

BEFORE THE DEPARTMENT OF REAL ESTATE

**FILED**

STATE OF CALIFORNIA

FEB 11 2019

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DEPARTMENT OF REAL ESTATE

By L. Knopp

In the Matter of the Application of:

KAREN LYNETTE MILLER,

Respondent.

) DRE No. H-12250 SF

) OAH No. 2018100848

DECISION

The Proposed Decision dated January 18, 2019, 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.

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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.

MAR 04 2019

This Decision shall become effective at 12 o'clock noon on \_\_\_\_\_.

IT IS SO ORDERED February 7, 2019

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

  
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No. H-12250 SF

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**PROPOSED DECISION**

Administrative Law Judge Perry O. Johnson, Office of Administrative Hearings, State of California, heard this matter on December 19, 2018, in Oakland, California.

Counsel Kyle T. Jones, Legal Division, Department of Real Estate, represented complainant Robin S. Tanner.

Respondent Karen Lynette Miller, also known as Karen L. Hargrove as well as Karen Lynette Hamp, appeared for the hearing; but, she was not otherwise represented.

On December 19, 2018, the parties submitted the matter for decision and the record closed.

**FACTUAL FINDINGS**

1. On June 20, 2018, complainant Robin S. Tanner (complainant), in her official capacity as a Supervising Special Investigator, Department of Real Estate, State of California (the department), made the Statement of Issues against respondent Karen Lynette Miller, who was also known as Karen L. Hargrove and is now known as Karen Lynette Hamp (respondent).

2. On January 25, 2017, the department received respondent's application for a real estate salesperson license. Respondent had signed the application on December 30, 2016.

The application remains pending as the department has refused to issue a license to respondent due to her past acts and omissions that appear to disqualify her for licensure.

*Record of Criminal Convictions*

A. AUGUST 1998-PETTY THEFT WITH PRIORS

3. On August 28, 1998, in case number 168522-1, in the Superior Court for Contra Costa County, respondent was convicted, on her plea of guilty, of violating Penal Code sections 484/666 (petty theft with a record of prior convictions), a misdemeanor.

The crime of petty theft with priors is substantially related to the qualifications, functions, or duties of a real estate licensee.

B. October 1997- POSSESSION OF COCAINE BASE FOR SALE

4. On October 24, 1997, in case number 167019-01, on her plea of guilty, respondent was convicted in the California Superior Court in and for San Francisco County of violating Health and Safety Code section 11351.5 (possession of cocaine base for sale), a felony. She committed the crime while on probation from an earlier conviction.

The crime of possession of cocaine base for sale is substantially related to the qualifications, functions, or duties of a real estate licensee.

C. FEBRUARY 1995- PETTY THEFT WITH PRIORS

5. On February 8, 1995, in case number 942276-7, on her plea of no contest, respondent was convicted in the Superior Court for Contra Costa County of violating Penal Code sections 484/666 (petty theft with a record of prior convictions), a misdemeanor. She committed the crime while on probation from an earlier conviction.

The crime of petty theft with priors is substantially related to the qualifications, functions, or duties of a real estate licensee.

D. November 1993- FRAUD IN OBTAINING WELFARE AID AND  
UNLAWFUL USE OR SALE OF FOOD STAMPS

6. On November 19, 1993, in case number 152430-02, on her plea of nolo contendere, respondent was convicted in the California Superior Court in and for San Francisco County, of violating Welfare and Institutions Code section 10980, subdivision (c) (fraud in obtaining aid), a felony, and Welfare and Institutions Code section 10980, subdivision (g) (unlawful use or sale of food stamps), a felony. She committed the crime while on probation from an earlier conviction.

The crime of fraud in obtaining aid and the crime of unlawful use or sale of food stamps are each substantially related to the qualifications, functions, or duties of a real estate licensee.

E. NOVEMBER 1991- PETTY THEFT WITH PRIORS

7. On November 15, 1991, in case number SC027580A, on her plea of no contest, in the California Superior Court in and for San Mateo County, respondent was convicted of violating Penal Code sections 484/666 (petty theft with a record of prior convictions), a felony. She committed the crime while on probation from an earlier conviction.

The crime of petty theft with priors is substantially related to the qualifications, functions, or duties of a real estate licensee.

F. NOVEMBER 1991- PETTY THEFT WITH PRIORS

8. Also, on November 7 1991, in case number NFs18926A, on her plea of no contest, in the California Superior Court in and for San Mateo County, respondent was convicted of violating Penal Code sections 484/666 (petty theft with a record of prior convictions), a felony. She committed the crime while on probation from an earlier conviction.

The crime of petty theft with priors is substantially related to the qualifications, functions, or duties of a real estate licensee.

G. May 1991- POSSESSION OF A CONTROLLED SUBSTANCE

9. On May 21, 1991, in case number 139903, on her plea of guilty, respondent was convicted in the California Superior Court in and for San Francisco County of violating Health and Safety Code section 11350, subdivision (a) (possession of controlled substance), a felony. She committed the crime while on probation from an earlier conviction.

The crime of possession of a controlled substance is substantially related to the qualifications, functions, or duties of a real estate licensee.

*Past Denial of Licensure*

10. Effective September 9, 2010, in Case No. H-5381 SAC, through a decision by the Department of Real Estate, respondent's earlier application, dated approximately March 24, 2009, for licensure as a real estate license, was denied. The denial was based upon factual findings and legal conclusions establishing respondent's violation of Business and Professions Code section 480, subdivision (a), and 10177, subdivision (b), as set out in a written decision issued in August 2010.

*Matters in Externuation*

11. Respondent was the product of dysfunctional childhood experiences. Her mother was a drug abuser, who abandoned respondent when she was a young teenager. Respondent became a teen mother when she was approximately 15 years old.

Respondent resorted to shoplifting to support her child and herself. In time she became addicted to drugs.

*Matters in Mitigation and Respondent's Background*

12. Respondent is approximately 48 years old. She manifests a countenance of maturity and determination.

13. She proclaims that she last ingested by smoking the lawful drug, crack cocaine, in approximately 1993; although, she sold cocaine until her arrest in 1997.

14. Respondent poignantly stated that she decided to change her life upon hearing a sincere appeal from her daughter's grandmother, who counseled her that a change of conduct was necessary for her to thrive and to become a worthwhile person in society. Also, respondent met a small-sized woman working as bus driver, who encouraged respondent to gain skills to acquire licensure as a bus driver. (Because respondent is very short as she stands at five-feet tall or less, her meeting the diminutive female bus driver made a great impression on her.)

*Matters that Suggest Respondent Has Not Attained Rehabilitation*

15. Respondent has 12 dates in her past for convictions that she experienced between January 1990 and August 28, 1998. (For this matter, the records offered at hearing establish only six dates for seven convictions from May 21, 1991, to August 28, 1998.) Complainant's Statement of Issues establishes that respondent has no less than a single conviction in three distinct superior court jurisdictions, that is Contra Costa County, San Mateo County, and San Francisco County. She has no less than six convictions for felony offenses.

16. Respondent did not present at the hearing proof of any superior court issued order, pursuant to Penal Code sections 17 or 1203.4, that either reduced the felony convictions to misdemeanor convictions, or expunged the record of a conviction for any of the many convictions incurred by her over a period of more than eight years ending in late August 1998.

### *Matters in Rehabilitation*

17. In her past, respondent experienced many days of incarceration in the jails of no less than three counties. She successfully completed the jail confinement terms without committing an offense while confined. And, she has paid all amounts of restitution, fines and fees as imposed upon her over the years by various courts.

18. Following more than one-half-dozen arrests, which resulted in her multiple convictions, in the mid to late 1990's respondent rejected her past misconduct of abuse of controlled substances and deceitful conduct of engaging in petty theft acts.

19. Respondent's last criminal conviction occurred in August 1998, which was more than 20 years before the hearing in this matter. She completed the term of probation due to the last conviction in 2000.

The underlying offense of petty theft with prior acts, which led to the last conviction, occurred in early 1998, which was more than 18 years before the date of respondent's current application for licensure.

20. Since her last conviction, respondent has pursued educational objectives. She took college-level courses at Merritt College in 2003 through 2004. In 2006, she attended Solano Community College at the Fairfield campus. In 2007, she attended Sacramento City College. Also, in 2007 she completed courses sufficient for her to secure a license as a Cosmetologist. And, in 2009, she took real estate courses at no less than four community or junior colleges.

21. Following her final criminal conviction and completing the term of probation due to the conviction, respondent secured employment in 1999 with Grosvenor Bus Line in San Francisco. In that same year, she drove a passenger "Air Bart" bus from the Oakland/Coliseum BART train station to the Oakland Airport. She drove the BART bus line for five years.

22. Although respondent has not received any order under the authority of Penal Code section 17 and 1203.4, that reduces the felony convictions or expunged the convictions experienced by her, respondent persuasively asserts that for the San Francisco County Superior Court convictions she has filed, under the "Clean Slate" program, petitions to expunge records of three convictions in that county. But, she has not filed any petition for expungement of conviction records for either San Mateo County or Contra Costa County. And, she did not file documentary proof of having filed the petitions in San Francisco County under that jurisdiction's Clean Slate program.

23. Respondent offered proof that she has personal stability by reason of her family life and the fulfillment of her parental and familial responsibilities. Respondent married her current husband on June 4, 2018. Thereby her name changed from "Karen

Lynette Hargrove” to “Karen Lynette Hamp,” which she changed on the date of her marriage in June 2018. On December 30, 2016, when she first filed this application for licensure, she used the last name of “Miller.”

Respondent purchased her house approximately 14 months before the date of the hearing in this matter.

Respondent resides in a house in Stockton, California, along with husband. Over the period of approximately six months, the married couple has constituted a household. She has known her husband for approximately five years. The man has a profession as an undertaker as a funeral industry licensee who engages in cremation services. Respondent’s husband has a son, who is eight years old, and who resides with his mother. Her husband dutifully pays child support money for his son’s support.

Respondent has two daughters, who are now 30 years old and 24 years of age. Her oldest daughter<sup>1</sup> has been for approximately 12 years an active duty military service member with the U.S. Air Force. Her youngest daughter, who is a high school graduate, has held approximately 10 jobs over the past two years. She has a 28-year old son, who has been an inmate for nine years with the Department of Corrections and Rehabilitation (state prison).

Respondent’s mother resides in Vallejo, California. And, respondent’s sister lives in San Francisco.

Respondent offers guidance and counsel to a young female relative on issues of maintaining a good character and reflecting the virtue of maintaining gainful employment.

24. Respondent has held a commercial driver’s license for several years.

Respondent began driving a passenger bus on tour buses. She worked many years driving a bus to and from casinos. Respondent started that work in 1999.

Over the past four and one-half years, San Francisco Municipal Transportation Agency (SFMTA) has employed respondent. She started as a Transit Operator (bus driver). Then she became a “line trainer” where she gave instructions to newly hired bus drivers in San Francisco. On January 31, 2017, SFMTA issued respondent Certificate of Completion for successful completion of training through the course titled “Transit Operator Line Trainer.” On March 14, 2018, SFMTA awarded respondent Certificate of Completion for successful completion of training through the course titled “Rail Operator Milan and PCC Training.” In January 2018, Respondent has been operating on the “rail” side of Muni. She

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<sup>1</sup> Tarianna A. Green, Staff Sergeant, U.S. Air Force, is respondent’s daughter. Segerant Green’s letter, undated (exhibit “E”) describes respondent as “hard-working, motivated, honest, and accomplished.”



"drives" the F line street car along the historic line down the Embarcadero, Market Street onto Castro Street to Fisherman's Wharf. Respondent makes four round trips each day. And, the job is full-time at 40 hours per week.

25. Respondent provided documentary proof establishing that she has had significant and conscientious involvement in community, religious, or privately sponsored programs designed to provide social benefits or to ameliorate social problems. She is devoted to service to her church. That church, known as the Grace Baptist Church of 98th Avenue, Oakland, California, awarded respondent in mid-December 2015 with an "Assurance of Salvation" certificate of completion for a course of that name. She has been a member of the church for three years. Although respondent lives in Stockton, she chooses to attend the Oakland church.

26. As to her past criminal conduct, respondent realizes that when she committed serial acts of petty theft at the time she abused controlled substances that she was a self-absorbed person who only thought of her own gratifications. Her religious training and devoted conversion to the church have greatly aided her progress towards full rehabilitation.

27. Respondent established at the hearing that she has formulated a changed attitude from the person who committed the past misbehavior and criminal conduct. She has a new circle of friends and associates. Also, she is devoted to her family, which includes her husband due to a marriage in June 2018. And, she has solid employment ties through her commercial bus driver's license, which enables her to hold a position as Transit Operator and Electric Trolley car operator. Additionally, she holds a license as a cosmetologist with the California Board of Barbering and Cosmetology. And, she fervently and credibly proclaims that she exerts utmost effort to avoid any circumstances that might lead to the chance of criminal conduct.

28. Respondent has worked in various beauty/hair salon shops as a licensed cosmologist and hair stylist. During 2018 she worked as a cosmologist over the span of four months or 120 days. In her work under an active licensed cosmetologist, respondent handles dangerous chemicals and sharp instruments in practicing in that industry, but she has never received from the licensing agency a citation or form of disciplinary action against that license.

29. Respondent has a desire to perform the services of a licensed real estate professional in order to demonstrate to young women in her family that with effort and the exertion of inherent ability, an individual can be successful in working in an ethical endeavor so as to enhance society. And, respondent has gained the acquaintance of Patricia Beattie, a real estate licensee with Starnberg Realty, Inc., of Fremont, who signed respondent's application for licensure as a real estate professional, and is willing to act as respondent's supervising real estate broker.

### *Ultimate Finding*

30. The weight of the evidence supports the determination that it would not be against the public interest for the department to issue respondent a real estate salesperson license on a restricted basis.

## LEGAL CONCLUSIONS

### *Record of Criminal Convictions*

1. Business and Professions Code section 480, subdivision (a), provides that the department may deny a license on the ground that the applicant has "been convicted of a crime . . . [that] . . . is substantially related to the qualifications, functions or duties of the business . . . for which (an) application is made."

Business and Professions Code section 10177, subdivision (b), establishes that the department may deny the issuance of a license to an applicant who has "[e]ntered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee . . ."

Criteria for substantial relationship between respondent's past convictions with the qualifications, functions, or duties of a real estate licensee are grounded in California Code of Regulations, title 10, section 2910, subdivisions (a)(8), (a)(9) (a)(10) and (a)(11).

California Code of Regulations, title 10, section 2910, subdivision (a)(8), prescribes a criterion for substantial relationship as: "doing of any unlawful act with. . . the threat of doing substantial injury to the person or property of another."

When respondent willfully engaged in the corrupt acts of theft of store merchandise and selling controlled substances, she pursued unlawful acts that threatened injury to others. And respondent has several convictions for theft, which causes injury upon other consumers as well as commercial retail stores.

California Code of Regulations, title 10, section 2910, subdivision (a)(9), sets forth a criterion for substantial relationship as "contempt of court or willful failure to comply with a court order." Respondent experienced arrests at different times while she was on probation due to earlier convictions.

California Code of Regulations, title 10, section 2910, subdivision (a)(10), sets forth a criterion for substantial relationship as: "conduct which demonstrates a pattern of repeated and willful disregard of law." Respondent sustained no less than six convictions over a span of less than eight years from May 1991 to August 1998. Respondent's six convictions that involve possession of a controlled substance for sale, namely cocaine, as well as multiple

acts of theft, show respondent to have exhibited a pattern of repeated and willful disregard of law.

2. Cause exists to deny licensure to respondent under Business and Professions Code section 10177, subdivision (b), together with section 480, subdivision (a), by reason of the matters set forth in Factual Findings 3 through 9.

*Determination Regarding Respondent's Rehabilitation*

3. *In re Menna* (1995) 11 Cal.4th 975, 991, establishes that rehabilitation may be determined, in part, by demonstrating sustained lawful conduct over an extended period of time.

Respondent has conscientiously pursued life as a mature, restrained and law-abiding citizen for the past several years since her last conviction in August 1998. By her commitment to educational endeavors, as well as her strong work record as a professional bus driver, her commitment to totally abstain from controlled substances, and commitment to her family, respondent has attained the level of personal integrity and good character necessary to hold a real estate salesperson license as issued through the department. Accordingly, in this matter, sufficient time has passed, and respondent has demonstrated that she has exerted great effort to change her circumstances, so that a determination can be made with regard to respondent's rehabilitation. Hence, the public interest will not be jeopardized with respondent holding a restricted license for three years. And after the passage of three years, respondent will be in a position for receipt of full, unrestricted licensing rights with the department.

ORDER

The application for a real estate salesperson license of respondent Karen Lynette Miller, also known as Karen Lynette Hamp, 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 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.
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 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, 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 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 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.
  5. Respondent shall notify the Commissioner in writing within 72 hours of any arrest or detention by any law enforcement agency by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest or involuntary detention, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file 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: January 18, 2019

DocuSigned by:  


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PERRY O. JOHNSON  
Administrative Law Judge  
Office of Administrative Hearings