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MAY 13 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

LaVON MARIE ST. JOHN,

Respondent.

No. H-8754 SF

ORDER GRANTING UNRESTRICTED LICENSE

On October 15 2004, 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 December 7, 2004, and Respondent has operated as a restricted licensee since that time.

On December 9, 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.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent if, within
3 nine (9) months from the date of this order, Respondent shall:

4 (a) Submit a completed application and pay the appropriate fee for a real
5 estate salesperson license, and

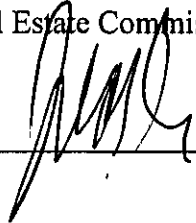
6 (b) Submit evidence of having taken and successfully completed the
7 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
8 of a real estate license.

9 This Order shall become effective immediately.

10 IT IS SO ORDERED 4-21-09

11 JEFF DAVI
12 Real Estate Commissioner

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FILED
OCT 28 2004

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Laurie A. Ziri

* * *

In the Matter of the Application of)
LAVON MARIE ST. JOHN,) NO. H-8754 SF
Respondent.) OAH NO. N-2004050567

DECISION

The Proposed Decision dated September 24, 2004, 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 NOVEMBER 18, 2004.

IT IS SO ORDERED Oct. 15, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

LAVON MARIE ST. JOHN,

Respondent.

Case No. H-8754 SF

OAH No. N2004050567

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on August 19, 2004.

David B. Seals, Counsel, represented complainant, Deputy Real Estate Commissioner Les R. Bettencourt.

Edgardo Gonzalez, Attorney at Law, represented LaVon Marie St. John, who was present.

The matter was submitted on August 19, 2004.

FACTUAL FINDINGS

1. Complainant Les R. Bettencourt made and filed the statement of issues in his capacity as a Deputy Real Estate Commissioner of the State of California, Department of Real Estate.

2. On May 19, 2003, respondent LaVon Marie St. John filed with the Department an application for a real estate salesperson license. Respondent did so with the understanding that any license that issued as a result of her application would be subject to the conditions of Business and Professions Code section 10153.4. Respondent signed the application under penalty of perjury certifying that her answers and statements were true and correct.

3. On January 4, 2001, respondent was convicted in the Superior Court of California, County of Napa, on her plea of no contest to violating Penal Code sections 487, grand theft, and 242, battery, misdemeanors. Grand theft is an offense that involves moral turpitude and is substantially related to the qualifications, functions, and duties of a real estate licensee. Battery is not an offense that involves moral turpitude per se.

Imposition of sentence was suspended and respondent was placed on formal probation for three years. Respondent was ordered to serve four days in county jail, and to pay a \$500 fine, a \$100 restitution fine, and \$2,348.42 in restitution to the State Board of Control.

4. The offenses occurred on February 26, 2000. On that day respondent and her husband attended a crab feed at a local public facility. They went with a group of friends, one of whom was being honored. An ex-girlfriend of the honoree, Stacy Brooks, attended as well. The offenses took place in the parking lot after the event was over. According to respondent, Brooks began to taunt respondent's group of friends. The taunting escalated and respondent stepped in to pull away a friend. Respondent was pushed by Brooks and she pushed Brooks back. During the melee, Brook's purse was taken. As convicted, the offense of batter did not involve moral turpitude.

5. Respondent fully concedes that she should not have pushed Brooks. She accepts responsibility for her conduct. She states today she would not have gotten involved in the melee. She has learned to be more thoughtful before she acts. And, she no longer associates with any of the people involved in the crab feed incident.

Respondent denies, however, that she had anything to do with the taking of Brooks' purse. And she denies that her friends were stealing the purse. She believes the purse was accidentally picked up with other purses lying on the ground. She pleaded nolo contendere to the offenses "to get it over with" and because she was told that she would not have to go to jail. Today she would have stood trial and defended the charges.

6. Respondent fulfilled all terms and conditions of probation and probation has been completed. Respondent has filed a petition to set aside the conviction per Penal Code section 1203.4.

7. Question No. 25 of the application asks: "Have you ever been convicted of any violation of law? . . . If yes, complete #27 below." Respondent answered "YES" to Question No. 25.

Question No. 27 asks for detailed information regarding the conviction. It directs the applicants to do the following: "Complete one line for each violation and provide explanation below. If you are unable to provide this information, a detailed explanation may suffice. Indicate whether each conviction was a misdemeanor or felony at the time the conviction occurred. If the conviction status has been subsequently changed or reduced, note that fact in the area provided for additional information." These directions are followed by a table asking for the following information: the court of conviction (name and address), the arresting agency (name and address), the date of conviction, the type of conviction, the code section violation, the code violated, the disposition, and the case number.

Respondent provided the following information in response to Question No 27: court of conviction-- "Napa County"; arresting agency -- "Napa California"; date of conviction --

"January 2000", type of conviction -- misdemeanor. Respondent left blank the boxes for the code section violated, the code violated, the case disposition and the case number. She did not provide a written explanation regarding the omitted matters.

In short, respondent provided incorrect information about the date of conviction, and provided no information about the code section violated, the code violated, the disposition of the case, and the case number. Respondent thus made material misrepresentations and omissions on her application.

8. With respect to completing the application, respondent explained that she completed it from memory. She believed she was convicted in January 2000— she was in fact convicted in January of 2001. Respondent left blank the inquiries to which she did not know the answers. Respondent did not attempt to get a copy of her criminal record prior to completing the application. She did not think that was necessary. She thought that the Department would find out the information about her criminal conviction on its own.

In respondent's view, she complied with the application's directive that she provide the Department with a detailed explanation. She believes that she did a "good job" in completing the application.

9. Respondent is 36 years old. She and her husband have been married for 17 years and they have a two-year old daughter. Respondent's husband has another child 20 years old. Respondent is the sole provider for the family. She is active in a program for young mothers in Sonoma County, Northern Sonoma County Mothers' Club. The family regularly attends church.

10. From 1998 to the present respondent has worked as a loan officer in positions which do not require licensure by the Department of Real Estate. Respondent is currently employed as a loan officer with RBC Mortgage Company. She has held the same position with Sterling Capital (who was bought out by RBC), with National City Mortgage, and with North American Mortgage.

11. Chris Doolittle is the Branch Manager at RBC Mortgage and respondent's supervisor. She attests that respondent is a valued employee, a top producer, and a woman of integrity and great experience in the field. She knows of respondent's conviction. Debbie Howdyshell is a Senior Loan Officer with RBC Mortgage. She has worked with respondent both at North American Mortgage and at RBC Mortgage. She attests that respondent is highly professional, honest, and trustworthy.

12. From 1993 to 1998, respondent was employed as an escrow assistant, an escrow officer and as a branch manager for three difference title companies (First American Title, North American Title, and Commonwealth Land and Title).

Angel Dawn Fowler worked with respondent at North American Mortgage. She has known respondent professionally since 1997. She is currently employed as a loan officer for

California Mortgage Consultants, and refers clients to respondent for loans that she cannot handle. Respondent is highly motivated and treats her clients well.

13. Respondent presented letters from various friends, acquaintances and fellow employees. Each attest to her good character and to her work ethic.

14. Respondent seeks a real estate license so that she is protected in the event her company is purchased by a company for which loan officers are required to be licensed by the Department of Real Estate.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 480, subdivision (a), the Commissioner may deny an application for a real estate license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the licensed profession. Under Business and Professions Code section 10177, subdivision (b), the Commissioner may deny an application for a real estate license if the applicant has been convicted of a felony or a crime involving moral turpitude.

Respondent's conviction of grand theft is a conviction of an offense that involves moral turpitude. The offense is substantially related to the qualifications, functions or duties of a real estate licensee under section 2910, subdivision (a)(1), of title 10 of the California Code of Regulations in that it involved the fraudulent taking, obtaining, appropriating or retaining of the property of another. Respondent's conviction of this offense constitutes cause to deny her license application under Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b).

Battery is not an offense that involves moral turpitude. It was not established that the offense as committed involved moral turpitude. Nor was it established that the offense, as committed, is substantially related to the qualifications, functions or duties of a real estate licensee under section 2910 of title 10 of the California Code of Regulations. Respondent's conviction of battery does not constitute cause to deny her license application under Business and Professions Code sections 480, subdivision (a), or 10177, subdivision (b).

2. Under Business and Professions Code section 480, subdivision (c) the Commissioner may deny a real estate license if the applicant has knowingly made a false statement of fact required to be revealed in the application. Under Business and Professions Code section 10177, subdivision (a), the commissioner may deny a real estate license if the applicant has attempted to procure a license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in the application. By reason of the matters set forth in Factual Finding 7, it is determined that respondent made a false statement of fact and misrepresented her convictions on the application for licensure. This constitutes cause to deny her license under Business and Professions Code sections 480, subdivision (c) and 10177, subdivision (a).

3. In California Code of Regulations, title 10, section 2911, the Department has established criteria to be evaluated in determining whether to deny the issuance of a license because of a criminal conviction. Respondent has met most of the criteria relevant to her situation. The conviction is over two years old. Respondent successfully completed probation. She no longer associates with the people with whom she associated at the time of the offense. She has a stable family life. She is involved in community affairs. The offense appears to be one driven by unique facts and not likely to be repeated. Respondent appears to have a change in attitude from that which existed at the time of the conviction.

The manner in which respondent completed the application is of some concern. While respondent says that she understands the importance of providing detailed information, her conduct in completing the application suggests that she is willing to not provide detailed information when the information is not at hand. And, it suggests that she does not appreciate the importance of accurately completing official documents signed under penalty of perjury. Nevertheless, it does not appear that respondent was attempting to mislead the Department. And by all accounts she is honest and trustworthy. For these reasons it is concluded the public will be adequately protected by the following order which allows respondent to become licensed on a restricted basis.

ORDER

The application of LaVon Marie St. John for a real estate salesperson license is denied by reason of Legal Conclusions 1 and 2, jointly and separately; provided, however, a restricted 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 10156.5 of said Code:

1. 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.

2. 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 years after the date of the issuance of the preceding restricted license.
3. 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 by 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.
4. 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.
5. 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.

DATED: Sept. 24, 2004



MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

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

FILED
AUG - 4 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

LAVON MARIE ST. JOHN,

Case No. H-8754 SF

OAH No. N-2004050567

Respondent

**FIRST AMENDED
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, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, AUGUST 19, 2004**, at the hour of **11:00 A.M.**, 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 Hearings 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 his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: AUGUST 4, 2004

DEPARTMENT OF REAL ESTATE
By David B. Seals
DAVID B. SEALS, Counsel

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

FILED
MAY 25 2004

DEPARTMENT OF REAL ESTATE

By *Laurie L. Zie*

In the Matter of the Application of

LAVON MARIE ST. JOHN,

} Case No. H-8754 SF

} OAH No.

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, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, AUGUST 5, 2004**, at the hour of **9:00 A.M.**, 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 Hearings 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 his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: MAY 25, 2004

DEPARTMENT OF REAL ESTATE

By *David B. Seals*
DAVID B. SEALS, Counsel (12)

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

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

FILED

APR 29 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 LAVON MARIE ST. JOHN,)
13 Respondent.)

No. H-8754 SF

STATEMENT OF ISSUES

14
15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against LAVON MARIE ST. JOHN (hereinafter "Respondent")
18 alleges as follows:

19 I

20 Respondent, pursuant to the provisions of Section
21 10153.3 of the Business and Professions Code, made application
22 to the Department of Real Estate of the State of California for
23 a real estate salesperson license on or about May 19, 2003, with
24 the knowledge and understanding that any license issued as a
25 result of said application would be subject to the conditions of
26 Section 10153.4 of the Business and Professions Code.

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1 II

2 Complainant, Les R. Bettencourt, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity.

5 III

6 In response to Question 25 of said application, to
7 wit: "Have you ever been convicted of any violation of law?
8 ...If yes, complete #27 below.", Respondent answered "YES".

9 IV

10 In response to #27 which asked for a explanation of
11 items 24 - 26 Respondent revealed only a "Jan 2000" conviction
12 in Napa County with "Napa, California" as the arresting agency.

13 V

14 On or about January 4, 2001, in the Superior Court of
15 California, County of Napa, Respondent was convicted of
16 violation of California Penal Code Section 487/17(b) (Grand
17 Theft) and Section 242 (Battery), crimes involving moral
18 turpitude and/or which are substantially related under Section
19 2910, Title 10, California Code of Regulations (hereinafter the
20 "Regulations") to the qualifications, functions or duties of a
21 real estate licensee.

22 VI

23 Respondent's failure to reveal the convictions set
24 forth in Paragraph V above in said application constitutes the
25 attempt to procure a real estate license by fraud,
26 misrepresentation, or deceit, or by making a material
27 misstatement of fact in said application, which failure is cause

1 for denial of Respondent's application for a real estate license
2 under Sections 480(c) and 10177(a) of the California Business
3 and Professions Code.

4 VII

5 Respondent's criminal convictions, as alleged in
6 Paragraph V above, constitute cause for denial of Respondent's
7 application for a real estate license under Sections 480(a) and
8 10177(b) of the California Business and Professions Code.

9 WHEREFORE, the Complainant prays that the above-
10 entitled matter be set for hearing and, upon proof of the
11 charges contained herein, that the Commissioner refuse to
12 authorize the issuance of, and deny the issuance of, a real
13 estate salesperson license to Respondent, and for such other and
14 further relief as may be proper under other provisions of law.

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17 LES R. BETTENCOURT
18 Deputy Real Estate Commissioner

19 Dated at Oakland, California,
20 this 22nd day of April, 2004.
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