8 of Section 10153.4.

9 2. Within twelve (12) months from the date of this order Respondent shall:

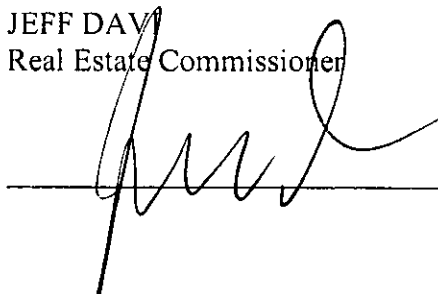
10 (a) Submit a completed application and payment of the appropriate fee for a
11 real estate salesperson license, and

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

15 3. Upon renewal of the license issued pursuant to this order, Respondent
16 shall submit evidence of having taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
18 license.

19 This Order shall become effective immediately.

20 IT IS SO ORDERED

21 01/15/2010
22 JEFF DAVIS
23 Real Estate Commissioner
24 
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26
27

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

FILED

FEB 8 2008

DEPARTMENT OF REAL ESTATE

By R. Henry

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)
11)
12 CHERYL LYND JOHNSON,)
13 Respondent.)

No. H-2178 FR

STIPULATION AND WAIVER

14
15 It is hereby stipulated by and between CHERYL LYND
16 JOHNSON (hereafter Respondent), and Respondent's attorney
17 Stephen Quade, and the Complainant, acting by and through Truly
18 Sughrue, Counsel for the Department of Real Estate, as follows
19 for the purpose of settling and disposing of the Statement of
20 Issues filed on October 2, 2007 in this matter:

21 Respondent acknowledges that Respondent has received
22 and read the Statement of Issues and the Statement to Respondent
23 filed by the Department of Real Estate in connection with
24 Respondent's application for a real estate salesperson license.
25 Respondent understands that the Real Estate Commissioner may hold
26 a hearing on this Statement of Issues for the purpose of
27 requiring further proof of Respondent's honesty and truthfulness

1 and to prove other allegations therein, or that he may in his
2 discretion waive the hearing and grant Respondent a restricted
3 real estate salesperson license based upon this Stipulation and
4 Waiver. Respondent also understands that by filing the Statement
5 of Issues in this matter the Real Estate Commissioner is shifting
6 the burden to Respondent to make a satisfactory showing that
7 Respondent meets all the requirements for issuance of a real
8 estate salesperson license. Respondent further understands that
9 by entering into this stipulation and waiver Respondent will be
10 stipulating that the Real Estate Commissioner has found that
11 Respondent has failed to make such a showing, thereby justifying
12 the denial of the issuance to Respondent of an unrestricted real
13 estate salesperson license.

14 Respondent hereby admits that the allegations of the
15 Statement of Issues filed against Respondent are true and correct
16 and requests that the Real Estate Commissioner in his discretion
17 issue a restricted real estate salesperson license to Respondent
18 under the authority of Section 10156.5 of the Business and
19 Professions Code. Respondent understands that any such
20 restricted license will be issued subject to and be limited by
21 Section 10153.4 of the Business and Professions Code.

22 Respondent is aware that by signing this Stipulation
23 and Waiver, Respondent is waiving Respondent's right to a hearing
24 and the opportunity to present evidence at the hearing to
25 establish Respondent's rehabilitation in order to obtain an
26 unrestricted real estate salesperson license if this Stipulation
27 and Waiver is accepted by the Real Estate Commissioner. However,

1 Respondent is not waiving Respondent's right to a hearing and to
2 further proceedings to obtain a restricted or unrestricted
3 license if this Stipulation and Waiver is not accepted by the
4 Commissioner.

5 Respondent further understands that the following
6 conditions, limitations, and restrictions will attach to a
7 restricted license issued by the Department of Real Estate
8 pursuant hereto:

- 9 1. The license shall not confer any property right in the
10 privileges to be exercised including the right of renewal,
11 and the Real Estate Commissioner may by appropriate order
12 suspend the right to exercise any privileges under this
13 restricted license in the event of:
 - 14 a. The conviction of Respondent (including a plea of nolo
15 contendere) to a crime which bears a substantial
16 relationship to Respondent's fitness or capacity as a
17 real estate licensee; or
 - 18 b. The receipt of evidence that Respondent has violated
19 provisions of the California Real Estate Law, the
20 Subdivided Lands Law, Regulations of the Real Estate
21 Commissioner or conditions attaching to this restricted
22 license.
- 23 2. Respondent shall not be eligible to apply for the issuance
24 of an unrestricted real estate license nor the removal of
25 any of the conditions, limitations or restrictions
26 attaching to the restricted license, until two (2) years
27

1 have elapsed from the date of issuance of the restricted
2 license to Respondent.

3 3. With the application for license, or with the application
4 for transfer to a new employing broker, Respondent shall
5 submit a statement signed by the prospective employing
6 broker shall certify as follows:

7 a. That the broker has read the Statement of Issues which
8 is the basis for the issuance of the restricted
9 license; and

10 b. That broker will carefully review all transaction
11 documents prepared by the restricted licensee and
12 otherwise exercise close supervision over the
13 licensee's performance of acts for which a real estate
14 license is required.

15 4. Respondent shall regularly attend an alcohol abuse
16 treatment or recovery program, such as Alcoholics
17 Anonymous or other formal program, at least once a week
18 during the term(s) of the restricted license.

19 5. Respondent's restricted real estate salesperson license is
20 issued subject to the requirements of Section 10153.4 of
21 the Business and Professions Code, to wit: Respondent is
22 required, within eighteen (18) months of issuance of the
23 restricted license, to submit evidence satisfactory to the
24 Commissioner of successful completion, at an accredited
25 institution, of two of the courses listed in Section
26 10153.2, other than real estate principles, advanced legal
27 aspects of real estate, advanced real estate finance, or

1 advanced real estate appraisal. If Respondent fails to
2 timely present to the Department satisfactory evidence of
3 successful completion of the two required courses, the
4 restricted license shall be automatically suspended
5 effective eighteen (18) months after the date of its
6 issuance. Said suspension shall not be lifted unless,
7 prior to the expiration of the restricted license,
8 Respondent has submitted the required evidence of course
9 completion and the Commissioner had given written notice
10 to Respondent of the lifting of the suspension.

11 6. Pursuant to Section 10154, if Respondent has not satisfied
12 the requirements for an unqualified license under Section
13 10153.4, Respondent shall not be entitled to renew the
14 restricted license, and shall not be entitled to the
15 issuance of another license which is subject to Section
16 10153.4 until four years after the date of the issuance of
17 the preceding restricted license.

18
19 18-Dec-07
20 DATED

21 
22 TRULY SUGHRUE,
23 Counsel, Department of Real Estate

24 * * *

25 I have read the Stipulation and Waiver, have discussed
26 it with my counsel, and its terms are understood by me and are
27 agreeable and acceptable to me. I understand that I am waiving
rights given to me by the California Administrative Procedure Act
(including but not limited to Section 11506, 11508, 11509, and

1 11513 of the Government Code), and I willingly, intelligently,
2 and voluntarily waive those rights, including the right of a
3 hearing on the Statement of Issues at which I would have the
4 right to cross-examine witnesses against me and to present
5 evidence in defense and mitigation of the charges.

6
7 12/6/07
8 DATED

CHERYL LYND JOHNSON
Respondent

9 I have reviewed the Stipulation and Waiver as to form
10 and content and have advised my client accordingly.

11
12 12/6/07
13 DATED

STEPHEN QUADE
Attorney for Respondent

* * *

1 I have read the Statement of Issues filed herein and
2 the foregoing Stipulation and Waiver signed by the Respondent. I
3 am satisfied that the hearing for the purpose of requiring
4 further proof as to the honesty and truthfulness of Respondent
5 need not be called and that it will not be inimical to the public
6 interest to issue a restricted real estate salesperson license to
7 Respondent.

8 Therefor, IT IS HEREBY ORDERED that a restricted real
9 estate salesperson license be issued to Respondent, if Respondent
10 has otherwise fulfilled all of the statutory requirement for
11 licensure. The restricted license shall be limited, conditioned,
12 and restricted as specified in the foregoing Stipulation and
13 Waiver.

14 This Order is effective immediately.

15 IT IS SO ORDERED 2-7-88
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JEFF DAVIS
Real Estate Commissioner

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
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FILED
OCT 02 2007

DEPARTMENT OF REAL ESTATE

By *Gene Shaver*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 CHERYL LYND JOHNSON,)
14 Respondent.)

No. H-2178 FR

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 CHERYL LYND JOHNSON (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 January 11, 2007, 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.

27 \\\

1 II

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

5 III

6 On or about September 10, 1992, in the Superior Court,
7 County of Fresno, Respondent was convicted of a violation of
8 Section 11379 of the California Health and Safety Code (Transport
9 of Controlled Substance), a misdemeanor and crime involving moral
10 turpitude which bears a substantial relationship under Section
11 2910, Title 10, California Code of Regulations, to the
12 qualifications, functions, or duties of a real estate licensee.

13 IV

14 On or about November 18, 1993, in the Superior Court,
15 County of Fresno, Respondent was convicted of a violation of
16 Section 11378 of the California Health and Safety Code
17 (Possession of a Controlled Substance For Sale), a misdemeanor
18 and crime involving moral turpitude which bears a substantial
19 relationship under Section 2910, Title 10, California Code of
20 Regulations, to the qualifications, functions, or duties of a
21 real estate licensee.

22 V

23 On or about November 30, 1998, in the Superior Court,
24 County of Fresno, Respondent was convicted of a violation of
25 Section 23152(B) of the California Vehicle Code (Driving With a
26 Blood Alcohol Content of 0.08 Percent or Higher), a misdemeanor
27 and crime involving moral turpitude which bears a substantial

1 relationship under Section 2910, Title 10, California Code of
2 Regulations, to the qualifications, functions, or duties of a
3 real estate licensee.

4 VI

5 On or about February 6, 2001, in the Superior Court,
6 County of Fresno, Respondent was convicted of a violation of
7 Section 23103(A) of the California Vehicle Code (Reckless
8 Driving), a misdemeanor and crime involving moral turpitude which
9 bears a substantial relationship under Section 2910, Title 10,
10 California Code of Regulations, to the qualifications, functions,
11 or duties of a real estate licensee.

12 VII

13 On or about June 18, 2004, in the Superior Court,
14 County of Fresno, Respondent was convicted of a violation of
15 Section 23152(B) of the California Vehicle Code (Driving With a
16 Blood Alcohol Content of 0.08 Percent or Higher), a misdemeanor
17 and crime involving moral turpitude which bears a substantial
18 relationship under Section 2910, Title 10, California Code of
19 Regulations, to the qualifications, functions, or duties of a
20 real estate licensee.

21 VIII

22 The crimes of which Respondent was convicted, as
23 alleged above, constitute cause for denial of Respondent's
24 application for a real estate license under Sections 480(a) and
25 10177(b) of the California Business and Professions Code.

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27 \\\

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.

7 
8 JOHN W. SWEENEY
 Deputy Real Estate Commissioner

9 Dated at Fresno, California,
10 this 25th day of Sept., 2007.