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FILED

FEB 01 2010

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
JULIA ESTHER BLACK,
Respondent.

No. H-8766 SF

ORDER GRANTING UNRESTRICTED LICENSE

On August 5, 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 September 25, 2004, and Respondent has operated as a restricted licensee since that time.

On September 5, 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.

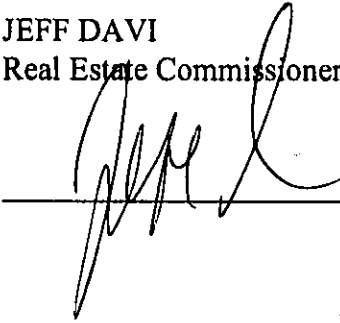
1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
2 restrictions is granted and that a real estate salesperson license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this

4 Order:

- 5 1. Submittal of a completed application and payment of the fee for a real
6 estate salesperson license.
- 7 2. Submittal of evidence of having, since the most recent issuance of an
8 original or renewal real estate license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
10 license.

11 This Order shall become effective immediately.

12 IT IS SO ORDERED

13 1-21-10
14 JEFF DAVI
15 Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

FILED
AUG 11 2004

DEPARTMENT OF REAL ESTATE

By Laurie C. Zier

In the Matter of the Application of)
JULIA ESTHER BLACK,)
Respondent.)

NO. H-8766 SF

OAH NO. N-2004050256

DECISION

The Proposed Decision dated July 16, 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 AUGUST 31, 2004.

IT IS SO ORDERED

August 5, 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:

JULIA ESTHER BLACK,

Respondent.

Case No. H-8766 SF

OAH No. N2004050256

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California on July 7, 2004.

Complainant Les R. Bettencourt, Deputy Real Estate Commissioner, was represented by David B. Seals, Counsel.

Respondent Julia Esther Black was present and was represented by J. Anne Rawlins, Attorney at Law, 1007 7th Street, Suite 300, Sacramento, California 95814.

The matter was submitted on July 7, 2004.

FACTUAL FINDINGS

1. On April 14, 2003, respondent Julia Esther Black submitted to the Department of Real Estate an application for a real estate salesperson license. The department denied respondent's application and she appealed.

2. a) On April 23, 1998, respondent was convicted in Santa Clara County, on her plea of guilty, of felony violations of Health and Safety Code sections 11378 (possession for sale of a controlled substance) and 11359 (possession for sale of marijuana) and Penal Code section 496 (buying, receiving or concealing stolen property), and a misdemeanor violation of Health and Safety Code section 11550, subdivision (a) (using or being under the influence of a controlled substance).

b) The incident that resulted in this conviction occurred on February 9, 1998. Respondent was stopped by police officers because the headlights of the car she was driving were not working. The officers observed that respondent appeared to be under the influence of a stimulant. A search of her purse uncovered drugs (methamphetamine and marijuana), scales and other indicia of drug sales.

3. a) In a separate case on April 23, 1998, respondent was also convicted in Santa Clara County, again on her plea of guilty, of a felony violation of Health and Safety Code section 11377, subdivision (a) (possession of a controlled substance).

b) The incident that resulted in this conviction occurred on March 18, 1998. Respondent was out of jail on supervised release pending her prosecution for the February 9, 1998 arrest. A search of her home revealed substances believed to be marijuana and methamphetamine in her bedroom.

4. For the convictions set forth in Findings 2 and 3, imposition of sentence was suspended and respondent was placed on three years' probation on conditions that included 12 months in jail, completion of a substance abuse program, and payment of fines and fees totaling about \$1,000. In jail, respondent was to participate in the Regimented Corrections Program (RCP). The RCP uses a combination of in-custody programs and post-release programs as part of "a comprehensive approach to a more successful, law-abiding, productive life-style." The in-custody programs included substance abuse education. The post-release programs apparently included mandatory drug testing. Respondent was released from jail after serving six months of her 12-month term and was placed in the work furlough program. However, respondent had a dirty drug test and in November 1998 was found to be in violation of her probation. She was sent back to jail for another year. She actually served eight months of that term.

5. a) On March 13, 2000, respondent was convicted in Santa Clara County, on her plea of nolo contendere, of a misdemeanor violation of Penal Code sections 484/488 (petty theft). Although she was still on probation for her drug convictions at the time of this offense, no violation of that probation was charged. For the petty theft, imposition of sentence was suspended and respondent was placed on probation for two years. She was required to pay fines and fees of about \$270.

b) The incident that resulted in this conviction occurred on January 25, 2000. Respondent bought a pair of boots at Montgomery Ward. The store was in disarray because it was going out of business and was having a close-out sale. Respondent removed the price tag from the boots when she tried them on, then she placed the boots in a box she found on the floor. The box had a lower price than the boots she was purchasing. Respondent paid about \$8.00 for boots she "had an idea" cost about \$20. Hearsay evidence was produced showing the boots were valued at about \$80.00.

6. Respondent was 18 when she committed and was convicted of her drug crimes. She had just turned 20 when she committed the petty theft. She is now 24. She is married and has two children, ages four and two-and-a-half.

7. Respondent was home schooled from the second grade until she entered a public high school in her junior year. However, because of inadequate records from her home schooling, she would have been required to complete four years of high school in order

to graduate. So respondent dropped out of high school. She began hanging out with the wrong crowd and became involved in drug use and sales. Respondent testified the car she was driving at the time of her February 9, 1998 arrest was one she had bought from her boyfriend. Apparently the car had been stolen since it was the stolen property respondent was charged with buying, receiving or concealing.

8. In jail, respondent participated in the RCP program. This included a military-style boot camp and various educational programs. Before she was first released from jail on the work furlough program, respondent completed Phase I of the RCP, an eight-week intensive education and rehabilitation program. In the RCP respondent completed a substance abuse education program, a parenting education program (respondent did not have children at the time), health realization training, a psycho-educational workshop, a conflict resolutions program, trauma recovery classes, a self-esteem seminar, and a cultural awareness program. While in jail, respondent began studying for her GED and she completed a math class presented by DeAnza College as well as a course in reading, writing, math, computer literacy, keyboarding and career life planning offered by the Occupational Training Institute. When she was returned to jail after violating probation because of the dirty drug test, respondent served as a jail trustee. During this portion of her jail term, respondent completed a 16-hour substance abuse program that was part of Phase II of the RCP. Respondent received her GED in early 2000.

9. Regarding her arrest on March 18, 1998, while she was out on supervised release from her earlier arrest, respondent testified that the drugs found were ones she "must have put there a long time before" and were in a room that had not been searched at the time of her earlier arrest. Regarding her probation violation because of a positive drug test in November 1998, respondent testified that when she was released from jail she continued hanging out with the wrong people because she "wasn't out of the old way of thinking yet." Respondent characterizes the behavior that led to her petty theft conviction as "a mistake." She testified she knew the boots were in the wrong box, but "just assumed" the cashier would get the price right at the register. However, when a lower price was charged, respondent did not question it. Respondent testified that this arrest and conviction "was a wake-up call." It made her realize how careful she must be to stay out of trouble, because she never wants to go to jail again. Respondent testified she is a far different person now than she was at the time of her crimes. Then, she was immature, did rash things and did not think about the consequences.

10. Respondent began attending San Jose City College in the fall of 2001. She initially took a residential wiring class (her husband is an electrician) and a real estate appraisal class. In the spring of 2002 she began taking real estate courses. She has since taken all the real estate and appraisal courses that San Jose City College offers. She has taken all courses necessary to qualify for both the real estate appraiser and real estate broker examinations. Respondent has received from the college real estate sales and real estate appraisal certificates of competency as well as a real estate broker certificate of specialization. Respondent has also attended real estate continuing education courses in

marketing and tax deductions. Respondent plans to return to San Jose City College this fall to take a business marketing class.

Respondent presented letters from four of her instructors and several of her classmates at San Jose City College. Those letters attest to respondent's work ethic and conscientiousness in pursuing her studies. She was a mature and determined student "who not only took her coursework seriously, but also went out of her way to help her fellow students succeed."

11. For more than the past year, respondent has been interning in the real estate office of broker William Singh. Singh has been impressed with respondent and is willing to serve as her supervising broker should she receive a license. Two of Singh's agents, both of whom first met respondent in their San Jose City College classes, testified to respondent's work ethic and abilities: She is very responsible, dedicated and knowledgeable.

12. Other than her duties as an intern in Singh's office, respondent does not work outside the home. She, her husband, and their two children live with respondent's disabled 91-year-old grandmother, for whom respondent provides 24-hour care. In addition, respondent's brother and sister are currently living with her. Respondent's brother is 19 years old. He was a ward of the court from ages 14 through 18. When he turned 18 he had nowhere to live. (Respondent's mother did not want him living with her and her father had committed suicide a year earlier.) Respondent has become something of a mother figure to her brother, who has been dealing with emotional problems. Respondent's 22-year-old sister moved from Arizona to California about six months ago and has also been living with respondent until she "gets on her feet."

13. Friends and family members who have known respondent for a number of years provided letters attesting to the changes they have seen in her over the past several years. She is described as mature, responsible, sensible, caring, and reliable; a good mother, wife and friend; an honest and sincere person of exceptional character; and someone who changed "like from night to day."

14. Respondent's former probation officer wrote to say that since completing probation (she was released from probation on April 23, 2001) respondent "has demonstrated an impressive level of motivation and responsibility with an equally impressive ability to maintain it. It appears that [respondent] has definitely matured since the origination of her offenses, continued to live a drug-free life and has learned from her mistakes." The probation officer went on to say, "In my fourteen years of working in the criminal justice field, I have seen very few people accomplish what [respondent] has done under similar circumstances." Her accomplishments have been "exceptional."

15. Kathryn Correia is a marriage, family and child counseling intern for Santa Clara County. When she worked at a similar position for the Teen and Family Counseling Center of Los Gatos she served as respondent's therapist for about two and a half years. Correia has experience in working with substance abusers and knows "it is very difficult to

come away from it." But respondent has managed to distance herself from substance abuse "an amazingly long way." Correia has found respondent to be a very mature person with good leadership abilities. She has "absolutely zero" concern that respondent will return to drug use. Respondent has not used drugs since her release from jail in mid - 1999.

LEGAL CONCLUSIONS

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

2. In California Code of Regulations, title 10, section 2910, the department has established criteria for determining whether a crime is substantially related to the qualifications, functions and duties of a real estate licensee. Respondent's convictions for possession of controlled substances for sale, for buying, receiving or concealing stolen property, and for petty theft are all substantially related under subdivision (a)(8) (doing any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator). When considered in concert with those crimes, her convictions for using and possessing controlled substances are substantially related under subdivision (a)(10) (conduct which demonstrates a pattern of repeated and willful disregard of law). Cause for denial of respondent's application thereby exists under Business and Professions Code section 480, subdivision (a), for each of respondent's convictions.

3. Cause for denial of respondent's application also exists under Business and Professions Code section 10177, subdivision (b), for all but two of respondent's convictions. Her convictions for violating Health and Safety Code sections 11378 and 11379 and Penal Code section 496 are all felonies. Her petty theft conviction is of a crime involving moral turpitude. Cause for denial thereby exists for these crimes. However, no cause for denial exists under section 10177 for the crimes of possessing and being under the influence of controlled substances. These crimes were not felonies and were not shown to involve moral turpitude.

4. In California Code of Regulations, title 10, section 2911, the department has established certain criteria to be evaluated in determining whether to deny issuance of a license because of a criminal conviction. Respondent has met most of the criteria relevant to her situation: it has been more than four years since her last conviction, she has successfully completed probation, she has abstained from the use of controlled substances for more than five years, she has demonstrated a stability of family life and she is fulfilling her parental and familial responsibilities, she has completed and continues to be enrolled in formal educational courses for economic self-improvement, and she has different social relationships than those that existed at the time of her crimes. Most importantly, respondent has demonstrated a change in attitude from that which existed at the time of her criminal

conduct. Respondent's own testimony, that of her broker, co-workers and therapist, and letters from friends, family members, fellow students, instructors and business associates all show that respondent has made vast changes in her life. She is now a mature and responsible individual who has taken on family responsibilities well beyond those ordinarily required, who has pursued an education and career in real estate, who has shown her dedication and commitment to her chosen profession, and who is very unlikely ever to return to criminal conduct. All of these facts show that it would not be against the public interest to issue respondent a restricted real estate salesperson license.

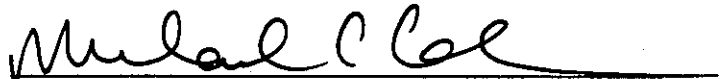
ORDER

The application of respondent Julia Esther Black for a real estate salesperson license is denied; 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 10156.6 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 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 that 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 two (2) 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 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: July 16, 2004


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

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

FILED

MAY 10 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

JULIA ESTHER BLACK,

Case No. H-8766 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 **WEDNESDAY, JULY 7, 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 10, 2004

DEPARTMENT OF REAL ESTATE

By

David B. Seals
DAVID B. SEALS, Counsel

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 30 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

No. H-8766 SF

12 JULIA ESTHER BLACK,)

STATEMENT OF ISSUES

13 Respondent.)

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

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about April 14, 2003.

23 II

24 Complainant, Les R. Bettencourt, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity.

27 ///

1 III

2 On or about February 13, 1998, in the Superior Court of
3 California, County of Santa Clara, Respondent was convicted of
4 violation of California Health and Safety Code Sections 11378
5 (Possession For Sale), 11379 (Importation, Sale, Distribution;
6 Transportation to Noncontiguous County), and 11500(a) (Use
7 Prohibited; Offense; Punishment), and Penal Code Section 496
8 (Stolen Property, Buying), crimes involving moral turpitude
9 and/or which bear a substantial relationship under Section 2910,
10 Title 10, California Code of Regulations (herein "the
11 Regulations"), to the qualifications, functions or duties of a
12 real estate licensee.

13 IV

14 On or about March 24, 1998, in the Superior Court of
15 California, County of Santa Clara, Respondent was convicted of
16 violation of California Health and Safety Code Section 11377(a)
17 (Possession of Controlled Substance), a felony and/or a crime
18 which bears a substantial relationship under Section 2910 of the
19 Regulations, to the qualifications, functions or duties of a real
20 estate licensee.

21 V

22 On or about March 13, 2000, in the Superior Court of
23 California, County of Santa Clara, Respondent was convicted of
24 violation of California Penal Code Section 484/488 (Petty Theft),
25 a crime involving moral turpitude and/or which bears a
26 substantial relationship under Section 2910 of the Regulations,

27 ///

1 to the qualifications, functions or duties of a real estate
2 licensee.

3 VI

4 The crimes of which Respondent was convicted, as
5 alleged in Paragraphs III through V above, constitute cause for
6 denial of Respondent's application for a real estate license
7 under Sections 480(a) and 10177(b) of the California Business and
8 Professions Code.

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

15
16 

17 LES R. BETTENCOURT
18 Deputy Real Estate Commissioner

18 Dated at Oakland, California,
19 this 26th day of April, 2004.