

FILED

APR 22 1987

DEPARTMENT OF REAL ESTATE

BY *K. J. J. J.*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) No. H-22110 LA
KAREN ANN SMITH,)
Respondent.) L-33779

ORDER GRANTING UNRESTRICTED LICENSE

On March 19, 1985, a Decision was rendered herein denying the respondent's application for a real estate salesperson license, effective April 16, 1985, 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 April 26, 1985, and respondent has operated as a restricted licensee without cause for disciplinary action against respondent since that time.

On November 14, 1986, respondent petitioned for the removal of restrictions attaching to respondent's real estate salesperson license.

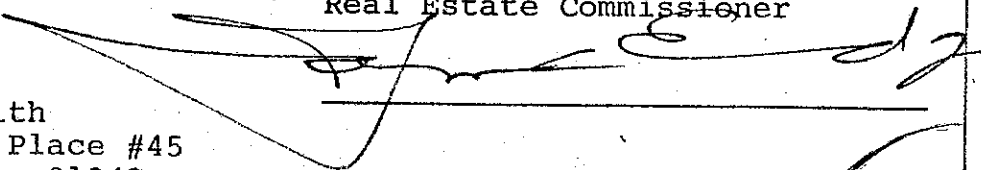
1 I have considered the petition of respondent and the
2 evidence submitted in support thereof including respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that respondent meets the requirements of law for
5 the issuance to respondent of an unrestricted real estate sales-
6 person license and that it would not be against the public
7 interest to issue said license to respondent.

8 NOW, THEREFORE, IT IS ORDERED that respondent's
9 petition for removal of restrictions is granted and that an
10 unrestricted real estate salesperson license be issued to
11 respondent after respondent satisfies the following conditions
12 within one (1) year from the date of this Order:

- 13 1. Submittal of a completed application and payment
14 of the fee for a real estate salesperson license.
- 15 2. Submittal of evidence satisfactory to the Real
16 Estate Commissioner that respondent has, since the most recent
17 issuance of an original or renewal real estate license, taken and
18 successfully completed the continuing education requirements of
19 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
20 real estate license.

21 This Order shall become effective immediately.

22 DATED: 4-13-87

23
24 JAMES A. EDMONDS, JR.
25 Real Estate Commissioner
26 

27 cc: Karen Ann Smith
8338 Woodley Place #45
Sepulveda, CA 91343

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

FILED

MAR 27 1985

In the Matter of the Application of)

KAREN ANN SMITH, aka
Karen A. Smith,

Respondent.

No. H-22110 LA

LT-33779

DECISION

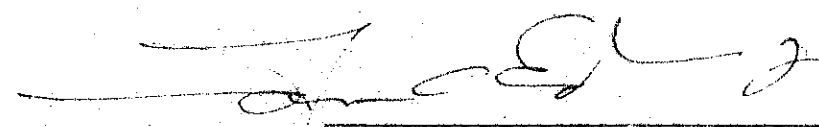
The Proposed Decision dated March 6, 1985
of the Administrative Law Judge of the Office of Administrative
Hearings, is hereby adopted as the Decision of the Real Estate
Commissioner in the above-entitled matter.

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 of Section 11522
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 attached hereto.

This Decision shall become effective at 12 o'clock
noon on April 16, 1985.

IT IS SO ORDERED 3-19-85


JAMES A. EDMONDS, JR.
Real Estate Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application)
of:)

KAREN ANN SMITH aka)
Karen A. Smith,)

Respondent.)

No. H-22110 LA

L-33779

PROPOSED DECISION

This matter came on regularly for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on March 1, 1985. Marilyn L. Mosher, Staff Counsel, represented the complainant. Respondent appeared in person and represented herself. Oral and documentary evidence and evidence by way of official notice was received and the matter was then argued and submitted. The Administrative Law Judge now finds, determines and orders as follows:

FINDINGS OF FACT
RE: JURISDICTION

1.

Karen Ann Smith aka Karen A. Smith, respondent, filed an application for a real estate salesperson on August 8, 1984.

2.

The Real Estate Commissioner, in conformity with Section 10152, Division 4, Business and Professions Code of the State of California, requires further proof of honesty and truthfulness, thus resulting in subject hearing.

3.

All pre-hearing jurisdictional requirements have been met. Jurisdiction for this proceeding does exist.

FINDINGS OF FACT
RE: STATEMENT OF ISSUES

4.

On October 4, 1982, in the United States District

Court for the Central District of California, respondent was convicted on her plea of guilty on two counts of the crime of violating Title 18, United States Code Section 657 (Misapplication of Funds from a Savings and Loan Association), each such count a felony and a crime involving moral turpitude.

5.

The crimes of which respondent was convicted bear a substantial relationship to the qualifications, functions, or duties of a real estate licensee.

6.

Certain of the circumstances of said crime are as follows: Respondent while employed as a teller by Great Western Savings "computer transferred" certain commercial notes belonging to said employer to her own account.

FINDINGS OF FACT
RE: MITIGATION

7.

(A) At the time of said criminal conduct respondent was married to a "compulsive gambler." In respondent's words, "...We were overencumbered with financial obligations. We sold our house that year and paid debts owed. For the last 2 years we have paid our bills and have had no financial problems to date...."

(B) Respondent's husband has undergone therapy for his addiction and said addiction is, presently, cured. Presently, respondent does have control of her finances.

FINDINGS OF FACT
RE: REHABILITATION

8.

(A) As a result of said conviction, respondent was placed on five years probation beginning on or about October 18, 1982 and did serve a 10 day sentence (on consecutive weekends). Respondent has met, and is meeting all terms and conditions of probation including the service of 1500 volunteer hours (having served approximately, to date, 700 of those hours).

(B) In the opinion of Director of Volunteer Services of Little Company of Mary Hospital (wherein respondent has served volunteer hours) "Karen Smith (respondent) is ... very pleasant and cooperative (and is) dependable and performed whatever tasks were needed...." Said opinions and observations are credible and are supported by the whole of the evidence and reasonable inferences therefrom.

(C) Respondent, 31 years of age, is articulate and intelligent. She gave proof of honesty and truthfulness as follows:

(1) Shortly after the conduct set forth in Finding 4 did occur, respondent voluntarily "turned herself in" to a Vice President of her employer;

(2) Respondent was forthcoming and direct in supplying information to the Department in the pending application;

(3) Respondent is an honest and credible witness: she is contrite and aware of the gravity of her conduct.

(D) Presently respondent does provide care to her two children aged 2 and 5. She has taken and passed the necessary tests for license as a real estate salesperson.

(E) Respondent has no record of prior criminal conduct and there is no record of criminal activity since the subject conviction.

(F) Respondent's conduct set forth in the foregoing paragraph is not complete rehabilitation from said criminal conduct but it is here found that said conduct is clear and convincing rehabilitation.

* * * *

DETERMINATION OF ISSUES

I

Cause exists for denial of respondent's application for a real estate license under Sections 480 and 10177(b) of the Business and Professions Code of the State of California by reason of Findings 4 and 5, collectively. However, the order which follows hereinafter will not be against the public interest by reason of Determination II.

II

The objective of an administrative proceeding relating to licensing privileges is to protect the public. Such proceedings are not for the primary purpose of punishing an individual. Camacho v. Youde (1979) 95 Cal. App. 3d 161, 165. In light of the foregoing and by reason of Finding 8, a properly conditioned probationary period would not be contrary to the public interest. Further, it is here determined that the granting of a license, as restricted, would aid respondent in the rehabilitative process.

* * * * *

ORDER

The application of Karen Ann Smith for issuance to her of an unrestricted real estate salesperson license is hereby denied; provided, however, that a restricted real estate salesperson license shall be issued to respondent as hereinafter provided:

1. A restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within ninety (90) days from the effective date of the decision herein.

2. 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 the authority of Section 10156.6 of said Code.

(a) 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 of a restricted license, until three years have elapsed from the date of issuance of the restricted license to respondent.

(b) Respondent shall submit with her application for license under an employing broker, and with any subsequent application for transfer to a new employing broker, a statement signed by said prospective employing broker which shall certify:

(1) That said broker has read the decision of the Commissioner which granted the right to a restricted license; and

(2) That said broker will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required, and that said broker will submit to the Department such written reports concerning the real estate activities of respondent as shall be requested in writing of said broker by the Department.

(c) Any restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction, including a conviction following a plea of nolo contendere, of any crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee, or as is otherwise provided for by law.

(d) Respondent shall comply with all the laws to which she is subject, including all provisions of the California Real Estate Law, the Subdivided Lands Law and all the requirements of the Real Estate Commissioner.

(e) Said restricted license may be suspended or revoked for a violation by respondent of any conditions attaching to this restricted license.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter as a result of the hearing had before me on March 1, 1985, at Los Angeles, California, and recommend its adoption as the decision of the Real Estate Commissioner.

Dated: April 6, 1985

Richard J. Lopez
RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL/jm

*Sue
Hoy*

1 MARILYN L. MOSHER, Counsel
2 107 South Broadway, Room 8107
3 Los Angeles, CA 90012
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5 (213) 620-4790
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DEPARTMENT OF REAL ESTATE
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8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Application of) NO. H-22110 LA
12 KAREN ANN SMITH aka)
13 Karen A. Smith,) STATEMENT OF ISSUES
14 Respondent.)
15)

16 The Real Estate Commissioner, in conformity with Section
17 10152, Division 4, Business and Professions Code of the State of
18 California, requires further proof of the honesty and truthfulness
19 of KAREN ANN SMITH aka Karen A. Smith (hereinafter respondent) in
20 connection with her application for a real estate salesperson
21 license, filed on August 8, 1984, and in relation thereto, will
22 consider the following:

23 I

24 On or about October 4, 1982, in the United States District
25 Court for the Central District of California, respondent was
26 convicted on her plea of guilty on two counts of the crime of
27 violating Title 18, United States Code Section 657 (Misapplication

1 of Funds from a Savings and Loan Association), each such count a
2 felony and a crime involving moral turpitude.

3 II

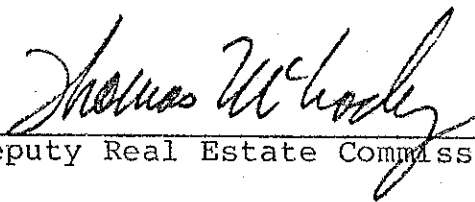
4 The crimes of which respondent was convicted bear a
5 substantial relationship to the qualifications, functions, or
6 duties of a real estate licensee.

7 III

8 Respondent's convictions, as alleged above, are grounds
9 for denying her application for a real estate license under Sections
10 480 and 10177(b) of the Business and Professions Code of the State
11 of California.

12
13 These proceedings are brought under the provisions of
14 Section 10100, Division 4 of the Business and Professions Code of
15 the State of California and Sections 11500 through 11528 of the
16 Government Code.

17 Dated at Los Angeles, California
18 this 12th day of December, 1984.

19
20 
21 Deputy Real Estate Commissioner

22
23
24
25
26 cc: Karen Ann Smith
27 Sparks Realty Inc.
Sacto.
TCD

lbo