

FILED
FEB 11 1992
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zia*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
LAURA LYNN BRANDON,) No. H-2378 SAC
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 3, 1989, an Order was rendered herein denying the Respondent's application for real estate 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 January 11, 1989, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On August 22, 1991, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

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1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

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

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

16 2. Within six (6) months from the date of this order,
17 Respondent shall:

18 (a) Submit a completed application and pay the
19 appropriate fee for a real estate salesperson license;
20 and

21 (b) Submit evidence of having taken and successfully
22 completed the courses specified in subdivisions (a) and
23 (b) of Section 10170.5 of the Real Estate Law for
24 renewal of a real estate license.

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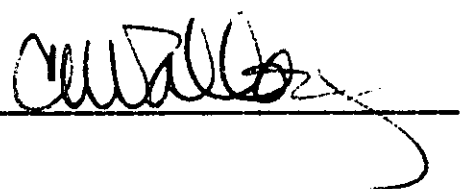
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3. Upon renewal of the license issued pursuant to this
order, Respondent shall submit evidence of having taken and
successfully completed the continuing education requirements of
Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
real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

This Order shall be effective immediately.

DATED: February 4, 1992

CLARK WALLACE
Real Estate Commissioner



FILED
JAN 10 1989

DEPARTMENT OF REAL ESTATE

By Laurie A. Zain

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
LAURA LYNN BRANDON,) NO. H-2378 SAC
Respondent.) N-32700

ORDER AMENDING EFFECTIVE DATE

The Decision in this matter adopted on January 3, 1989 was to have become effective at 12 o'clock noon on January 27, 1989. Respondent has requested that the effective date be shortened so that the Decision will become effective immediately.

The Decision of January 3, 1989 is hereby amended by changing the effective date of said Decision from January 27, 1989 to January 10, 1989.

IT IS SO ORDERED January 10, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Hester

FILED
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

DEPARTMENT OF REAL ESTATE

Laurie A. Zier

In the Matter of the Application of)

LAURA LYNN BRANDON,

Respondent.)

NO. H-2378 SAC

N-32700

DECISION

The Proposed Decision dated December 28, 1988 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 of Section 11522 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 attached hereto.

amended { This Decision shall become effective at 12 o'clock noon on January 27, 1989.

IT IS SO ORDERED 1-3, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement	)	
of Issues Against:	)	No. H-2378 SAC
	)	
LAURA LYNN BRANDON	)	OAH No. N-32700
	)	
	)	
Respondent.	)	
	)	

PROPOSED DECISION

On December 16, 1988, in Sacramento, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Larry A. Alamao, Staff Counsel.

Respondent appeared in person and represented herself.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

The Administrative Law Judge finds the following facts:

I

Charles W. Koenig filed the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner, State of California.

II

On August 25, 1988, respondent applied for her real estate salesperson's license. The license was issued to her on September 2, 1988. On November 23, 1988, the Real Estate Commissioner suspended her license pursuant to section 10177.1 of the Business and Professions Code.

III

Respondent applied for her license with the knowledge and understanding that any license issued would be subject to the conditions of section 10153.4 of the Business and Professions Code.

IV

On October 23, 1986, respondent was convicted, on her plea of guilty, of violating section 488 (petty theft) of the Penal Code. (People v. Brandon (Muni. Ct., Sacramento District, Sacramento County, 1986, No. 86M14534).) This crime is a misdemeanor involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate licensee. As a result of her conviction, respondent paid a fine of \$102. The crime involved the shoplifting of clothes and other personal items with a total value of \$38.99.

V

On August 24, 1988, respondent signed the application for her real estate salesperson's license, and certified that the answers and statements given in the application were "true and correct." Question 25 of respondent's application asked: "Have you ever been convicted of any violation of law?" Respondent answered "No" to said question. Respondent's failure to reveal the conviction set forth in Finding IV constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact.

VI

Respondent is 26 years old, married, and has three children under the age of six. She has no other arrests or criminal convictions. She was embarrassed and humiliated by her conduct at the time of the theft and is truly remorseful. The depth of her personal humiliation has made it very difficult to accept the fact that she committed the crime. It also led her to avoid admitting it on her application for a real estate license. Respondent is largely but not fully rehabilitated.

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause for discipline of respondent's license was established for violation of sections 480, subsection (c), and 10177, subsection (a), of the Business and Professions Code, by reason of Finding V.

II

Said cause was established for violation of sections 480, subsection (a), and 10177, subsection (b), of said Code, by reason of Finding IV.

III

In view of the rehabilitation set forth in Finding VI, however, it would not be contrary to the public interest to issue respondent a restricted license.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of respondent Laura Lynn Brandon for issuance of an unrestricted real estate salesperson's license is denied; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor within 60 days from the effective date of this decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to all the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker which shall certify:

- (1) That the employing real estate broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (2) That the employing real estate broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within eighteen (18) months of the issuance of the restricted license under the provisions of section 10153.4 of the Business and Professions Code, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in 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 present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of the restricted license. Said suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the respondent of lifting of the suspension.

Dated: December 28, 1988



JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Laurie A. Zier

In the Matter of the Application of

LAURA LYNN BRANDON,

Case No. H-2378 SAC

OAH No. _____

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, 501 J Street, Suite 220 (Second Floor Hearing Rooms),
Sacramento, CA 95814
on the 16th day of December, 1988, at the hour of 1:30 PM, or as soon thereafter
as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: 11/30/88

By

Larry A. Alamao
LARRY A. ALAMAO

Counsel

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DEPARTMENT OF REAL ESTATE

Laurie A. Gian

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
LAURA LYNN BRANDON,) NO. H-2378 SAC
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

TO: LAURA LYNN BRANDON, Respondent
27755 N. Sowles Road
Galt, California 95632

On August 24, 1988, the above-named Respondent filed with the Department of Real Estate of the State of California (hereinafter referred to as "Department") an application for a real estate salesperson license. In response to a question in said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "No."

On September 2, 1988, Department issued a real estate salesperson license to Respondent in reliance upon the aforesaid answer of Respondent.

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1 On November 22, 1988, in Case No. H-2378 SAC, a
2 Statement of Issues signed by a Deputy Real Estate Commissioner of
3 the State of California was filed charging Respondent with having
4 procured a real estate license by fraud, misrepresentation or
5 deceit and with knowingly having made a false statement of fact
6 required to be revealed in the application for such license.

7 NOW, THEREFORE, IT IS ORDERED under authority of Section
8 10177.1 of the Business and Professions Code of the State of
9 California that the real estate salesperson license heretofore
10 issued to Respondent and the exercise of any privileges thereunder
11 is hereby suspended pending final determination made after a
12 hearing on the aforesaid Statement of Issues, a copy of which is
13 attached hereto.

14 IT IS FURTHER ORDERED that all license certificates and
15 identification cards issued by Department which are in the
16 possession of Respondent be immediately surrendered by personal
17 delivery or by mailing in the enclosed self-addressed envelope to:
18 Department of Real Estate, P. O. Box 187000, Sacramento,
19 California 95818-7000.

20 This Order shall be effective immediately.

21 DATED: November 23, 1988

22 JAMES A. EDMONDS, JR.
23 Real Estate Commissioner

24 By: *John R. Liberator*
25 JOHN R. LIBERATOR
26 Chief Deputy Commissioner
27

1 LARRY A. ALAMAO, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 (916) 739-3607
6
7

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NOV 22 1988

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zear*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

12 LAURA LYNN BRANDON,

13 Respondent.)

NO. H-2378 SAC

STATEMENT OF ISSUES

14
15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against LAURA LYNN BRANDON (hereinafter "Respondent") alleges as
18 follows:

19 I

20 Respondent was issued a real estate salesperson license
21 on or about September 2, 1988, following Respondent's application
22 therefor filed on or about August 24, 1988.

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Respondent, pursuant to the provisions of Section

10153.3 of the Business and Professions Code, made application to

the Department of Real Estate of the State of California for a

real estate salesperson license with the knowledge and

understanding that any license issued as a result of said

application would be subject to the conditions of Section 10153.4

of the Business and Professions Code.

Complainant, Charles W. Koenig, a Deputy Real Estate

Commissioner of the State of California, makes this Statement of

Issues in his official capacity.

In response to Question 25 of said application, to wit:

"Have you ever been convicted of any violation of law?",

Respondent answered "No."

On or about October 23, 1986, in the Municipal Court,

Sacramento Municipal Court District, County of Sacramento, State

of California, Respondent was convicted of violation of Section

488 of the California Penal Code (Theft), 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.

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VI

Respondent's failure to reveal the conviction set forth in Paragraph V above in said application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of respondent's application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

VII

Respondent's criminal conviction, as alleged in Paragraph V above, constitutes 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.

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.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 22nd day of November, 1988.