

1 I have considered Respondent's Petition and the
2 evidence submitted 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 (9) months from
12 the date of this order:

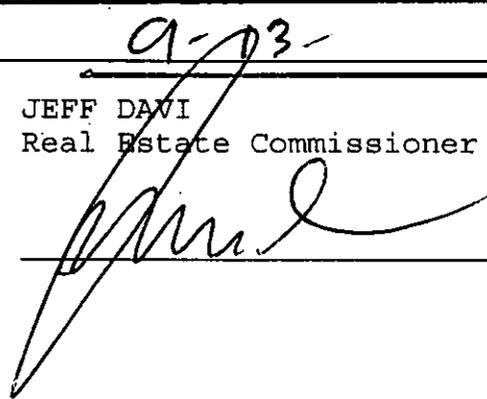
13 (a) Submittal of a completed application and payment
14 of the appropriate fee for a real estate salesperson license, and

15 (b) Submittal of evidence satisfactory to the Real
16 Estate Commissioner that Respondent has, since the most recent
17 issuance of an original or renewal real estate license, taken and
18 successfully completed the continuing education requirements of
19 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
20 real estate license.

21 This Order shall become effective immediately.

22 IT IS SO ORDERED 9-13-, 2006.

23 JEFF DAVIS
24 Real Estate Commissioner

25 
26
27

COPY

FILED
FEB 28 1990

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By C. Westbrook
G. Westbrook

In the Matter of the Application of
ERIKA MOTIVANS HENRICKSON,
Respondent.

No. H-6220 SF
OAH NO. N-34952

DECISION

The Proposed Decision dated January 31, 1990, 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.

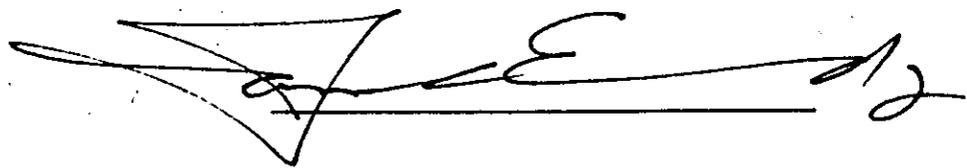
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a 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 attached hereto.

The Decision shall become effective at 12 o'clock noon
on March 20, 1990.

IT IS SO ORDERED 2-14, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application)
of:)
ERIKA MOTIVANS HENRICKSON,) CASE NO. H-6220 SF
Respondent.) OAH NO. N-34952
_____)

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 January 16, 1990.

John Van Driel, Counsel, represented the Department of Real Estate.

Respondent Erika Motivans Henrickson represented herself.

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

On March 7, 1989, pursuant to Business and Professions Code section 10153.3, Erika Motivans Henrickson ("respondent") made application to the Department of Real Estate ("Department") for a real estate salesperson license. Any license issued as a result of that application would be subject to the conditions of Business and Professions Code section 10153.4.

III

On December 20, 1985, in the United States District Court, Northern District of California, respondent was convicted, upon her plea of guilty, of a violation of 18 United States Code

section 371 (Conspiracy to Defraud the United States), a felony and a crime which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

Respondent's conviction was for a tax violation which was the result of the failure of respondent and her husband to file tax returns. Respondent's husband was charged and convicted of drug trafficking and respondent's conviction stemmed from her depositing checks he had given her into her account. At the time she deposited these checks respondent was separated from her husband, who was a drug addict and had been abusive to her. They are now divorced.

Although the Internal Revenue Service contended, based upon a ledger her husband kept, that respondent and her husband had failed to pay millions of dollars in taxes (on July 15, 1987 the IRS filed a \$4,670,763.42 tax lien against respondent), upon conviction respondent was placed on five years probation and was fined only \$50.00. No order of restitution was made.

V

Respondent is currently employed as a waitress. She supports herself and her 19 year old son. Her ex-husband is in prison. Respondent's probation officer has found her to be "cooperative and responsive." She has less than a year remaining on her probation.

Respondent has hired a tax consultant to try and settle her dispute with the IRS. She cannot understand how the IRS concluded she owed over \$4 million in taxes and is confident she will be able to reach a settlement with them.

DETERMINATION OF ISSUES

I

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

II

Considering the circumstances of respondent's conviction, the length of time which has passed, respondent's responsible conduct while on probation and the fact that probation will end in less than one year, it is determined that it would not be

against the public interest to permit respondent to hold a real estate salesperson license upon appropriate terms and conditions.

ORDER

1. The application of Erika Motivans Henrickson for a 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 within 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 the following limitations, conditions and restrictions imposed under the 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 limitations, conditions or restrictions of a restricted license until two (2) years have elapsed from the date of issuance of the restricted license to respondent.
- (d) Respondent shall submit with his application for licensure 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 by the restricted licensee of activities for which a real estate license is required.

4. The restricted real estate salesperson license issued to respondent shall also be subject to the requirements of Business and Professions Code section 10153.4, to wit: respondent shall, within eighteen (18) months of the issuance of the restricted license under the provisions of Business and Professions Code section 10153.4, submit evidence satisfactory to the Commissioner of the 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 failed to present satisfactory evidence of successful completion of those courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of the restricted license. That suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of the lifting of the suspension.

DATED: January 31, 1990



MICHAEL C. COHN
Administrative Law Judge

MCC:wc

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FILED
DEC 22 1989
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Victoria Villora

In the Matter of the Application of

ERIKA MOTIVANS HENRICKSON,

Case No. H-6220 SF

OAH No. N 34952

Respondent

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
(2 hour hearing)

on the 16th day of January, 19 90, at the hour of 10:00 a.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 subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: December 22, 1989

By John Van Driel
JOHN VAN DRIEL, Counsel
JVD

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FILED
DEC 04 1989

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

In the Matter of the Application of

ERIKA MOTIVANS HENRICKSON,

}

Case No. H-6220 SF

OAH No. N 34952

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 Bldg., 455 Golden Gate Ave., Rm 2248, San Francisco, CA
(2 hour hearing)
on the 28th day of December, 19 89, 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 subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

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DEPARTMENT OF REAL ESTATE

Dated: December 4, 1989

By John Van Driel
JOHN VAN DRIEL, Counsel

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JOHN VAN DRIEL, Counsel
Department of Real Estate
185 Berry Street, Room 5816
San Francisco, CA 94107-1770

(415) 557-3220

FILED
OCT 05 1989

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)	
ERIKA MOTIVANS HENRICKSON,)	No. H-6220 SF
Respondent.)	<u>STATEMENT OF ISSUES</u>

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against ERIKA MOTIVANS HENRICKSON (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 March 7, 1989 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

1 Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
2 Commissioner of the State of California, makes this Statement of
3 Issues in his official capacity.

4 III

5 On or about December 20, 1985 in the U. S. District
6 Court, Northern District of California, respondent was convicted
7 of a violation of 18 U.S.C. Section 371 (CONSPIRACY TO DEFRAUD
8 THE UNITED STATES), a felony and a crime which bears a
9 substantial relationship under Section 2910, Title 10,
10 California Code of Regulations, to the qualifications, functions
11 or duties of a real estate licensee.

12 IV

13 The crime of which respondent was convicted, as
14 alleged in Paragraph III above, constitutes cause for denial of
15 respondent's application for a real estate license under
16 Sections 480(a) and 10177(b) of the Business and Professions
17 Code.

18 WHEREFORE, the Complainant prays that the
19 above-entitled matter be set for hearing and, upon proof of the
20 charges contained herein, that the Commissioner refuse to
21 authorize the issuance of, and deny the issuance of, a real
22 estate salesperson license to respondent, and for such other and
23 further relief as may be proper in the premises.

24 *Edward V. Chiolo*

25 _____
26 EDWARD V. CHIOLO
27 Deputy Real Estate Commissioner

Dated at San Francisco, California,
this *11th* day of *SEPTEMBER*, 1989.