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DEPARTMENT OF REAL E

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By C. Westbrook
C. Westbrook

In the Matter of the Application of)
WILLIAM MICHAEL STROHMEYER,)
Respondent.)

No. H-5677 SF
N 27086

DECISION

The Proposed Decision dated July 30, 1986, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Department of Real Estate 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 Department of Real Estate. A copy of the Department's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on September 8, 1986.

IT IS SO ORDERED August 9, 1986.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of WILLIAM MICHAEL STROHMEYER, Respondent.	No. H-5677 SF N 27086

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 July 28, 1986.

Joseph McGovern, Counsel, represented complainant.

Respondent William Michael Strohmeyer was present and was represented by his attorney, Joseph J. Wiseman, 819 Eddy Street, San Francisco, California.

FINDINGS OF FACT

I

Edward V. Chiolo made the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

William Michael Strohmeyer ("respondent") filed an application with the Department of Real Estate for a real estate salesperson license on February 18, 1986. The Department of Real Estate, in conformity with Business and Professions Code section 10152, requires further proof of respondent's honesty and truthfulness and has instituted this proceeding for that purpose.

III

On November 21, 1983, in the District Court of the Eighteenth Judicial District of the State of Montana, In and For the County of Gallatin, respondent was convicted, upon his plea of guilty, of a felony violation of Section 45-9-101, MCA (Sale of Dangerous Drugs), a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

Respondent is 33 years old. After graduating from high school in California, respondent attended Montana State University for two and one-half years. He then transferred to California State University-Chico, from which he received a degree in business and marketing. After a year's employment in Los Angeles, he returned to Montana to begin his own produce business. Respondent began with an open-air produce stand and soon expanded to three stands and then to a wholesale produce distribution business supplying produce to restaurants and grocery stores in Montana and to food co-ops in North Dakota. In 1982, the business had gross sales in excess of $600,000. Respondent ran this business for seven years.

V

The incident which resulted in respondent's conviction occurred when he sold one-half ounce of cocaine to a neighbor. Respondent was in California when he was informed by friends that there was an arrest warrant out for him. He voluntarily returned to Montana and turned himself in. Respondent sold his produce business to his partner during his criminal prosecution.

Respondent was arraigned in Montana in November 1982. During the pendency of the criminal prosecution respondent was employed in California at J.T. Streeter, an executive recruiting firm. When he interviewed for this position, respondent disclosed his pending drug-related problem. Respondent worked for six to eight months as a recruiter and, when the owner moved to Europe, assumed active management of the company. During his tenure at J.T. Streeter respondent developed a reputation as an efficient, competent, industrious and honest employee.

VI

Respondent returned to Montana in November 1983, at which time he entered his guilty plea and was convicted. Respondent was sentenced to serve five years in state prison, with three years of that sentence suspended. Respondent actually served 106 days at the Montana State Prison, Deer Lodge, before he was released on parole. He is now on probationary status.

After he was paroled, respondent returned to California and worked in a produce business in San Jose. That business was not successful, however, and respondent sought a new career. In the Fall of 1985 he enrolled in real estate school and in February 1986 respondent began a six week intensive training course offered by ARC realtors in San Jose. During his training at ARC respondent proved to be an honest and truthful individual who showed great promise in the real estate field. ARC's broker is willing to supervise respondent should he be granted a restricted license.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Finding III, cause for denial of respondent's license application exists pursuant to Business and Professions Code section 480(a) and 10177(b).

II

The evidence presented established that respondent is an honest, industrious and ethical man. While he suffered a serious lapse in judgment at the time he became involved in the sale of cocaine, his behavior since that time has been exemplary and demonstrates that it would not be against the public interest to issue respondent a restricted real estate license.

ORDER

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

2. A restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for that license with ninety (90) days of the effective date of this Decision.

3. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to be following limitations, conditions and restrictions imposed under the authority of section 10156.6

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

(d) Respondent shall submit with his application for license under an employing broker--or his 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: July 30, 1986

MICHAEL C. COHN
Administrative Law Judge

MCC:hrs

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DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Mary A. Morello
Mary A. Morello

In the Matter of the Application of

WILLIAM MICHAEL STROHMEYER
Respondent

Case No. H-5677 SF

OAH No. N 27086

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 Office of Administrative Hearings, State Building, 455 Golden Gate Avenue, Room 2248, San Francisco, CA (Two Hour Hearing) on the 28th day of July, 1986, 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 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 subpenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

DATED: July 11, 1986

DEPARTMENT OF REAL ESTATE

By
JOSEPH McGOVERN Counsel

RE Form 500 (Rev. 11-10-82)

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JUN 06 1986
DEPARTMENT OF REAL ESTATE
By C. Westbrook
C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of)
)
) Case No. H-5677 SF
WILLIAM MICHAEL STROHMEYER,) OAH No. N 27086
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 Office of Administrative Hearings, State Building, Rm 2248, 455 Golden Gate Avenue, San Francisco, CA (2 hour hearing) on the 14th day of July, 1986, 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 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 subpenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

DATED: June 6, 1986

DEPARTMENT OF REAL ESTATE

By Joseph McGovern
JOSEPH McGOVERN, Counsel

RE Form 500 (Rev. 11-10-82)

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MAY 1 2 1986
DEPARTMENT OF REAL ESTATE
By C. Westbrook
C. Westbrook

JOSEPH McGOVERN, Counsel
DEPARTMENT OF REAL ESTATE
185 Berry Street, Room 5816
San Francisco, CA 94107-1770

(415) 557-3220

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of WILLIAM MICHAEL STROHMEYER, Respondent.	No. H-5677 SF STATEMENT OF ISSUES

I

The Department of Real Estate of the State of California (hereinafter referred to as the Department) in conformity with Section 10152 of the Business and Professions Code of the State of California (hereinafter referred to as the Code) requires further proof of the honesty and truthfulness of WILLIAM MICHAEL STROHMEYER (hereinafter referred to as respondent) in connection with his application for a real estate salesperson license filed on or about February 18, 1986, and pursuant thereto has instituted the within proceedings for the purpose of inquiring into respondent's qualifications for said license.

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COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
OSP

II

EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as such and not otherwise, makes this Statement of Issues.

III

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

That on or about November 21, 1983, IN THE DISTRICT COURT OF THE EIGHTEENTH JUDICIAL DISTRICT OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF GALLATIN, respondent entered a plea of guilty to violating Section 45-9-101, MCA (SALE OF DANGEROUS DRUGS), a felony.

IV

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

Edward V. Chiolo

EDWARD V. CHIOLO
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 14th day of May, 1986.

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STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
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