BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

FILED

MAY 23 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Application of)) MICHELLE MARIE MANNISTO,)) Respondent.))	NO. H-3540 SAC N-2000110209

DECISION

The Proposed Decision dated April 25, 2001, 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 June 12 2001.

DATED: May 9, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: MICHELLE MARIE MANNISTO, Respondent.	Case No. H-3540 SAC OAH No. N-2000110209

PROPOSED DECISION

Administrative Law Judge Catherine B. Frink, State of California, Office of Administrative Hearings, heard this matter in Sacramento, California on April 11, 2001.

David B. Seals, Counsel, represented the complainant.

Respondent was present and was represented by Susan S. Hinz, Attorney at Law, 1616 West Street, Redding, California 96001.

Evidence was received, the hearing was closed, and the matter was submitted on April 11, 2001.

FACTUAL FINDINGS

1. The complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, filed the Statement of Issues in his official capacity and not otherwise.

2. Michelle Marie Mannisto ("respondent") applied to the Department of Real Estate ("the Department") for a real estate salesperson license on November 23, 1999, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code section 10153.4.

3. On February 14, 1992, in the State of Michigan, 16th Judicial Circuit, Macomb County, respondent was convicted of one count of violation of Michigan Compiled Laws

Section 750.131a, No-Account Check, and one count of violation of Michigan Compiled Laws Section 750.92/750.249, Attempted—Uttering and Publishing. The facts and circumstances underlying the conviction are that, on July 19, 1991, respondent wrote a check for $154.94 to Lockies Sport Shop, using the name Freda M. Lindsay, knowing that she had no account in or credit with the bank on which the check was drawn; and on July 20, 1991, respondent attempted to purchase a baseball card, worth $500, using a stolen check drawn on the account of Freda M. Lindsay. Respondent had an identification card with her picture on it and with the name "Freda M. Lindsay," and she forged the signature of Freda M. Lindsay on the check.

4. As a consequence of the conviction set forth in Finding 3 above, respondent was placed on probation for three (3) years, subject to various terms and conditions of probation. Respondent was ordered to pay restitution in the total amount of $1,211 plus the return of the baseball card; pay court costs, fees and fines of $360 plus $30 per month; and comply with other standard terms and conditions.

A probation hearing was held on August 26, 1994, at which it was determined that respondent violated her probation due to subsequent criminal convictions, as set forth in Findings 5 and 7 below. Respondent's criminal probation was extended for one additional year, to March 27, 1996. Respondent successfully complied with all the terms and conditions of her probation, including the payment of full restitution and other financial obligations. She was granted early termination of probation by Order dated January 24, 1996.

5. On March 8, 1994, in the State of Michigan, 16th Judicial District, respondent was convicted of one count of violation of Michigan Compiled Laws, Attempted—Fraudulent Scheme. The facts and circumstances underlying the conviction are that, on May 23, 1993, respondent attempted to use a personal check in the amount of $520 to purchase merchandise at The Furniture Gallery in Livonia, Michigan, and the check was returned by the bank because the account on which the check had been drawn was closed.

6. As a consequence of the conviction set forth in Finding 5 above, respondent was sentenced to 30 days in the Livona City Jail and to pay a total of $799 in fines, fees and court costs. Respondent was permitted to complete her jail sentence via a work release program. Respondent completed court-ordered payments on October 21, 1994, and was deemed to have satisfactorily completed probation on March 10, 1995.

7. On June 6, 1994, in the State of Michigan, 9th Judicial Circuit, Kalamazoo County, respondent was convicted of one count of violation of Michigan Compiled Laws section 750.131a, No-Account Check, a two-year felony, and one count of violation of Michigan Compiled Laws section 769.10, Punishment for Subsequent Felony. The facts and circumstances underlying the conviction are that, in July of 1993, respondent wrote checks to Sears and to The Closet for merchandise, at a time when the account on which the checks had been drawn was closed.

8. As a consequence of the conviction set forth in Finding 7 above, respondent was sentenced on August 8, 1994 to 90 days in jail and was placed on probation for three years, subject to various terms and conditions, including the payment of restitution, fines and fees of $1,855.91; prohibition against obtaining a checking account with any bank or financial institution, or any charge or credit account, without the permission of respondent's probation agent; participate in a treatment for mental health counseling at the direction of the probation agent; and compliance with other standard terms and conditions.

Respondent was permitted to serve her jail time on weekends, during plant shutdowns, work layoffs, vacations and holidays. The evidence did not establish whether or not respondent was required to undergo mental health counseling by her probation agent. Respondent paid all restitution, fines and fees. Respondent's criminal probation was scheduled to terminate on August 8, 1997.

9. The convictions set forth in Findings 3, 5 and 7 are crimes involving "moral turpitude" within the meaning of Business and Professions Code section 10177(b). "Moral turpitude" is an elusive concept incapable of precise general definition. It includes any "immoral" act, not necessarily a crime. Golde v. Fox (1979) 98 Cal.App.3d 167 181. Crimes that reveal an applicant's dishonesty involve moral turpitude. Clerici v. Department of Motor Vehicles (1990) 224 Cal.App.3d 1016, 1027. Lack of honesty or integrity, such as intentional dishonesty, demonstrates a lack of moral character and satisfies a finding of unfitness to practice a profession. Matanky v. Board of Medical Examiners (1978) 79 Cal.App.3d 293, 305.

10. The criminal acts set forth in Findings 3, 5 and 7 bear a substantial relationship to the qualifications, functions, and duties of a real estate licensee, as defined in Title 10, California Code of Regulations ("10 CCR") section 2910(a)(1), the fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person; (a)(2), counterfeiting, forging or altering of an instrument or the uttering of a false statement; (a)(4), the employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end; and (a)(8), doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

11. Respondent was born and raised in Detour Village, Michigan, a town of about 466 residents, with 22 students in her high school graduating class. Respondent was an honor student and star athlete at her high school. Respondent graduated from high school in 1987 at age 17 and went to college at the University of Detroit to play basketball. Respondent's transition from a small town to a large inner city neighborhood was not an easy one. Respondent devoted herself to basketball. In 1989 respondent transferred to Saginaw Valley State University to take advantage of a better coaching situation. However, she felt she was not accepted by her teammates and, in 1990, she transferred to Wayne State University and quit playing basketball.

Without the focus of sports, respondent became involved in club dancing. She attended "after hours" clubs in dangerous areas and was attracted to the lifestyle of the individuals she was meeting at the dance clubs. At age 20, she was offered the opportunity to live in an apartment in town for free, so long as she let her roommates use her car. Her roommates were scam artists involved in a "check-writing ring," and respondent soon was drawn into their illegal activities, which usually involved returning items for cash that had been purchased with forged checks. Respondent's roommates sometimes beat her up if she did not meet their criminal expectations. Eventually she was given a fake identification card and was told to write checks. Respondent went along with this activity because she was afraid of her roommates and because she had cut herself off from family and friends and was trying to "fit in."

In order to remove herself from this situation, respondent enrolled at the University of Michigan in Dearborn in the fall of 1991 and started playing Division III basketball. Respondent's family provided some financial assistance to her at that time to help her relocate.

12. In 1993, respondent became employed as an assembler at Ford Motor Company in Dearborn. Respondent was trying to pay off court fines and restitution after her 1992 criminal conviction, and she was having difficulty meeting her living expenses. Respondent felt she could not ask her family for additional financial help. She wrote checks on her personal checking account, knowing the account was closed, because she hoped she would receive a paycheck from Ford in time to cover the checks. The items she purchased in 1993 that led to the criminal convictions set forth in Findings 5 and 7 above were furniture and appliances.

Respondent worked on the assembly line at Ford for about a year and a half, and as a pipefitter apprentice at Ford for an additional two and a half years. Respondent worked overtime in order to pay off her fines, fees and restitution from her various court cases, as well as credit card debt she had accumulated over the years. In addition, respondent received an Associates degree in industrial science from Henry Ford Community College in Detroit in 1995, and she took courses at Lawrence Technological University in 1995-1996, and at Madonna University in 1997.

13. In the fall of 1997, respondent moved to California. She attended California State University at Chico from 1997 to 1999, earning a Bachelor of Arts degree with a major in physical education and a minor in mathematics. Respondent is currently working toward a Masters degree in physical education at CSU-Chico, with an anticipated completion date of May 2001.

In 1997, respondent became employed in her current position as business manager for Modern Heart Care, a cardiology clinic in Red Bluff, California. Respondent handles financial matters for her employers, and is a signatory to the business checking account. Her employer is fully aware of her previous criminal convictions and the surrounding circumstances.

Since relocating to the Redding, California area, respondent has become involved in coaching basketball. From 1997 to 1999, respondent served as a volunteer assistant coach for the Shasta Community College Women's Basketball team in Redding, California. In addition, she has worked as the head coach of the Shasta High School Girl's Basketball team in Redding in 1999-2000; as a basketball coach in the summer of 2000 at College of the Siskiyous in Weed, California; as head coach of a girl's 18 and under AAU basketball team in Redding in 2000; and as an assistant coach of women's basketball at Cuyamca Communty College in El Cajon, California in 2000-2001.

Respondent attends a local church in West Redding, California, and she is helping to raise a 15-year-old girl who lost her mother several years ago.

14. Respondent is interested in pursuing a career in real estate so that she can have the financial stability as well as flexibility in her schedule to continue her coaching activities.

15. Pursuant to Business and Professions Code section 482(a), the Department has developed criteria to evaluate the rehabilitation of a license applicant after a criminal conviction, which are set forth in Title 10, California Code of Regulations, section 2911. In this case, more than two years have passed since respondent's most recent conviction, and she apparently completed her criminal probation more than three and a half years prior to the date of hearing. In connection with her February 14, 1992 criminal conviction, respondent violated her criminal probation by reason of her subsequent criminal convictions, which led to an extension of her criminal probation; thereafter she obtained early termination of her extended probation. Respondent paid all court-ordered fines and restitution as required by probation in each of her convictions. Respondent has not obtained expungement of any of her criminal convictions.

The use of alcohol and/or controlled substances was not a factor in respondent's criminal convictions. Respondent has completely changed the social relationships and associations that contributed to her criminal behavior, and she has altered her personal financial habits to prevent a reoccurrence of the conduct that led to her criminal convictions. Respondent has the support and encouragement of her family, and she is financially self-supporting. She has found employment in a position of trust that requires her to handle the finances of a business enterprise. Respondent has successfully pursued additional education since her conviction for economic self-improvement, and she has participated in church and community activities to provide social benefit.

Respondent appears to have undergone a personal transformation in her attitudes and conduct since her criminal convictions in the early 1990s. She has taken complete responsibility for her misconduct and taken steps to rectify the situation. She appears to understand the factors that influenced her to behave in immature and naïve ways as a college student leaving a small-town, protected environment. She has been candid with employers and others concerning her criminal history. The testimony of respondent's mother supported respondent's change in conduct and attitude.

LEGAL CONCLUSIONS

1. Business and Professions Code section 480 states as follows:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

"(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license."

2. Business and Professions Code section 10177(b) states as follows:

"The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

"(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information."

3. Cause for denial of respondent's application for a real estate salesperson license was established pursuant to Business and Professions Code sections 480(a) and 10177(b) by reason of Findings 3, 5, 7, 9 and 10.

4. Under all of the facts and circumstances, it would be contrary to the public interest to issue an unrestricted real estate salesperson license to respondent at this time. Honesty and trustworthiness are qualities of utmost importance in a real estate licensee, who must frequently act in a fiduciary capacity. "Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee." Harrington v. Department of Real Estate (1989) 214 C.A.3d 394, 402. "If appellant's offenses reflect unfavorably on his honesty, it may be said he lacks the necessary qualifications to become a real estate salesperson." Harrington, supra, 214 C.A.3d at 402; Golde v. Fox, (1979) 98 Cal.App.3d 167, 176. "The Legislature intended to insure that real estate brokers and salespersons will be honest, truthful and worthy of the fiduciary responsibilities which they will bear." Harrington, supra, 214 C.A.3d at 402; Ring v. Smith (1970) 5 C.A.3d 197, 205.

Although respondent's most recent criminal conviction took place more than six years ago, she has a history of criminal misconduct involving dishonesty. Furthermore, respondent's violation of her original criminal probation by reason of subsequent criminal convictions for similar misconduct is considered as a factor in aggravation.

On the other hand, respondent has provided impressive evidence of rehabilitation in this matter. She has worked diligently to make full restitution and to pay all court costs and fines. She has pursued her education, and has used her talents to serve the community. She has found employment in a position of trust and responsibility, and is carrying out her duties in an exemplary manner. She has undergone a transformation in her attitudes and has gained insight into her previous wrongdoing. She has taken full responsibility for the consequences of her actions. The likelihood that she would engage in similar misconduct in the future appears remote. Respondent has sustained her burden to prove that she can be licensed at this time with a restricted license without harm to the public.

5. For the reasons set forth above, it would not be contrary to the public interest to grant a restricted real estate salesperson license to respondent.

ORDER

The application of Michelle Marie Mannisto for a real estate salesperson license is DENIED by reason of Legal Conclusions 3, 4 and 5; provided, however, a restricted conditional real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. 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 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) 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 (2) years have elapsed from the date of issuance of the restricted license to respondent.

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the 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's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, 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 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.

5. Pursuant to 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 (4) years after the date of the issuance of the preceding restricted license.

Dated: 4-25-01

Catherine B. Frink
CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

FILED

FEB 08 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MICHELLE MARIE MANNISTO

Respondent

Case No. H-3540 SAC

OAH No.

SECOND CONTINUED

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 WEDNESDAY--APRIL 11, 2001, at the hour of 9:00 AM, 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 Hearing 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 subpenas 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 for 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: FEBRUARY 8, 2001

By David B. Seals

DAVID B. SEALS, Counsel

FILED

JAN 16 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MICHELLE MARIE MANNISTO

Respondent

Case No. H-3540 SAC

OAH No.

FIRST CONTINUED
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 FRIDAY--FEBRUARY 13, 2001, at the hour of 9:00 AM, 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 Hearing 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 subpenas 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 for 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: JANUARY 16, 2001

By David B. Seals

DAVID B. SEALS, Counsel

FILED

NOV 21 2000

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MICHELLE MARIE MANNISTO

Respondent

Case No. H-3540 SAC

OAH No.

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 WEDNESDAY--JANUARY 17, 2001, at the hour of 9:00 AM, 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 Hearing 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 subpenas 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 for 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: NOVEMBER 21, 2000

By [signature]
DAVID B. SEALS, Counsel

DAVID B. SEALS, Counsel (SBN 69378)
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0792 (Direct)

FILED
OCT 19 2000
DEPARTMENT OF REAL ESTATE
By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of MICHELLE MARIE MANNISTO, Respondent.	No. H-3540 SAC STATEMENT OF ISSUES

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against MICHELLE MARIE MANNISTO (hereinafter "Respondent") alleges as follows:

I

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 on or about November 23, 1999, 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.

///

II

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

III

On or about February 14, 1992, in the State of Michigan, 16^{th} Judicial Circuit, Macomb County, Respondent was convicted of one count of violation of Michigan Compiled Laws Section 750.131a (Check, draft, or order for payment of money; making, drawing, uttering, or delivering without account, credit, or sufficient funds with intent to defraud) and one count of violation of Michigan Compiled Laws Section 750.92 and 750.249 (Attempt - Uttering and Publishing), crimes involving moral turpitude which are substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

On or about March 8, 1994, in the State of Michigan, 16^{th} Judicial District, Respondent was convicted of one count of violation of Michigan Compiled Laws (Attempted - Fraudulent Scheme), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

V

On or about June 6, 1994, in the State of Michigan, 9^{th} Judicial Circuit, Kalamazoo County, Respondent was convicted of one count of violation of Michigan Compiled Laws Section 750.131a (Check, draft, or order for payment of money; making, drawing, uttering, or delivering without account, credit, or sufficient funds with intent to defraud) and one count of violation of Michigan Compiled Laws Section 769.10 (Punishment for subsequent felony), felonies and crimes involving moral turpitude which are substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

VI

The crimes for which Respondent was convicted, as alleged in Paragraphs III through V 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.

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 under other provisions of law.

Charles Koenig

CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 6th day of October, 2000.