

FILED

DEC 15 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

TAMMY LYNN RIEMER,

No. H-10100 SF

Respondent.

ORDER GRANTING UNRESTRICTED LICENSE

On December 7, 2007, 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 29, 2007, and Respondent has operated as a restricted licensee since that time.

On March 4, 2010, 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

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1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
4 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to
5 the following understanding and conditions:

6 1. The license issued pursuant to this order shall be deemed to be the first
7 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
8 of Section 10153.4.

9 2. Within twelve (12) months from the date of this order Respondent shall:

10 (a) Submit a completed application and payment of the appropriate fee for a
11 real estate salesperson license, and

12 (b) Submit evidence of having taken and successfully completed the courses
13 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
14 for renewal of a real estate license.

15 3. Upon renewal of the license issued pursuant to this order, Respondent
16 shall submit evidence of having taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
18 license.

19 This Order shall become effective immediately.

20 IT IS SO ORDERED

21 12/14/2010
22 JEFF DAVI
23 Real Estate Commissioner
24 [Signature]
25
26
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

FILED

DEC 07 2007

DEPARTMENT OF REAL ESTATE

By *L. Frost*

In the Matter of the Application of)
TAMMY LYNN RIEMER,) NO. H-10100 SF
Respondent.) OAH NO. 2007080594
_____)

DECISION

The Proposed Decision dated November 2, 2007, 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 DEC 27 2007.

IT IS SO ORDERED December 7, 2007.

JEFF DAVI
Real Estate Commissioner

Jeff Davi

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

TAMMY LYNN RIEMER,

Respondent.

Case No. H-10100 SF

OAH No. 2007080594

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on October 11, 2007.

Complainant Charles W. Koenig, Deputy Real Estate Commissioner, was represented by Michael B. Rich, Counsel, Department of Real Estate.

Respondent Tammy Lynn Riemer represented herself.

The matter was submitted for decision on October 11, 2007.

FACTUAL FINDINGS

1. On September 21, 2005, respondent Tammy Lynn Riemer submitted to the Department of Real Estate an application for a real estate salesperson license. Any license issued as a result of that application will be subject to the provisions of Business and Professions Code section 10153.4. The department denied respondent's application because of criminal convictions and she appealed.

2. On July 23, 1991, respondent was convicted, on her plea of no contest, of a felony violation of Wisconsin Statutes section 161.41(1)(f)1, delivery or distribution of LSD, a crime involving moral turpitude and that is substantially related to the qualifications, functions or duties of a real estate licensee under title 10, California Code of Regulations, section 2910, subdivision (a)(8), doing an unlawful act with the intent of conferring a financial or economic benefit upon herself. Upon conviction, respondent was placed on probation for two years on conditions that included 60 days in jail, with credit for good time.

3. At the time this crime was committed, in July 1990, respondent had just turned 18. She was, in her words, "lost," and she had been using LSD for a few months. She was arrested when she sold a few hits of LSD to an undercover officer in a bar.

4. Respondent served 45 days in jail. She was released from probation early.
5. On May 4, 1994, respondent was convicted in federal court in Wisconsin, on her plea of guilty, of a violation of 21 U.S.C. § 841(a)(1), distribution of LSD, a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee. Upon conviction, respondent was sentenced to 10 years in prison, followed by an eight-year term of supervised release. This was the minimum sentence possible for her crime. As special conditions of supervised release, respondent was ordered to abstain from illegal drug use and sales, to participate in drug and alcohol treatment programs, and to pay restitution of \$2,455 to the Wisconsin Division of Narcotics Enforcement and of \$300 to the Wisconsin State Crime Laboratory.
6. This conviction was based on respondent's conduct in April 1993. She was one month shy of her 21st birthday. She was no longer on probation for her prior offense. After her prior conviction, respondent had continued to "make poor choices" in the people with whom she surrounded herself and she continued to use LSD, marijuana and alcohol. She received \$2,500 for the LSD she sold.
7. Respondent had been arrested for this offense on July 20, 1993. She says her arrest "saved [her] life." She has not used illegal drugs since that date. She says she "found God" when she was arrested and that the entire experience gave a new direction to her life.
8. Respondent served eight and one-half years in federal prison. While there, she completed a 500-hour drug treatment program based on a 12-step model. She also took college courses in prison and became involved in the church. She became a role model for other inmates and gave speeches and "devotions" to other inmates. Upon her release from prison in July 2001 respondent earned a certificate as a personal trainer. She has worked since May 2002 as a personal fitness trainer at 24 Hour Fitness in Vallejo. She is the top trainer in the club and has been promoted to Master Trainer. Respondent is required to take continuing education courses to maintain her certification with the National Academy of Sports Medicine.
9. Respondent has paid the required restitution and she was released from supervised release in June 2006, nearly three years before the scheduled end of her eight-year supervised release.
10. Respondent, who is now 35 years old, is a dedicated athlete who competes in marathons, triathalons, and swim meets. She is very involved in her church, the Church on the Hill in Vallejo, where she participates in Bible study and outreach programs. She no longer associates with those with whom she was involved when she was using drugs. She takes full responsibility for the crimes she committed.

LEGAL CONCLUSIONS

1. Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), together provide that an application for a real estate license may be denied if the applicant has been convicted of a felony or a crime involving moral turpitude that is substantially related to the qualifications, functions or duties of a real estate licensee. Respondent's two convictions for selling and distributing LSD, as set forth in Findings 2 and 5, establish cause for denial of respondent's application under those sections.

2. Respondent has met many of the department's criteria of rehabilitation. (Cal. Code Regs., tit. 10, § 2912.) It has been more than 13 years since her most recent conviction, she paid restitution, she successfully completed supervised release, she has established new social relationships, she is involved in her church, she has maintained steady, responsible employment, she has undertaken courses for economic self-improvement and, most importantly, she has demonstrated a change in attitude from that which existed when she was 18 to 21 years old. Considering all these things, it is determined that it would not be against the public interest to permit respondent to hold a restricted real estate salesperson license.

ORDER

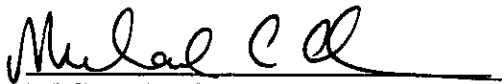
The application of respondent Tammy Lynn Riemer for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. The restricted license issued to respondent 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 or 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.
4. Respondent's restricted real estate license is issued subject to the provisions of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen months of issuance of the restricted license, submit evidence satisfactory to the commissioner of successful completion, at an accredited institution, of a course in real estate practices and one 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 present satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen months after the date of its issuance. This 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.
5. 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.

DATED: November 2, 2007


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

FILED

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DEPARTMENT OF REAL ESTATE

By J. Fe

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the matter of the Application of)
TAMMY LYNN RIEMER,) NO. H-10100 SF
Respondent.) STATEMENT OF ISSUES

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against TAMMY LYNN RIEMER (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about September 21, 2005, 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.

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1 II

2 Complainant, CHARLES W. KOENIG, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity and not otherwise.

5 III

6 On or about July 23, 1991, in the Circuit Court,
7 County of Bayfield, State of Wisconsin, in case number 91CF18,
8 Respondent was convicted of a violation of Section 161.41(1)(f)1
9 of the Wisconsin Statutes (Possession, distribution or delivery
10 of a controlled substance, to wit: LSD), a felony involving
11 moral turpitude which bears a substantial relationship under
12 Section 2910, Title 10, California Code of Regulations, to the
13 qualifications, functions, or duties of a real estate licensee.

14 IV

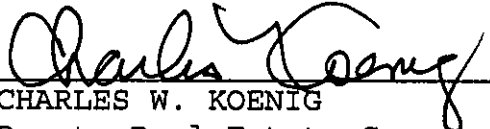
15 On or about May 4, 1994, in the United States District
16 Court for the Western District of Wisconsin, in case number 94-
17 CR-17-S, Respondent was convicted of a violation of Title 21,
18 United States Code, Section 841(a)(1) (Unlawful manufacture,
19 distribution, dispensing, or possessing of a controlled
20 substance, to wit: LSD), a felony involving moral turpitude
21 which bears a substantial relationship under Section 2910, Title
22 10, California Code of Regulations, to the qualifications,
23 functions, or duties of a real estate licensee.

24 V

25 The crimes of which Respondent was convicted, as
26 alleged in Paragraphs III and IV, above, individually and
27 collectively constitute cause for denial of Respondent's

1 application for a real estate license under Sections 480(a) and
2 10177(b) of the California Business and Professions Code.

3 WHEREFORE, the Complainant prays that the above-
4 entitled matter be set for hearing and, upon proof of the
5 charges contained herein, that the Commissioner refuse to
6 authorize the issuance of, and deny the issuance of, a real
7 estate salesperson license to Respondent, and for such other and
8 further relief as may be proper under other provisions of law.

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10
11 
12 CHARLES W. KOENIG
Deputy Real Estate Commissioner

13 Dated at Sacramento, California,
14 this 18th day of June, 2007.