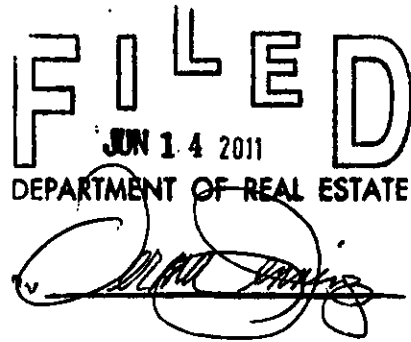


SACTO.
HAY



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of	)	No. H-31032 LA
	)	
DANIELLE MARIA HOLZER,	)	
	)	
Respondent.	)	

ORDER GRANTING UNRESTRICTED LICENSE

On March 22, 2005, a Decision was rendered herein denying the real estate salesperson license of Respondent, 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 June 4, 2005, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On or about January 22, 2009, Respondent petitioned for removal of restrictions of said real estate salesperson license.

I have considered Respondent's petition and the evidence and arguments submitted in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate

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

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

6 1. Submits a completed application and pays the fee for a real estate salesperson
7
8 license within the 12 month period following the date of this Order; and

9 2. Submits proof that Respondent has completed the continuing education
10 requirements for renewal of the license sought. The continuing education courses must be
11 completed either (i) within the 12 month period preceding the filing of the completed application,
12 or (ii) within the 12 month period following the date of this Order.

13 This Order shall be effective immediately.

14 Dated: 5/19/11
15

16 BARBARA J. BIGBY
17 Acting Real Estate Commissioner

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27

BEFORE THE DEPARTMENT OF REAL ESTATE

FILED
MAR 29 2005
DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

By Laura B. Crane

In the Matter of the Application of)
DANIELLE MARIA HOLZER,)
Respondent.)

No. H-31032 LA
L-2004080643

DECISION

The Proposed Decision dated February 28, 2005, 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 APR 18 2005

IT IS SO ORDERED

3-22-05
JEFF DAVIS
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

DANIELLE MARIA HOLZER,

Respondent.

Case No. H-31032 LA

OAH No. L2004080643

PROPOSED DECISION

This matter was heard on February 1, 2005, at Los Angeles, California, before Christopher J. Ruiz, Administrative Law Judge, Office of Administrative Hearings, State of California.

Respondent Danielle Maria Holzer (Respondent) was present and was represented by Martin Cohn, Esq.

Janice Waddell (Complainant), Deputy Real Estate Commissioner, was represented by Chris Leong, Counsel for Department of Real Estate (Department).

Oral and documentary evidence was received and the matter was argued. The record was held open for sixty (60) days in order for Respondent to have her 1998 conviction reduced to a misdemeanor and expunged. Respondent was successful in that regard, and the criminal court's order was received into evidence and was marked and admitted as Exhibit I on February 15, 2005. On February 15, 2005, the record was closed.

FACTUAL FINDINGS

1. Complainant brought the Statement of Issues in her official capacity.
2. Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about January 14, 2003, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code section 10153.4.
3. On or about June 26, 1998, in the Municipal Court of the Central Judicial District, County of Orange, State of California, Case No. OR98CF1332, Respondent was convicted of violating California Health and Safety Code (Code) section 11377, subdivision

(a)(Possession of a controlled substance), a felony. This conviction was reduced to a misdemeanor and was expunged on February 5, 2005.

4. On or about October 14, 1999, in the Superior Court of California, County of Orange, North Justice Center, Case No. BP99NM04524 - B, Respondent was convicted of violating Code section 11550, subdivision (a)(Under the influence of a controlled substance), a misdemeanor. Respondent was sentenced to five years informal probation.

5. On or about February 6, 2001, in the Superior Court of the State of California, County of Orange, Case No. 01NM01399MA, Respondent was convicted of violating one count of Penal Code section 529.3 (False impersonation) and one count of Code section 11550, subdivision (a)(Under the influence of controlled substance), misdemeanors. She was sentenced to informal probation for 5 years and ordered to serve 150 days in jail.

6. Respondent is 31 and was born in Santa Barbara. She was a high-school dropout. By her own testimony, she hung out with the wrong crowd. She married at a very young age and moved to Orange County with her husband. They had two children. Respondent is a past user of methamphetamine. She used methamphetamine from her late teenage years until 2001.

7. After her 2001 arrest, Respondent was convicted and spent a 150 days in jail. In jail, she obtained her General Education Degree and decided that she was going to change her life. She decided that she was never again going to see her children from behind bars. Upon her release from jail, Respondent began working for her family's towing company in Santa Barbara. After about eight months, her children came to live with her. She presently resides in Santa Barbara with her children and her new husband of two years. There are no drugs or alcohol in her home. She no longer even thinks about drugs.

8. Respondent has completely changed her life. She presently works for Sierra Property Management. Mr. Cohn's wife, Rebecca, is a salesperson at Sierra and finds Respondent to be a reliable employee and a devoted wife and mother. Respondent's counsel, Martin Cohn, is the broker at Sierra and he is willing to put his broker's license at risk by agreeing to supervise Respondent.

LEGAL CONCLUSIONS AND DISCUSSION

1. Cause exists to deny Respondent's application for a real estate salesperson license pursuant to Business and Profession Code section 480, subdivision (a).

Substantial Relationship

California Code of Regulations, title 10, section 2910, defines by regulation instances where acts are deemed to be substantially related to the qualifications, functions, or duties of a licensee. Under subdivision (a)(10), all of Respondent's convictions are substantially

related to the qualifications, functions, or duties of a real estate salesperson because they demonstrate a pattern of repeated and willful disregard of the law. Factual Findings 1-5.

2. Cause does exist to deny Respondent's application for a real estate salesperson license pursuant to Business and Professions Code section 10177, subdivision (b), based on Respondent's 1998 conviction.

Moral Turpitude

a. A criminal conviction can form the basis for denial of an application for a real estate salesperson's license if the crime is a felony or a crime involving moral turpitude. Business and Professions Code section 10177, subdivision (b). Respondent's 1998 felony conviction qualifies as a basis for denial of her application.

b. Although not amenable to a precise definition, "moral turpitude" connotes a readiness to do evil, an act of baseness, vileness or "depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." *People v. Forster* (1994) 29 Cal.App.4th 1746, 1757, quoting from *People v. Mansfield* (1988) 200 Cal.App.3d 82, 87.

c. Conviction of some crimes, such as murder and fraud, by their very nature, establishes moral turpitude per se. Other crimes do not necessarily establish moral turpitude per se; however, the particular circumstances of the underlying offense must be reviewed to determine if the conviction involved moral turpitude. See, *In re Kelley* (1990) 52 Cal.3d 487 and *Adams v. Commission on Judicial Performance* (1994) 8 Cal.4th 630.

d. In this case, Respondent has multiple convictions, all of which involved the use of illegal drugs. Respondent's actions were very dangerous and were done with complete disregard for the safety of the public or herself. Respondent is probably fortunate to be alive considering the extent of her drug use. Respondent was obviously not recognizing her problem at the time she committed the acts leading to her convictions. Respondent's actions, while inexcusable, were more like that of an out of control person, rather than those of a person with a readiness to do evil. Therefore, the evidence is not sufficient to support a finding of moral turpitude as to Respondent's non-felony convictions. Factual Findings 1-8.

3. Criteria have been developed by the Department pursuant to Business and Professions Code section 482, subdivision (a), of the for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding has been initiated on account of a crime committed by the licensee. These criteria, found at California Code of Regulations, title 10, section 2911, are summarized as follows:

Subsection(a) passage of at least two years since the conviction;
Subsection(b) restitution;
Subsection(c) expungement of the conviction;

Subsection(d) expungement of the requirement to register as an offender;
 Subsection(e) completion of the criminal probation;
 Subsection(f) abstinence from drugs or alcohol that contributed to the crime;
 Subsection(g) payment of any criminal fines or penalties;
 Subsection(h) stability of family life;
 Subsection(i) enrollment in or completion of educational or training courses;
 Subsection(j) discharge of debts to others;
 Subsection(k) correction of business practices causing injury;
 Subsection(l) significant involvement in community, church or private programs for social betterment;
 Subsection(m) new and different social and business relationships; and
 Subsection(n) change in attitude from the time of conviction to the present, evidenced by testimony of the applicant and others, including family members, friends or others familiar with his previous conduct and subsequent attitudes and behavior patterns.

4. Respondent has addressed, and satisfied, most of the criteria of rehabilitation. It has been four years since her last conviction. All of her convictions have been expunged. She has a new and stable family life. She has a new attitude and no longer uses drugs. Respondent is gainfully employed and Mr. Cohn, her attorney and a real estate broker, will supervise her. Respondent has shown sufficient rehabilitation to establish that a restricted license is appropriate. Factual Findings 1-8.

ORDER

Respondent Danielle Maria Holzer's 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 the 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 two 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:

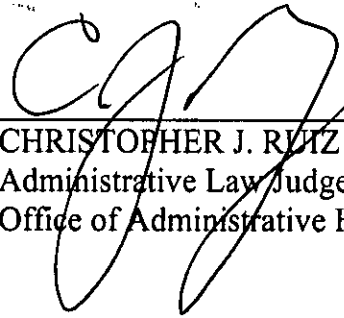
(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(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 salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: 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 two 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. 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: February 28, 2005.


CHRISTOPHER J. RUZ
Administrative Law Judge
Office of Administrative Hearings

Sacto Jan

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

FILED
NOV 17 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

DANIELLE MARIA HOLZER,

By *Lance B. Stone*

} Case No. H-31032 LA

} OAH No. L-2004080643

Respondent

**CONTINUED
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, 320 West Fourth Street, Suite 630, Los Angeles, California 90013 on **FEBRUARY 1, 2005**, at the hour of 1:30 p.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.

DEPARTMENT OF REAL ESTATE

Dated: November 16, 2004

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc Danielle Maria Holzer
Martin Cohn & Associates
Martin Cohn/SACTO/OAH

Sacto for

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

FILED
SEP 29 2004
DEPARTMENT OF REAL ESTATE

By *James B. Cohn*

In the Matter of the Application of

DANIELLE MARIA HOLZER,

} Case No. H-31032 LA

} OAH No. L-2004080643

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, 320 West Fourth Street, Suite 630, Los Angeles, California 90013 on **NOVEMBER 10, 2004**, at the hour of **10:00 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.

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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.

DEPARTMENT OF REAL ESTATE

Dated: September 29, 2004

By *CHRIS LEONG*
CHRIS LEONG, Counsel

cc: Danielle Maria Holzer
Martin Cohn & Associates
Martin Cohn/SACTO/OAH

facto fac

CHRIS LEONG, Counsel
State Bar No. 141079
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)

FILED
JUN 29 2004
DEPARTMENT OF REAL ESTATE

By Laura B. Chan

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
DANIELLE MARIA HOLZER,)	NO. H- 31032 LA
Respondent.)	<u>STATEMENT OF ISSUES</u>

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against DANIELLE MARIA HOLZER, aka Danielle Maria Bushnell, ("Respondent") 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 January 14, 2003, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Code Section 10153.4.

///

///

1
2 II

3 Complainant, Janice Waddell, a Deputy Real Estate
4 Commissioner of the State of California, makes this Statement of
5 Issues in her official capacity.

6 CONVICTIONS

7 III

8 On or about June 26, 1998, in the Municipal Court
9 Central Judicial District, County of Orange, State of California,
10 Case No. OR98CF1332, Respondent was convicted of violating
11 Section 11377(a) of the California Health and Safety Code (H&S)
12 (Possession of a controlled substance), a felony and, a crime
13 involving moral turpitude which is substantially related to the
14 qualifications, functions and duties of a real estate licensee.

15 IV

16 On or about October 14, 1999, in the Superior Court of
17 California, County of Orange, North Justice Center, State of
18 California, Case No. BP99NM04524 - B, Respondent was convicted of
19 violating Section 11550(A) H&S (Under the influence of a
20 controlled substance), a crime involving moral turpitude which is
21 substantially related to the qualifications, functions and duties
22 of a real estate licensee.

23 V

24 On or about February 6, 2001, in the Superior Court of
25 the State of California, County of Orange, Case No. 01NM01399MA,
26 Respondent was convicted of violating one count each of Section
27 529.3 of the California Penal Code (PC) (False impersonation),

1 and Section 11550(a) HS (Under the influence of controlled
2 substance), crimes involving moral turpitude which are
3 substantially related to the qualifications, functions and duties
4 of a real estate licensee.

5 VI

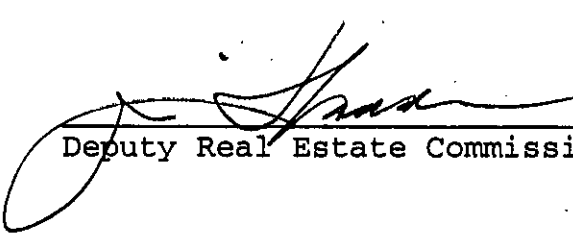
6 Respondent's convictions, as set forth above, are cause
7 to deny Respondent's real estate license application pursuant to
8 Code Sections 480(a) and 10177(b).

9 These proceedings are brought under the provisions of
10 Section 10100, Division 4 of the Business and Professions Code of
11 the State of California and Sections 11500 through 11528 of the
12 Government Code.

13 WHEREFORE, the Complainant prays that the above-
14 entitled matter be set for hearing and, upon proof of the charges
15 contained herein, that the Commissioner refuse to authorize the
16 issuance of, and deny the issuance of, a real estate salesperson
17 license to Respondent, DANIELLE MARIA HOLZER, and for such other
18 and further relief as may be proper in the premises.

19 Dated at Los Angeles, California

20 this 17 day of June, 2004.

21
22 
23 Deputy Real Estate Commissioner

24 cc: Danielle Maria Holzer
25 Martin Cohn
26 Janice Waddell
27 Sacto.
EE