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FILED

SEP 24 2008

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of  
DENISE L. ALEXANDER,  
Respondent.

No. H-3691 SAC

ORDER GRANTING UNRESTRICTED LICENSE

On December 5, 2002, 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 4, 2003, and Respondent has operated as a restricted licensee since that time.

On January 31, 2008, 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 an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
DEC 13 2002

DEPARTMENT OF REAL ESTATE

\* \* \*

In the Matter of the Application of)  
DENISE L. ALEXANDER, )  
Respondent. )

NO. H-3691 SAC

OAH No. N2002070219

By Shelly Ely

**DECISION**

The Proposed Decision dated November 14, 2002, 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. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon  
on January 7 2003.

IT IS SO ORDERED December 5, 2002.

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner

Paula Reddish

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

DENISE L. ALEXANDER,

Respondent.

CASE No. H-3691 SAC

OAH No. N2002070219

**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 23, 2002.

Michael B. Rich, Staff Counsel, Department of Real Estate, State of California, represented Complainant.

Respondent Denise L. Alexander ("respondent") appeared and represented herself.

Evidence was received and the matter submitted on October 23, 2002.

**FACTUAL FINDINGS**

1. On April 25, 2002, Charles W. Koenig, Deputy Real Estate Commissioner, Department of Real Estate ("Department"), State of California, filed the Statement of Issues against respondent in his official capacity.
2. On October 15, 2001, respondent submitted an executed Salesperson License Application to the Department. Said application is pending.
3. Question 25 of Respondent's application for licensure asks, "Have you ever been convicted of any violation of law?" Respondent answered, "No."
4. On June 5, 1990, in the Municipal Court of California, County of San Joaquin, San Joaquin Judicial District, entitled *People vs. Denise Louise Bedley*, Case No. LM000051,

respondent was convicted, by plea, of violating Penal Code §484 [Petty Theft], a misdemeanor and crime of moral turpitude substantially related to the functions, duties and qualifications of a Department licensee. Respondent was placed on a three-year probation and ordered, inter alia, to obey all laws.

5. The facts and circumstances underlying the conviction set forth in Finding 4 are that respondent, 18, entered a store fitting room, concealed an item on her person, and left the store without paying for the concealed item.

6. In 1992, in the Municipal Court of California, County of Sacramento, respondent was convicted, by plea, of violating Vehicle Code §23103.5 [Alcohol-related Reckless Driving], a misdemeanor substantially related to the functions, duties and qualifications of a Department licensee. Respondent was placed on probation.

7. The facts and circumstances underlying the conviction set forth in Finding 6 are that respondent, 20, had gone to a party with friends. Departing the party, the driver exhibited inebriety. Respondent, who had been drinking but did not believe she was intoxicated, volunteered to drive. She was subsequently arrested for driving under the influence.

#### *Circumstances in Aggravation*

8. Respondent has engaged in multiple acts involving moral turpitude.

9. Respondent, by her conviction in 1992, violated her earlier grant of probation.

#### *Circumstances in Mitigation*

10. Respondent, 30, plausibly explains that her failure to properly answer the Department's query arises from her own misunderstanding of the scope of the question's import. She believed, from having answered previous questions of a similar nature, that the question focused only on felonies. She credibly acknowledges not having fully read the question and presumed it was similar to questions in job applications. It is competently and credibly established that she never intended to deceive the Department by her obvious neglect in response to the Department's Question 25. It is equally apparent from respondent's demeanor that she did not comprehend, or even consider (at the time of completion of her application) that reckless driving is a misdemeanor and not merely a Vehicle Code infraction.

11. Respondent clearly comprehends the import of the Department's questions and, as a result of this proceeding, equally developed an appreciation for Department forms, questions, and solicitations for information. She has developed particular insight into her errant conduct. Indeed, respondent provided the inculpatory evidence that established her conviction for reckless driving.

12. Respondent candidly demonstrates her embarrassment for her adolescent convictions for petty theft and reckless driving.

13. Respondent's convictions and the conduct underlying both occurred over ten years ago.

14. Respondent's grants of court probation terminated.<sup>1</sup>

15. Respondent, confirmed by the testimony of two witnesses, possesses moral character. Following her convictions, she "grew up", including disassociation from an errant peer group, and embarked on a course of study that earned her a degree in economics from the University of California, Berkeley. Respondent is presently embarking on a MBA at California State University, Sacramento. In addition to her successful academic achievement, respondent spent three months in an impoverished community in Mexico teaching children how to read. She has devoted additional volunteer efforts at Kaiser and has, as a member of both the 2030 Club and Comstock Club, focused on current issues, and political and social education for the benefit of her community and gender.

16. Respondent seeks licensure to enhance her income and expand her opportunities within her physical limitations. Having suffered a cerebral aneurysm, she undergoes physical therapy that occupies as much as three hours a day. Her interest in real estate arises from having care for her grandfather, and assisted him in his real estate investments. She has followed her grandfather's interest by acquiring real estate, rehabilitating real estate, and assisting low-income persons in acquiring real estate.

17. If granted a restricted license, respondent would abide by the terms and conditions of such restricted license.

### LEGAL CONCLUSIONS

1. Cause exists to deny the application of Respondent for licensure as a real estate salesperson for criminal convictions pursuant to the provisions of Business and Professions Code §§480(a) and 10177(b), in conjunction with Title 10, California Code of Regulations, §2910, and as set forth in Findings 2 through 7.

2. Cause exists to deny the application of Respondent for licensure as a real estate salesperson for a false statement in an application pursuant to the provisions of Business and Professions Code §§480(c) and 10177(a) and as set forth in Findings 2 through 5.

3. The objective of a disciplinary proceeding is to protect the public, the licensed occupation, maintain integrity, high standards, and preserve public confidence in Department licensure.<sup>2</sup> In particular, the statutes relating to Department licensure are designed to protect

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<sup>1</sup> Appearing in propria persona, respondent is clearly unaware of the salutary benefits of Penal Code §1203.4 relief.

<sup>2</sup> Cf. *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4<sup>th</sup> 810, 816.

the public from any potential risk of harm.<sup>3</sup> Complainant has presented evidence of rehabilitation and mitigation that sufficiently function to demonstrate respondent's adolescent immaturity at the time of the commission of the conduct referenced in Findings 5 and 7. Complainant has further demonstrated sufficient evidence that respondent labored under a mistaken belief when she completed and subsequently submitted her application. Accordingly, giving due consideration to the facts and circumstances underlying the Statement of Issues (Legal Conclusions 1 through 2, and each of them) and the circumstance in aggravation (Findings 8 through 9) and mitigation (Findings 10 through 17), the undersigned concludes that the public interest will not be harmed by the issuance of a properly conditioned real estate salesperson's license to respondent.

### ORDER

Respondent Denise L. Alexander's application for a real estate salesperson license is denied; provided, however, upon payment of all applicable fees, a restricted real estate salesperson license shall be issued to Respondent pursuant to Business and Professions Code §10156.5. The restricted license issued to the Respondent shall be subject to all of the provisions of Business and Professions Code §10156.7 and to the following limitations, conditions and restrictions imposed under authority of §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 prior to hearing 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 five 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

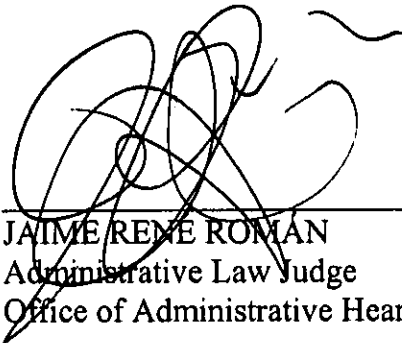
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<sup>3</sup> See *Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.

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 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 on a form approved by  
the Department of Real Estate which shall certify:
- a. That the employing broker has read the Decision of the Commissioner  
which granted the right to a restricted license; and
  - b. That the employing 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 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.

Dated: 11/14/02

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

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
SEP 05 2002

DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

DENISE L. ALEXANDER

Case No. H-3691 SAC

OAH No. N2002070219

*Respondent*

**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 WEDNESDAY--OCTOBER 23, 2002, 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 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 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:*** SEPTEMBER 5, 2002

By



MICHAEL B. RICH,

Counsel

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
JUL 23 2002

DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

DENISE L. ALEXANDER

} By Shelly El  
Case No. H-3691 SAC  
OAH No. N2002070219

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 WEDNESDAY--SEPTEMBER 25, 2002, at the hour of 09:00 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.

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DEPARTMENT OF REAL ESTATE

Dated: JULY 23, 2002

By Michael B. Rich  
MICHAEL B. RICH, Counsel

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000

6 Telephone: (916) 227-0789

FILED  
JUN 13 2002

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 DENISE L. ALEXANDER, )  
13 Respondent. )

No. H- 3691 SAC

STATEMENT OF ISSUES

14  
15 The Complainant, CHARLES W. KOENIG, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against DENISE L. ALEXANDER also known as DENISE LOUISE  
18 BEDLEY (hereinafter "Respondent"), is informed and alleges as  
19 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 October 16, 2001.

24 II

25 Complainant, CHARLES W. KOENIG, a Deputy Real Estate  
26 Commissioner of the State of California, makes this Statement of  
27 Issues in his official capacity and not otherwise.

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III

In response to Question 25 of said application, to wit:  
"Have you ever been convicted of any violation of law?",  
Respondent answered "No".

IV

On or about June 5, 1990, in the Municipal Court,  
County of San Joaquin, Respondent was convicted of a violation of  
Section 484 of the California Penal Code (Petty 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.

V

On or about 1992, in the Municipal Court, County of  
Sacramento, Respondent was convicted of a violation of Section  
23103 of the California Vehicle Code (Reckless driving) pursuant  
to Section 23103.5 of the California Vehicle Code (acceptance of  
guilty plea to Section 23103 in lieu of a plea to violating  
Section 23152, driving under the influence of alcohol).

VI

The crimes of which Respondent was convicted, as  
alleged in Paragraphs IV and V, individually and/or collectively  
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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VII

Respondent's failure to reveal the convictions set forth in Paragraphs IV and 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 498 and 10177(a) 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 W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 25<sup>th</sup> day of April, 2002.