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FILED

OCT 25 2004

DEPARTMENT OF REAL ESTATE

By *Janet Hunt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
LAURA L. HERRERA,) No. H-4963 SF
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 13, 1981, a Decision 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 March 30, 1981, and Respondent has operated as a restricted licensee since that time.

On February 14, 2003, 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
9 petition for removal of restrictions is granted and that a real
10 estate salesperson license be issued to Respondent if Respondent
11 satisfies the following conditions within nine months from the
12 date of this Order:

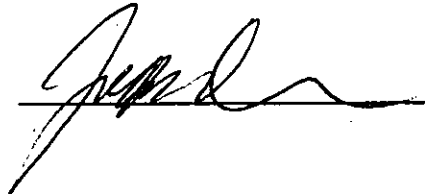
13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall become effective immediately.

21 DATED: 10-20, 2004

22 JEFF DAVI
23 Real Estate Commissioner

24 
25
26
27

COPY

FILED
NOV 07 1989

DEPARTMENT OF REAL ESTATE

By Victoria Dillon

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) No. H-4963 SF
)
LAURA L. WARNER, aka)
LAURA LOUISE WARNER, aka)
LAURA HERRERA WARNER, aka)
LAURA L. HERRERA,)
)
Respondent.)

ORDER GRANTING UNRESTRICTED LICENSE

On January 13, 1981, 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 March 30, 1981, and respondent has operated as a restricted licensee without cause for disciplinary action against her since that time.

On April 3, 1989, respondent petitioned for the removal of restrictions attaching to her real estate salesperson license.

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

8 NOW, THEREFORE, IT IS ORDERED that respondent's
9 petition for removal of restrictions is granted and that a real
10 estate salesperson license be issued to her if she satisfies the
11 following conditions within six (6) months from the date of this
12 order:

13 1. Submittal of a completed application and payment
14 of the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: October 6, 1989.

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

25
26 by: John R. Liberator
27 JOHN R. LIBERATOR
Chief Deputy Commissioner

FILED
JAN 15 1981

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

Roshni R. Kalidin
Roshni R. Kalidin

- - -

In the Matter of the Application of)

LAURA L. WARNER, aka
LAURA LOUISE WARNER, aka
LAURA HERRERA WARNER,

Respondent.

No. H-4963 SF

N 15986

DECISION

The Proposed Decision dated January 2, 1981, 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.

This Decision shall become effective at 12 o'clock
noon on February 4th, 1981.

IT IS SO ORDERED January 13th, 1981.

David H. Fox

DAVID H. FOX

Real Estate Commissioner by

Richard D. Carlson

Assistant Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)

LAURA L. WARNER, aka)
LAURA LOUISE WARNER, aka)
LAURA HERRERA WARNER,)

NO. H-4963 SF. 1

N 15986

Respondent.)

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in San Francisco, California, on December 18, 1980. The record was held open to allow complainant to submit a brief. That brief was received on January 2, 1981 and marked as Exhibit 7 for identification. The matter was thereupon deemed submitted.

Vera Lee, Counsel, represented the Department of Real Estate.

Respondent was present and represented by Janis R. Musante and Joan Mann Thomas, Attorneys at Law, 220 Sansome Street, Fourteenth Floor, San Francisco, California 94104.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

Respondent Laura L. Warner applied for a real estate salesperson license on August 15, 1980. The Real Estate Commissioner, pursuant to Business and Professions Code section 10152, has required further proof of respondent's honesty and truthfulness.

II

In her application for a real estate salesperson license, respondent answered "No" to the following question:

"20. Have you ever been convicted of any violation of law? (excluding non-moving traffic violation)"

III

In partial reliance upon the answer to Question 20, the Department issued respondent a real estate salesperson license on August 28, 1980. The license was subsequently ordered suspended by the Real Estate Commissioner on November 20, 1980.

IV

On her application, respondent failed to reveal that on June 15, 1977, in the Municipal Court, Northern Judicial District, County of San Mateo, State of California, she had been found guilty, after trial to the court, of a violation of section 484 of the California Penal Code (Petty Theft), a misdemeanor.

V

The crime of which respondent was convicted is a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee.

VI

The following additional facts were established:

1. Respondent was convicted of taking soap valued at less than \$5.00 from a Longs Drug Store. Following conviction, respondent was placed on 18 months summary probation and fined \$125, which she paid immediately. There being no loss suffered by Longs, no restitution was required.

2. Respondent failed to reveal the conviction on her application for a real estate salesperson license because she believed, based upon conversations with her attorney at the time of her conviction, that the conviction would be

cleared from her record within two or three years and she would not be required to disclose it. Although respondent read the definition of "conviction" on the application, she believed it did not apply to her situation.

3. Respondent has had no criminal involvement either before or since the 1977 incident. She is currently in the process of having that conviction expunged.

4. At the present time, respondent is separated from her husband. She supports herself and her two young children on her income from her part-time employment as a secretary at Kotta & Associates Realty and on child support from her husband.

5. Respondent has established a reputation among friends and business associates as a thoroughly honest, trustworthy and dependable person. Both in her present employment, which she has held for a year and a half, and in another temporary and short-term job respondent has been entrusted with collecting rents and other monetary payments. She has always discharged her duties responsibly.

6. Kotta & Associates, her present employer, is willing to hire respondent as a real estate salesperson and to appropriately supervise her activities should she be granted a restricted license.

7. Since her conviction in 1977 respondent has enrolled in, and successfully completed, a real estate training course. She is active in a number of community organizations including the Mexican American G.I. Forum, the Sunnyvale Performing Arts Center for Children and the PTA. Respondent has demonstrated to friends and associates that she is a responsible parent and that her family life is stable.

VII

It is found that respondent's failure to reveal on her application her petty theft conviction was a material misstatement of fact. It is further found, however, that such misstatement was not made with the knowledge that it was untrue, but rather with the honest belief that the conviction need not be reported. Respondent's failure to report the conviction was done through naivete and carelessness. It was not done with the intention of deceiving the Department of Real Estate.

DETERMINATION OF ISSUES

I

Cause for denial of respondent's application has been established pursuant to Business and Professions Code sections 480(a) and 10177(b) in that she has been convicted of a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate salesperson.

II

Cause for denial of respondent's application has been established pursuant to Business and Professions Code section 10177(a) in that she made a material misstatement of fact in that application.

III

No cause for denial of respondent's application was established pursuant to Business and Professions Code section 480(c) in that respondent did not knowingly make a false statement on that application.

IV

By reason of the matters set forth in Finding VI, it is determined that respondent has rehabilitated herself since her conviction to the extent that it would not be against the public interest to issue her a restricted real estate salesperson license.

ORDER

1. Respondent's application for a real estate salesperson license is denied.

2. A restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for that license within one (1) year from the effective date of the Decision herein.

3. 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 that Code:

(a) The restricted license 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;

(b) The restricted license 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 this restricted license;

(c) 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 of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent;

(d) Respondent shall submit with her application for license under an employing broker--or her application for transfer to a new employing broker--a statement signed by the prospective employing broker which shall certify:

- (1) That he has read the Decision of the Commissioner which granted the right to a restricted license; and
- (2) That he will exercise close supervision over the performance of the restricted licensee of

activities for which a real
estate license is required.

DATED: January 2, 1981

Michael C Cohn
MICHAEL C. COHN
Administrative Law Judge

MCC:map

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

FILED
DEC 8 - 1980

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of)
LAURA W. WARNER aka)
Laura Louise Warner,)
Respondent)

No. H-4963 SF
PER TELECON

By Linda M. Souza
Linda M. Souza

NOTICE OF HEARING ON APPLICATION

(Pursuant to Section 11509 of the Government Code)

TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of
Real Estate at Hearing Room
100 Van Ness Avenue, 11th Floor, San Francisco, CA
on the 18th day of December, 1980, at the hour of 1:30 P.M.
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 are you required
to be represented by counsel. However, if you are not present at the hearing
in person, nor represented at the hearing by counsel, the agency may take dis-
ciplinary action against you upon any express admissions, or upon other evidence,
and in the event that no notice of defense has been filed by you, upon
affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the
agency action sought and if you are not present nor represented at the hearing,
the agency 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.

Dated: December 8, 1980

DAVID H. FOX
REAL ESTATE COMMISSIONER

By

Attorney

VERA WINTER LEE

FILED
NOV 24 1980

DEPARTMENT OF REAL ESTATE

By Linda M. Souza
Linda M. Souza

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

- - -

In the Matter of the Application of)
LAURA L. WARNER, aka
LAURA LOUISE WARNER, aka
LAURA HERRERA WARNER,
Respondent.

ORDER SUSPENDING REAL ESTATE LICENSE

TO: LAURA L. WARNER
135 School Street
Daly City, CA 94014

On August 15, 1980, 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: "20. Have you ever been convicted of any violation of law? (excluding non-moving traffic violation)," respondent answered "No."

On August 28, 1980, Department issued a real estate salesperson license to respondent in reliance upon the aforesaid

1 answer of respondent.

2 On November 17, 1980, in Case No. H-4963 SF, a
3 Statement of Issues signed by a Deputy Real Estate Commissioner
4 of the State of California was filed charging respondent with
5 having procured a real estate license by fraud, misrepresentation,
6 or deceit, and with knowingly having made a false statement
7 of fact required to be revealed in the application for such
8 license.

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

16 IT IS FURTHER ORDERED that all license certificates
17 and identification cards issued by Department which are in the
18 possession of respondent be immediately surrendered by personal
19 delivery or by mailing in the enclosed self-addressed envelope
20 to: DEPARTMENT OF REAL ESTATE, 185 Berry Street, Room 5816,
21 San Francisco, California 94107.

22 This Order shall be effective immediately.

23 DATED: November 20th 1980

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26

27

David H. Fox

DAVID H. FOX

Real Estate Commissioner by

Richard D. Carlson
Real Estate Commissioner

FILED
NOV 17 1980

DEPARTMENT OF REAL ESTATE

By Linda M. Souza
Linda M. Souza

1 VERA WINTER LEE, Counsel
185 Berry Street, Room 5816
2 San Francisco, CA 94107

3 Telephone: (415) 557-3220
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6
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA
10 - - -

11 In the Matter of the Application of)

NO. H-4963 SF

12 LAURA L. WARNER, aka
13 LAURA LOUISE WARNER, aka
14 LAURA HERRERA WARNER,

STATEMENT OF ISSUES

15 Respondent.
16

17 FIRST CAUSE OF ACTION

18 I

19 The Real Estate Commissioner of the State of
20 California (hereinafter referred to as Commissioner) in
21 conformity with Section 10152 of the Business and Professions
22 Code of the State of California (hereinafter referred to as
23 the Code) requires further proof of the honesty and
24 truthfulness of LAURA L. WARNER, aka LAURA LOUISE WARNER, aka
25 LAURA HERRERA WARNER (hereinafter referred to as respondent)
26 in connection with her application for a real estate
27 salesperson license filed on or about August 15, 1980, and
pursuant hereto has instituted the within proceedings for the

1 purpose of inquiring into respondent's qualifications for said
2 license.

3 II

4 WILLIAM O. KEWLEY, a Deputy Real Estate Commissioner
5 of the State of California, acting in his official capacity as
6 such and not otherwise, makes this Statement of Issues.

7 III

8 In acting upon the application of respondent, the
9 Commissioner shall consider but shall not be limited to the
10 following facts:

11 That on or about June 15, 1977, in the Municipal Court,
12 Northern Judicial District, County of San Mateo, State of
13 California, respondent was found guilty, after trial by the
14 court, of a violation of Section 484/488 of the California
15 Penal Code (PETTY THEFT), a misdemeanor.

16 IV

17 That the facts as alleged in Paragraph III above
18 pertain to the conviction of respondent of a crime that
19 involves moral turpitude and that is substantially related to
20 the qualifications, functions, or duties of licensure as a
21 real estate salesperson and as such under the provisions of
22 Section 480(a) and Section 10177(b) of the Code, constitute
23 grounds for the denial of respondent's application for a real
24 estate salesperson license.

25 SECOND CAUSE OF ACTION

26 There is hereby incorporated into this second, separate,
27 and distinct cause of action all of the allegations contained in

1 Paragraphs I and II of the First Cause of Action with the same
2 force and effect as if herein more fully set forth.

3 I

4 That on or about August 15, 1980, respondent filed with
5 the Department of Real Estate, State of California (hereinafter
6 referred to as the Department) an application for the issuance
7 to her of a real estate salesperson license; that in response
8 to the following question in said application, to wit: "20.
9 Have you ever been convicted of any violation of Law?" (excluding
10 non-moving traffic violation), respondent answered "No."

11 II

12 That in reliance upon the aforesaid answer to the
13 aforesaid question in said application, the Department issued
14 to respondent, on or about August 28, 1980, a real estate
15 salesperson license having a termination date of August 27, 1984.

16 III

17 That said salesperson license was procured by
18 respondent by virtue of her misrepresentation to the aforesaid
19 question in said application, for the facts were that she was
20 convicted of the following violation of law:

21 That on or about June 15, 1977, in the Municipal
22 Court, Northern Judicial District, County of San Mateo, State
23 of California, respondent was found guilty after trial to the
24 court, of a violation of Section 484/488 of the California Penal
25 Code (PETTY THEFT) a misdemeanor.

26 / / / / /

27 / / / / /

IV

That the acts and conduct of respondent, as alleged in Paragraphs I and III above, pertain to a misrepresentation and to a false statement of fact which respondent knew to be untrue and which she was required to reveal in said license application and are grounds for denial of respondent's application for a real estate license under the provisions of Sections 10177(a) and 480(c) of the Code.


WILLIAM O. KEWLEY
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 17th day of November, 1980.