

*Zlog*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**

**AUG 14 2018**

DEPARTMENT OF REAL ESTATE

\* \* \*

By *K. Krapp*

In the Matter of the Application of	)	DRE No. H-12196 SF
	)	
LAWONNA MICHELLE MATTHEWS,	)	OAH No. 2018020868
	)	
	)	
<u>Respondent.</u>	)	

DECISION

The Proposed Decision dated July 12, 2018, 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.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

///

///

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on SEP 04 2018.

IT IS SO ORDERED August 10, 2018

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

*Daniel J. Sandri*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

LAWONNA MICHELLE MATTHEWS,

Respondent.

Case No. H-12196 SF

OAH No. 2018020868

**PROPOSED DECISION**

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter on June 20, 2018, in Oakland, California.

Adriana Badilas, Counsel, represented complainant, Robin S. Tanner, a Supervising Special Investigator of the Department of Real Estate, State of California.

Respondent Lawonna Michelle Matthews represented herself and was present throughout the administrative hearing.

The matter was submitted for decision on June 20, 2018.

**FACTUAL FINDINGS**

1. Robin S. Tanner made the statement of issues in her official capacity as a Supervising Special Investigator of the Department of Real Estate, State of California.
2. Lawonna Michelle Matthews (respondent) applied to the Bureau of Real Estate (bureau) for a real estate salesperson license on August 17, 2016. The Bureau of Real Estate became the Department of Real Estate on July 1, 2018.

*Criminal History*

3. On August 17, 2005, in the Superior Court of the State of California, County of Santa Clara, respondent was convicted of violating Penal Code section 666 (petty theft with a prior), a misdemeanor. Respondent took pet food from a Pak N Save Foods store.

4. On August 28, 2000, in the Superior Court of the State of California, County of Santa Clara, respondent was convicted of violating Penal Code sections 484/488 (petty theft), a misdemeanor. Respondent took clothing items from a Bloomingdale's department store.

5. Question 28 of respondent's application asked: "Have you ever been convicted of any violation of the law at the misdemeanor or felony level? If yes, complete item 34 with information on each conviction." Respondent failed to disclose the convictions set forth in Findings 3, and 4, above.

#### *Respondent's Evidence*

6. Respondent admits that the convictions for petty theft are true. One was 18 years ago and the other 13 years ago. She did not intentionally attempt to hide the convictions. Both convictions were expunged pursuant to Penal Code section 1203.4 on November 24, 2014. She also revealed that she was ill while completing her application, which temporarily affected her concentration.

7. Respondent has been employed as veterinary technician for 16 years. She never had any problems with her employment in this field.

8. Respondent attended Foothill College for general education classes.

9. Respondent provided a reference letter in support of her application for licensure from David A. Nelson, Regional Manager, Marcus & Millichap. Marcus & Millichap is a large commercial real estate investment brokerage. Respondent has been working with Marcus & Millichap for nine months and is currently involved in the new agent training program. He finds respondent has consistently demonstrated a sense of responsibility and dedication. He also finds respondent to be a person of integrity and honesty, reliability, and dependability. Mr. Nelson believes respondent will create a successful career and flourish as a Real Estate agent.

10. Respondent's convictions as set forth in Factual Findings 3, and 4, occurred when she was much younger. She understands how serious her actions were, and it is very unlikely that anything like this will ever happen again. She was around some people who were a bad influence. She no longer has anything to do with those people. Respondent's mother testified at the hearing that respondent has been working diligently to learn real estate. Her daughter's attitude has changed, and she no longer is hanging around with bad people. She is a valuable member of her family and community. Respondent has demonstrated sufficient rehabilitation to receive a restricted real estate salesperson license.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 480, subdivision (a)(1), authorizes the Department to deny a license to an applicant who has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. Business and Professions Code section 10177, subdivision (b), which is specific to real estate licenses, authorizes the denial of a license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions and duties of a real estate licensee.

2. California Code of Regulations, title 10, section 2910, sets forth criteria for determining whether a crime is substantially related to the qualifications, functions and duties of a real estate licensee. The crimes for which respondent was convicted both involve dishonesty. Therefore, cause exists to deny the application pursuant to Business and Professions Code sections 480, subdivision (a) and 10177, subsection (b).

3. Business and Professions Code sections 480, subdivision (d) (false statement of fact), and 10177, subdivision (a) (attempted procurement of license by misrepresentation), authorize the Department to deny a license to an applicant who has made misstatements on his application for licensure. Respondent failed to list her convictions on her application. Cause to deny the application therefore exists pursuant to Business and Professions Code sections 480, subdivision (d), and 10177, subdivision (a).

4. California Code of Regulations, title 10, section 2911, sets forth criteria for evaluating whether an applicant has been sufficiently rehabilitated to warrant licensure. Respondent has satisfied many of the criteria. Respondent's convictions occurred way over ten years ago (they occurred 18 years ago and 13 years ago). Respondent has successfully completed probation and received a Penal Code section 1203.4 dismissal (§ 2911, subd. (a)(5)). Respondent has a stable family life. (§ 2911, subd. (a)(8).) Respondent pursued an education. (§ 2911, subd. (a)(9).) Respondent established through her testimony and the letter of her employer, and testimony of her mother, that she has made significant changes to her attitude and behavior since the time of her misconduct. It is very unlikely that any misconduct will occur in the future.

Complainant argued that respondent's application should be denied because of her questionable honesty. This argument is rejected. Respondent was candid and forthcoming about her past. She did not try to conceal her convictions once she was reminded of them.

Respondent has established through her testimony, the testimony of her mother, and the letter from her employer that she is a changed individual. Respondent expressed insight during her testimony and was very credible. Respondent has presented sufficient evidence of rehabilitation to justify the issuance of a restricted salesperson license.

## ORDER

Respondent Lawonna Michelle Matthews' application 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 the restricted license in the event of:
  - a. The conviction of respondent (including 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 the restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for removal of any of the conditions, limitations or restrictions of a restricted license until three 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 shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file a written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: July 12, 2018

DocuSigned by:

*Ruth Astle*

2509251BAE3E40A

---

RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings