

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. H 32847 LA

OAH No.:L2006060206

JOHANNA STRATTON ROMANIUK,

Respondent

PROPOSED DECISION

On August 7, 2006, in Los Angeles, California, Deborah Myers, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant, Maria Suarez, Deputy Real Estate Commissioner, Department of Real Estate (Department), was represented by Kelvin Lee, Staff Counsel.

Respondent, Johanna Stratton Romaniuk, (Respondent), appeared and was represented by James McIntosh, Attorney at Law.

Oral and documentary evidence was received. The record was held open until August 16, 2006 to allow the ALJ additional time to prepare the decision, and the record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Statement of Issues was made by Maria Suarez, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity.

Respondent applied for a real estate salesperson license subject to the provisions of Business and Professions Code section 10153.4. In response to Question no. 25, Respondent indicated that she had been convicted of a crime between 1998 and 1999. The Department denied her application and this matter ensued.

3. (A) On September 30, 1998, in the Superior Court of the State of California, County of Orange, West Justice Center, Case No.98WM09589, Respondent was convicted on her plea of nolo contendere of one count of violating Penal Code section 148.9, (false representation of identity to a police officer) a misdemeanor.

(B) Respondent was given a suspended sentence, placed on three years summary probation and ordered to pay fines in the sum of \$540.00. Respondent complied with all the terms and conditions of her probation, and on July 11, 2006, Respondent's conviction was expunged pursuant to Penal Code section 1203.4.

(C) The facts and circumstances underlying the conviction are that Respondent, at age 18, attended her friend Diane's party. The police arrived at the house while Diane was not home. Respondent responded to peer pressure and falsely told the officers she was Diane, who lived in the home. The true Diane returned to the home moments later, and Respondent was arrested.

4. Respondent is almost 27 years old. She presented herself as articulate, intelligent and well-organized. Respondent described herself as rebellious at age 18, during her parents' divorce. Respondent did not realize the magnitude and consequences of her false statement to the officer when she made it. Her intention was to prolong the party and protect her friend.

5. In 2002, Respondent graduated from the University of California, Santa Barbara with a Bachelor Degree in Global Socioeconomics and Politics. Two professors that Respondent worked for wrote a letter in support of Respondent's licensure.

6. Respondent took real estate courses and passed the February 2005 real estate exam. She did not yet pass the courses required by Business and Professions Code section 10153.4.

7. Respondent married in May 2004 and had a daughter in January 2006. Respondent and her husband have full custody of his 16 year old son. Respondent wants a real estate license to help her husband, a real estate salesperson. She attends the St. Andrews Ukrainian Orthodox Church.

8. Respondent filed an application for appointment as a notary public on February 5, 2004. Her notary application was denied on in a default decision effective May 6, 2005. The Decision reasoned that her 1998 conviction involved moral turpitude or was of a nature incompatible with the duties of a notary public; and that 10 years had not passed since the completion of probation for her misdemeanor conviction, as required by the notary public guidelines.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists for the denial of Respondent's application pursuant to Business and Professions Code sections 475, subdivision (a)(2), 480, subdivision (a)(1), and 10177, subdivision (b), for conviction of a crime substantially related to the qualifications, functions and duties of a licensee, as set forth in Findings 3(A) through (C), inclusive and Legal Conclusion 3.
2. Cause exists for the denial of Respondent's application pursuant to Business and Professions Code section 10177, subdivision (b), for conviction of a crime involving moral turpitude, as set forth in Findings 3 (A) through (C), inclusive.
3. Cause exists for the denial of Respondent's application pursuant to Business and Professions Code 10177 (f), for having a Notary Public License application denied by the Secretary of State, as set forth in Finding 8.
4. Respondent's conviction is a misdemeanor which is substantially related to the qualifications, functions and duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (4). Respondent uttered a falsehood to achieve an end. The conviction involved moral turpitude.
5. Respondent has met many of the Department's criteria for rehabilitation set forth in California Code of Regulations, title 10, section 2911. Her conviction is eight years old, remote in time, and more than two years have passed since that conviction. (Subd.(a).) She paid her monetary fines, successfully completed probation and her conviction was expunged. (Subds. (c), (e), (g).) Respondent has created a stable family life and fulfilled her parental and familial responsibilities. (Subd. (h).) She completed formal educational and vocational training courses for self-improvement. (Subd. (i).) Respondent has significant and conscientious involvement in her church. (Subd. (l).) Respondent has new and different social and business relationships from the time she committed her crime. (Subd. (m).) She evinced a change in attitude and assumed considerable responsibilities. (Subd. (n).)

In light of the above, the public interest should be adequately protected by the issuance of a properly conditioned restricted license.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:


Respondent's application for a real estate salesperson's license is denied; provided, however, a restricted real estate salesperson's license shall be issued to the Respondent pursuant to section 10165.5 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 the 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 Land 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 license revoked herein, 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 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 issuance of the license revoked herein. 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: September 15, 2006


DEBORAH MYERS
Administrative Law Judge
Office of Administrative Hearings

Sachs

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FILED
MAY 12 2008
DEPARTMENT OF REAL ESTATE

by Lina B. Orona

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-32847 LA
)	
JOHANNA LOUISE ROMANIUK,)	
)	<u>STATEMENT OF ISSUES</u>
)	
)	
Respondent.)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against JOHANNA LOUISE ROMANIUK, ("Respondent"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues against Respondent in her official capacity.

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1 2.

2 Respondent made application to the Department of Real
3 Estate of the State of California for a real estate salesperson
4 license on or about May 10, 2005.

5 3.

6 FIRST CAUSE FOR DENIAL

7 (CRIMINAL CONVICTIONS).....

8 On or about September 30, 1998, in the Superior Court
9 of the State of California, County of Orange, in Case No.
10 98WM09589 M A, Respondent JOHANNA LOUISE ROMANIUK, was convicted
11 of one (1) count of violating Section 148.9 of the California
12 Penal Code, (Falsely Representing Onself to a Peace Officer).
13 This is a crime that involves moral turpitude and is
14 substantially related under Title 10, Chapter 6, Section 2910,
15 California Code of Regulations, to the qualifications, functions
16 or duties of a real estate licensee.

17 4.

18 The crime for which Respondent was convicted, as
19 described in Paragraph 3, constitutes cause for denial of
20 Respondent's application for a real estate license under Code
21 Sections 475(a)(2), 480(a)(1) and/or 10177(b).

22 5.

23 In aggravation of the above, on or about January 14,
24 1998, in the Superior Court of the State of California, County
25 of Orange, in Case No. 98HM00240 M A, respondent JOHANNA LOUISE
26 ROMANIUK, was convicted of one (1) count of violating Section
27 23152(a) of the California Vehicle Code, (Driving With a Blood

1 Alcohol Level of 0.08 Percent or Greater) This is a crime that
2 involves moral turpitude and is substantially related under
3 Title 10, Chapter 6, Section 2910, California Code of
4 Regulations, to the qualifications, functions or duties of a
5 real estate licensee.

6 SECOND CAUSE FOR DENIAL

7 DENIAL OF PRIOR APPLICATION FOR OCCUPATIONAL LICENSE

8 6.

9 On or around April 6, 2005, Alicia M. Stewart, Manager
10 of the Notary Public and Special Filings Section of the State of
11 California, Office of the Secretary of State, effectively denied
12 the application of the respondent, dated February 6, 2004 for
13 appointment as a public notary. Said denial was based, in part,
14 on the following conclusions of law:

15 a. Respondent violated Section 8214.1(b) of the
16 Government Code, based on her conviction as described in
17 Paragraph 3.

18 b. This is considered a conviction for a lesser
19 offense involving mortal turpitude or of a nature
20 incompatible with the duties of a notary public.

21 c. The Secretary of State's Notary Public
22 Disciplinary Guidelines require that at least ten (10)
23 years pass since the completion of probation for this
24 misdemeanor conviction before the Respondent be considered
25 eligible for appointment as a notary public.

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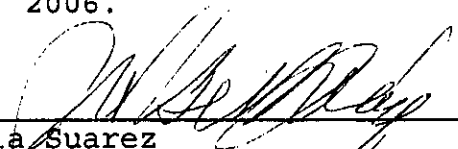
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1 The denial of respondent's application for appointment
2 as a notary public by the Secretary of State, Notary Public and
3 Special Filing Section, as described in Paragraph 6, constitutes
4 cause under Section 10177(f) of the Code for the denial of all
5 license and license rights of Respondent under the real estate
6 law.

7 This Statement of Issues is brought under the
8 provisions of Section 10100, Division 4 of the Business and
9 Profession Code of the State of California and Sections 11500
10 through 11528 of the Government Code.

11 WHEREFORE, Complainant prays that the above entitled
12 matter be set for hearing and, upon proof of the charges
13 contained herein, that the Commissioner refuse to authorize the
14 issuance of, and deny the issuance of, a real estate salesperson
15 license to Respondent, JOHANNA LOUISE ROMANIUK, and for such
16 other and further relief as may be proper under other provisions
17 of law.

18 Dated at Los Angeles, California
19 this 28th day of April, 2006.

20
21 
22 Maria Suarez
Deputy Real Estate Commissioner

23 Cc: JOHANNA LOUISE ROMANIUK
24 Campbell Realtors/Patrice E. Costanzo
25 Maria Suarez
26 Sacto.
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