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DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By *[Signature]*

* * * * *

In the Matter of the Accusation of)	No. H-32287 LA
))
JAMES LOUIS CRANE,	L-2005110574
))
))
Respondent.)
))

DECISION

The Proposed Decision dated April 25, 2006 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on JUN 15 2006.

IT IS SO ORDERED S-18-06

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JAMES LOUIS CRANE,

Respondent.

Case No. H-32287 LA

OAH No. L2005110574

PROPOSED DECISION

Administrative Law Judge David L. Benjamin, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California, on March 30, 2006.

Elliott MacLennan, Counsel, represented complainant Maria Suarez, Deputy Real Estate Commissioner, State of California.

Thomas B. Bleich, Attorney at Law, 9200 Sunset Boulevard, Los Angeles, California 90069, represented respondent James Louis Crane, who was present.

The matter was submitted on March 30, 2006.

FACTUAL FINDINGS

1. Respondent is presently licensed and/or has license rights as a real estate salesperson under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

2. On January 15, 2004, respondent was convicted on his plea of guilty of a violation of Health and Safety Code section 11378 (possession for sale of a controlled substance), a felony. Imposition of sentence was suspended subject to the conditions (among others) that respondent serve 134 days in jail, with credit for 90 days of actual custody and 44 days of good time/work time; pay fines, penalties, and costs; seek inpatient drug abuse counseling at the Van Ness House Treatment Center; submit to periodic drug-testing; abstain from the use of illegal drugs; and complete three years of formal probation.

The facts and circumstances leading to this conviction are that, on October 22, 2003, respondent was arrested for possession for sale of crystal methamphetamine, a controlled substance.

3. Respondent is 47 years old. He was born in Des Moines, Iowa, where he graduated from Catholic High School; he obtained a B.A. in secondary education from the University of Iowa in 1981. Respondent has been licensed as a salesperson since 2000.

Respondent testified that he is a drug addict, and he also has a history of alcohol abuse. He started using drugs when he was 38. Both of respondent's parents were alcoholics and died from the disease.

At the time of his arrest in 2003, respondent's drug of choice was "crystal meth." He had been using crystal meth for three years, and using it every day for two years; respondent stated, "I used to live, and I lived to use." Although respondent also drank alcohol, he did not abuse alcohol to the same extent because he enjoyed crystal meth, and crystal meth "makes you sober if you've been drinking." In 2003, respondent's addiction had progressed to the point that he stopped working and "hid out" in his house.

A drug dealer moved in with respondent in July or August 2003. At first, respondent thought it was "great," because he got free drugs. It then occurred to respondent that he could earn money to support his own habit – about \$80 per week – by selling drugs for his roommate. He sold crystal meth for about two months. In October 2003, a few days before he was arrested, one of respondent's friends told him, "I think you've got a drug problem." Respondent wrote to his roommate and told him to move out. As respondent drove up to his home on October 22, 2003, he could see that his roommate was still there and that the police were at his house. He kept driving, but the police saw him, followed him, and arrested him.

After completing his jail sentence, respondent entered the Van Ness House treatment center as an inpatient on January 17, 2004. The initial inpatient program lasts 90 days, but respondent stayed for 122 days. Respondent, like the other residents, went to intensive therapy three to ten hours per day, and performed required house duties and chores. Respondent also went to nine Alcoholics Anonymous or Crystal Meth Anonymous meetings per week, and called his sponsor every day. After 45 days in the program, residents are required to look for work unrelated to their prior occupations. Respondent took a job as a janitor at UCLA. After working as a janitor for three months, respondent went to work as a receptionist for a health spa, where he earned \$10 an hour. He held that job for about nine months.

In May 2004, respondent moved to a sober-living complex. Most residents stay in the complex for six months, but respondent chose to stay for ten months. He testified that he took the program seriously, and he was not in a hurry. Respondent continued to attend AA or CMA meetings every day. Respondent left Van Ness House in April 2005 and moved in with his boyfriend, who is also in recovery.

Since July 2005, respondent has been employed by Windermere Properties as a salesperson. Maureen Kathryn Shafer is a licensed real estate agent and one of the owners of the Los Angeles Windermere franchise; she testified on respondent's behalf. Shafer met respondent at a recruiting party for her company in July 2005. When respondent contacted

Shafer the next day to express his interest in the company, he told Shafer and her partner about his conviction. Shafer was impressed with respondent's sincerity. According to Shafer, respondent is in the office six days a week, and she sees him every day. His work performance is consistently great, he is a wonderful team member, and he is always available to help others.

R. Chadman Oliver used respondent as the listing agent on his property, and Charles A. Phillips worked with respondent to purchase a condominium. Both submitted letters praising respondent's professionalism, industry knowledge, and customer service.

4. Respondent continues to maintain his sobriety through AA and CMA. He is working the twelve steps for a second time; he is working step seven now. Respondent goes to five meetings per week, sometimes more; he states that meetings are a drug addict's medicine, and he has to take his medicine. Respondent has had one sponsor, Patrick Rush, for the past 18 months; respondent in turn sponsors six other men who have less than one year of sobriety. Respondent believes that "giving back" is part of recovery. He speaks at meetings, he serves as a greeter, and he is the secretary for his CMA group. Respondent has no contact with his former roommate. He states that, through his recovery, he has learned that "all you have to do is change everything about yourself."

In addition to participating in AA and CMA meetings, respondent is a volunteer bereavement counselor at L.A. Shanti, an HIV/AIDS agency in Los Angeles that serves 4,000 clients a year. Respondent answers the phones once a week. Sylvia Weisenberg, Volunteer Coordinator for L.A. Shanti, wrote a letter commending respondent for his work. Respondent also volunteers at Aid for AIDS. Vikki Krekler, the Special Events Coordinator for that organization, writes that respondent has assisted with many events and projects, and has made himself available to the organization on short notice; respondent has been a valued volunteer since 2004.

Respondent does not blame anyone else for his situation because, "if I did, I'd still be using drugs." He has tried to be honest with everyone, and he takes what happened seriously. Respondent recognizes that he abused the privileges of his real estate license. He feels that being sent to jail was the help that he had hoped for. Respondent is so proud of his recovery program that, at group meetings, he states his whole name. He intends to continue his path of recovery.

5. Respondent's testimony was as forthright and candid on matters that reflected unfavorably on him as it was on matters that cast him in a favorable light. His demeanor conveyed a sincere commitment to his recovery from drug addiction.

6. Patrick Rush, respondent's sponsor, testified on respondent's behalf. Rush is a vice-president of casting at Warner Brothers Television and a member of AA. He has been clean and sober since November 18, 1988. Rush met respondent two years ago, and has been his sponsor for 18 months.

Rush states that, of the many men he has sponsored in AA, respondent is a "rare exception" – respondent is "a winner." Rush tells all of the members he sponsors to take their service commitments to AA seriously, but, until he met respondent, he has never had to tell anyone to make *fewer* commitments: respondent has served as greeter, as secretary, as group leader, and as a convention organizer; he has been in charge of literature; he has organized fundraisers; and he has driven new members to meetings. Rush testified that the week of respondent's hearing in this case was typical of respondent's involvement in the program. Last Sunday, Rush stated, respondent attended a meeting; next weekend, respondent is in charge of the volunteers for a three-day CMA meeting. Respondent will also work and speak at the meeting. Rush states that respondent worked "all twelve steps better than me, and I had a good program." He feels that working the steps with respondent has been "joyous." Rush sees respondent once or twice a week, and talks to him three to four times per week. Rush would not hesitate to use respondent as a real estate agent, and would not hesitate to work with him on any level, personal or professional.

7. Respondent has served his jail time and paid all of the fines and fees that were imposed on him by his conviction. On September 29, 2005, respondent was placed on unsupervised probation. Respondent's probation officer, Felix Perez, submitted a letter on respondent's behalf. Perez states that he supervised respondent from May 27, 2004 until his probation was converted to unsupervised status. According to Perez, respondent was an "exceptional probationer" and was in full compliance with the court's orders and the direction of his probation officer. During the time that he was on supervised probation, respondent was tested for drugs once a month, and all his tests were clean. His three-year term of probation will end in eight months, in January 2007. Respondent hopes to be dismissed from probation at his next court date on September 6, 2006.

LEGAL CONCLUSIONS

1. Business and Professions Code section 490 provides that a license may be revoked if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the business or profession for which the license was issued. California Code of Regulations, title 10, section 2910, sets forth the criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. A crime is deemed to be substantially related if it involves "[d]oing any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another" (subd. (a)(8)).

2. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be revoked if the applicant has been convicted of a felony or a crime involving moral turpitude. Although section 10177, subdivision (b), does not contain the "substantially related" language, the law is clear that a conviction is not actionable under that

section unless it is substantially related to the qualifications, functions or duties of a real estate salesperson.¹

3. A violation of Health and Safety Code section 11378 (possession for sale of a controlled substance) is a felony and a crime of moral turpitude that is substantially related to the qualifications, functions or duties of a real estate licensee. Respondent's conviction of that offense constitutes cause to revoke his salesperson license under Business and Professions Code sections 490 and 10177, subdivision (b),

4. Respondent's conviction of possession for sale of crystal methamphetamine was serious, but he committed the crime when he himself was addicted to the drug. It has been over two years since his conviction and, in that time, respondent has sought treatment for his drug addiction and turned his life around. He is clean and sober. During the time that respondent was on formal probation, all of his drug tests were clean. Respondent has embraced a 12-step program without reservation, and his sponsor – himself in recovery for over 17 years – attests that respondent's work on the twelve steps has been serious and committed. Respondent does not associate with his former roommate. He attends at least five meetings per week of a 12-step organization, either AA or CMA, where he shares his experience to help himself and others; he is sponsoring six other men in their efforts to recover from drug abuse. Over the past two years, respondent has been recognized by two organizations for his volunteer efforts to help those affected by AIDS and HIV. Respondent blames no one but himself for his drug addiction and his illegal conduct. It is true that respondent's probation will not end for eight more months, and that less weight may be given to good conduct under the guidance of probation. In this case, however, it is apparent that respondent's recovery is the product of his own personal commitment. Given the promising beginning of respondent's recovery, the risk of relapse appears to be low; that risk can be managed under the increased supervision of a restricted license, with appropriate terms and conditions.

The evidence points strongly toward respondent's rehabilitation. It would not be contrary to the public interest to allow respondent to retain a restricted salesperson license.

ORDER

All licenses and licensing rights of respondent James Louis Crane under the Real Estate Law are revoked; provided, however, 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 the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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 that Code:

¹ *Brandt v. Fox* (1979) 90 Cal.App.3d 737.

1. The 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 or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall abstain completely from the use of methamphetamine and any other illegal drugs in any form.
6. During the term of any restricted license, respondent shall submit to the department as of the last day of each March, June, September, and December, proof satisfactory to the Real Estate Commissioner of respondent's ongoing participation in a recognized drug and alcohol diversion program. Said proof shall be submitted to the Manager of the Crisis Response Team at the Los Angeles Office of the Department of Real Estate and shall be verified as true and accurate by respondent under penalty of perjury.


The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500 et seq. of the Government Code, if such proof is not timely submitted as provided herein, or as provided for in a subsequent agreement between respondent and the Commissioner. The suspension shall remain in effect until such proof is

submitted or until respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

7. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: _____

April 25, 2006



DAVID L. BENJAMIN
Administrative Law Judge
Office of Administrative Hearings

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1 ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
2 320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105
3
4 Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED
NOV 1 2005
DEPARTMENT OF REAL ESTATE

By *Handwritten signature*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-32287 LA
12 JAMES LOUIS CRANE,) ACCUSATION
13 Respondent.)
14

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JAMES LOUIS CRANE, is informed and alleges in her
18 official capacity as follows:

19 1.

20 Respondent is presently licensed and/or has license
21 rights as a real estate salesperson under the Real Estate Law
22 (Part 1 of Division 4 of the California Business and Professions
23 Code) (Code).

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2.

1 Respondent was originally licensed by the Department of
2 Real Estate of the State California as a real estate salesperson
3 on September 9, 2000.
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3.

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6 On January 15, 2004, Superior Court of the State of
7 California, County of Los Angeles, in Case No. BA254599,
8 respondent was convicted by plea to one count of Health and
9 Safety Code Section 11358 (possession of controlled substance for
10 sale - methamphetamine/hydroxybutcric acid lactone - GHB), a
11 felony.
12

4.

13 This crime alleged in Paragraph 3 by its facts and
14 circumstances involves moral turpitude and is substantially
15 related under Section 2910(a)(8), Chapter 6, Title 10 of the
16 California Code of Regulations, to the qualifications, functions
17 or duties of a real estate licensee.
18

5.

19 The crime alleged in Paragraph 3, constitutes cause for
20 the suspension or revocation of the license and license rights of
21 respondent under Sections 490 and/or 10177(b) of the Code.
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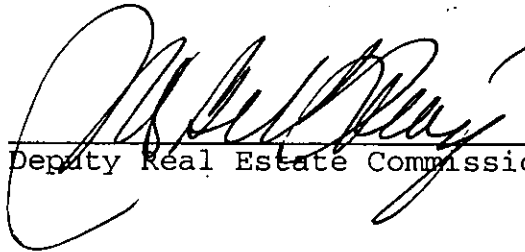
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof therof, a decision be rendered imposing disciplinary action
4 against the license and license rights of respondent JAMES LOUIS
5 CRANE under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provision of law.

8 Dated at Los Angeles, California

9 This

10th day of August 2005

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13 
14 Deputy Real Estate Commissioner
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23

24 cc: James Louis Crane
25 Janice Waddell
26 Sacto
27 GD