



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

ANNIE C. LIN

Respondent.

Case No. H-36729 LA

OAH No. 2010090035

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on October 11, 2010.

Lisette Garcia, Staff Counsel, represented Maria Suarez (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Annie C. Lin, aka Annie Lin and Chia Li Lin (Respondent) represented herself and was present throughout the hearing.

Oral and documentary evidence was received, and the matter argued.

The case was submitted for decision on October 11, 2010.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in this proceeding in her official capacity.
2. On June 22, 2009, Respondent applied to the Department of Real Estate of the State of California, for a real estate salesperson license.

3. On September 11, 2006, in the California Superior Court, County of Orange, in case number 06HM06578MA, Respondent, upon her nolo contendere plea, was convicted of violating Penal Code section 459-460, subdivision (b), second degree commercial burglary, a misdemeanor. The court suspended imposition of sentence and placed Respondent on informal probation for a period of one year, subject to certain terms and conditions including serving two days in the county jail with credit for time served, completion of twenty hours of community service, and payment of \$150.50 in fines and fees. Respondent completed the community service and paid the fine and fees. On November 19, 2007, the court expunged Respondent's conviction pursuant to Penal Code section 1203.4.

4. The facts and circumstances surrounding Respondent's conviction are as follows: Respondent's boyfriend, at that time, had worked for an auto parts store. His employment had been terminated and he had been told not to return to the store. On the day in question, Respondent and her boyfriend went back to the store for some things the boy friend wanted. Respondent went into the store first and then was joined by her boyfriend when it was determined that a particular store employee was not present. Each began filling a shopping cart with merchandise. The boyfriend left the store with his cart without paying for the merchandise in his cart. Respondent paid for a few of the items she had selected and then left the store with a number of items for which she had not paid. Unknown to Respondent and her boyfriend, their activities had been monitored by store employees and deputy sheriffs who had been called to the scene. They were arrested outside the store.

5. Respondent was 21 years old at the time of the events leading to her criminal conviction. She had been with her boyfriend for one and one-half years. She has not seen him since 2007. Presently, Respondent is engaged to another person.

6. Respondent acknowledges that there is no justification or excuse for her actions. She has great regret for what occurred. She stated that the events leading to her conviction occurred at a time when she was estranged from her family and friends. She has restored those relationships. She is working to deserve a second chance.

7. Following her conviction, Respondent worked up to three jobs at one time while continuing her college education. In December 2006, she received a Bachelor's degree in Management Science from the University of California San Diego.

8. Respondent is now enrolled in her first year of law school.

9. Respondent currently has a restricted license as a life and health agent from the California Department of Insurance. She has actively used the license. No actions have been filed against her restricted license.

10. A real estate broker who has been licensed for 30 years and has known Respondent's family for five years and Respondent for three and one-half years testified

on her behalf. He stated that Respondent is a very smart, compassionate and excellent person. He is aware of her criminal conviction and it does not make any difference in his opinion of her.

### LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. Respondent's criminal conviction set forth in Factual Findings 3 and 4 is substantially related to the qualifications, functions and duties of a licensee of the Department as more fully described in the California Code of Regulations, title 10, section 2910, subdivision (a) (8), in that it involved doing an unlawful act with the intent of conferring a financial or economic benefit upon Respondent.

3. Pursuant to Business and Professions Code sections 475, subdivision (a) (2); 480, subdivision (a), and 10177, subdivision (b), cause exists to deny Respondent's application for a real estate license, in that Respondent has been convicted of the crime set forth in Factual Findings 3 and 4 that is substantially related to the qualifications, functions and duties of a licensee of the Department.

5. The Department's Criteria of Rehabilitation, set forth in California Code of Regulations, title 10, section 2911, provide the factors to be considered in evaluating the rehabilitation of an applicant for a license issued by the Department. Under the criteria, two years are required to have elapsed since Respondent's criminal conviction. In this case, it has been more than four years since Respondent's criminal conviction. Respondent has presented substantial evidence of her rehabilitation. Respondent has complied with all the terms and conditions imposed by the court. Her criminal conviction has been expunged. She is actively enrolled in formal education attending law school. She no longer sees her old boyfriend and has gone on to create new relationships with her fiancé and family. She was candid and direct in her testimony. Under these circumstances, a restricted license is consistent with the protection of the public.

### ORDER

Respondent'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.

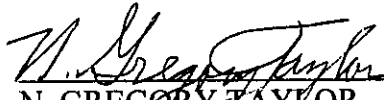
4. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion; at an accredited institution, of a course in real estate practices and one 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.

Not Adopted

Not  
Adopted

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: November 8, 2010.

  
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N. GREGORY TAYLOR  
Administrative Law Judge  
Office of Administrative Hearings





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WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, ANNIE C. LIN, and for such other and further relief as may be proper under the applicable provisions of law.

Dated at Los Angeles, California  
this 14<sup>th</sup> day of July, 2010.

  
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MARIA SUAREZ  
Deputy Real Estate Commissioner

cc: Annie C. Lin  
James Lih Hou  
Maria Suarez  
Sacto.