

PLAG

**FILED**

DEC 24 2009

DEPARTMENT OF REAL ESTATE

By [Signature]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of  
CLERVIL EMILE HERAUX,  
Respondent.

No. H-32493 LA

ORDER GRANTING UNRESTRICTED LICENSE

On April 5, 2006, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, 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 May 2, 2006, and Respondent has operated as a restricted licensee since that time.

On June 2, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

1                    NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
2 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to  
3 the following understanding and conditions:

4                    1.     The license issued pursuant to this order shall be deemed to be the first  
5 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions  
6 of Section 10153.4.

7                    2.     Within twelve (12) months from the date of this order Respondent shall:

8                    (a)    Submit a completed application and payment of the appropriate fee for a  
9 real estate salesperson license, and

10                   (b)    Submit evidence of having taken and successfully completed the courses  
11 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law  
12 for renewal of a real estate license.

13                   3.     Upon renewal of the license issued pursuant to this order, Respondent  
14 shall submit evidence of having taken and successfully completed the continuing education  
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate  
16 license.

17                   This Order shall become effective immediately.

18                   IT IS SO ORDERED     11-18-09

19  
20                   JEFF DAVI  
Real Estate Commissioner

21  
22                     
23  
24  
25  
26  
27



1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the  
2 issuance to me of an unrestricted real estate salesperson license.

3 I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and  
4 requests that the Real Estate Commissioner in his discretion issue a restricted real estate salesperson license  
5 to me under the authority of Section 10156.5 of the Business and Professions Code. I understand that any  
6 such restricted license will be issued subject to and be limited by Section 10153.4 of the Business and  
7 Professions Code.

8 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing and the  
9 opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an  
10 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate  
11 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a  
12 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

13 I further understand that the following conditions, limitations, and restrictions will attach to a  
14 restricted license issued by the Department of Real Estate pursuant hereto:

- 15 1. The license shall not confer any property right in the privileges to be exercised including the  
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right  
17 to exercise any privileges granted under this restricted license in the event of:
  - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a  
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
  - 20 b. The receipt of evidence that respondent has violated provisions of the California Real  
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or  
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the  
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license  
25 until two years have elapsed from the date of issuance of the restricted license to respondent.  
26  
27

1           3. With the application for license, or with the application for transfer to a new employing broker, I  
2           shall submit a statement signed by the prospective employing broker on a form approved by the  
3           Department of Real Estate wherein the employing broker shall certify as follows:

4           a. That broker has read the Statement of Issues which is the basis for the issuance of the  
5           restricted license; and

6           b. That broker will carefully review all transaction documents prepared by the restricted  
7           licensee and otherwise exercise close supervision over the licensee's performance of acts  
8           for which a license is required.

9           4. My restricted real estate salesperson license is issued subject to the requirements of Section  
10           10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months  
11           of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of  
12           successful completion, at an accredited institution, of a course in real estate practices and one of  
13           the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of  
14           real estate, advanced real estate finance, or advanced real estate appraisal. If I fail to timely  
15           present to the Department satisfactory evidence of successful completion of the two required  
16           courses, the restricted license shall be automatically suspended effective eighteen (18) months  
17           after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of  
18           the restricted license, I have submitted the required evidence of course completion and the  
19           Commissioner has given written notice to Respondent of the lifting of the suspension.

20           5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license  
21           under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall  
22           not be entitled to the issuance of another license which is subject to Section 10153.4 until four  
23           years after the date of the issuance of the preceding restricted license.

24           Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and  
25           Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax  
26           number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending  
27           to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received  
2 the original signed Stipulation and Waiver.

3 3/2/2006

4 Dated

CLeraux

CLERVIL EMILE HERAUX, Respondent

\*\*\*

5 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by  
6 respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and  
7 truthfulness of respondent need not be called and that it will not be inimical to the public interest to issue a  
8 restricted real estate salesperson license to respondent.

9 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to  
10 respondent CLERVIL EMILE HERAUX if respondent has otherwise fulfilled all of the statutory  
11 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in  
12 the foregoing Stipulation and Waiver.

13 This Order is effective immediately.

14 IT IS SO ORDERED 4-5-06

15 Jeff Davi  
16 Real Estate Commissioner  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27



1 application would be subject to the conditions of Section  
2 10153.4 of the California Business and Professions Code.

3 III

4 CRIMINAL CONVICTIONS

5 On or about September 17, 1997, in the Municipal Court  
6 of Long Beach, County of Los Angeles, State of California, Case  
7 No. 7LL01602, Respondent CLERVIL EMILE HERAUX was convicted of  
8 one (1) count of violating California Vehicle Code Section  
9 23152(A), driving under influence, a crime involving moral  
10 turpitude which is substantially related under Title 10, Chapter  
11 6, Section 2910, California Code of Regulations, to the  
12 qualifications, functions or duties of a real estate licensee.

13 IV

14 On or about December 17, 1997, in the Superior Court  
15 of California, County of Orange, Case No. 97NT2707, Respondent  
16 CLERVIL EMILE HERAUX was convicted of one (1) count of violating  
17 California Vehicle Code Section 14601.5, driving with suspended  
18 license, a crime involving moral turpitude which is  
19 substantially related under Title 10, Chapter 6, Section 2910,  
20 California Code of Regulations, to the qualifications, functions  
21 or duties of a real estate licensee.

22 V

23 On or about November 5, 2001, in the Superior Court of  
24 California, County of Orange, Case No. 01NM12052, Respondent  
25 CLERVIL EMILE HERAUX was convicted of one (1) count of violating  
26 California Vehicle Code Section 23152(A), driving under the  
27 influence, and one (1) count of violating California Vehicle

1 Code Section 23152(B), driving under the influence/blood alcohol.  
2 .08 or more, crimes involving moral turpitude which are  
3 substantially related under Title 10, Chapter 6, Section 2910,  
4 California Code of Regulations, to the qualifications, functions  
5 or duties of a real estate licensee.

6 VI

7 On or about February 26, 2003, in the Superior Court  
8 of California, County of Orange, Case No. 02NM01420, Respondent  
9 CLERVIL EMILE HERAUX was convicted of one (1) count of violating  
10 California Vehicle Code Section 14601.5, driving with suspended  
11 license, a crime involving moral turpitude which is  
12 substantially related under Title 10, Chapter 6, Section 2910,  
13 California Code of Regulations, to the qualifications, functions  
14 or duties of a real estate licensee.

15 VII

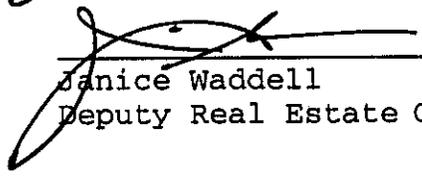
16 The crimes of which Respondent was convicted, as  
17 alleged herein above, constitute cause for denial of  
18 Respondent's application for a real estate license under Code  
19 Sections 475(a)(2), 480(a)(1) and/or 10177(b).

20 The Statement of Issues is brought under the  
21 provisions of Section 10100, Division 4 of the Business and  
22 Profession Code of the State of California and Sections 11500  
23 through 11528 of the Government Code.

24 WHEREFORE, Complainant prays that the above entitled  
25 matter be set for hearing and, upon proof of the charges  
26 contained herein, that the Commissioner refuse to authorize the  
27 issuance of, and deny the issuance of, a real estate salesperson

1 license to Respondent, CLERVIL EMILE HERAUX, and for such other  
2 and further relief as may be proper under other provisions of  
3 law.

4 Dated at Los Angeles, California  
5 this 6 day of February 2006.

6  
7   
8 \_\_\_\_\_  
9 Janice Waddell  
10 Deputy Real Estate Commissioner  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 cc: Clervil Emile Heraux  
27 Vanguard Income Properties, Inc.  
Janice Waddell  
Sacto.