

FILED
AUG 30 1999
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

By C-3

In the Matter of the Accusation of)
)
)
 LANETTE PEARY,)
)
)
 Respondent.)
_____)

No. H-27939 LA
L-1998120148

DECISION

The Proposed Decision dated August 6, 1999, 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 September 21, 1999.

IT IS SO ORDERED August 20, 1999

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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

In the Matter of the Accusation)	
Against:)	Case No. H-27939 LA
)	OAH No. L-1998120148
LANETTE PEARY,)	
)	
)	
Respondent.)	

PROPOSED DECISION

This matter came on regularly for hearing before W.F. Byrnes, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on May 28, 1999. Darlene Averetta, Counsel, represented the complainant. The respondent appeared personally and was represented by Samuel Ogbogre, Attorney at Law. Evidence was received, and the record was held open to allow respondent to submit court records. Those records (Exhibit A) were received on July 9, 1999, and the matter was then submitted. The Administrative Law Judge finds the following facts:

I

Thomas McCrady made the Accusation in his official capacity as a Deputy Real Estate Commissioner.

II

Respondent was originally licensed by the Department of Real Estate as a real estate salesperson on September 20, 1993. At all times material herein, respondent was licensed by the Department under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code.

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III

A. On December 8, 1997, in the Los Angeles Superior Court, respondent was convicted on her plea of guilty of violating Welfare and Institutions Code section 10980(c)(2) (obtaining aid by misrepresentation in 1994 and 1995), a misdemeanor which bears a substantial relationship to the qualifications, functions, and duties of a real estate licensee. Imposition of sentence was suspended and respondent was placed on three years probation upon conditions, *inter alia*, that she pay \$100.00 restitution fine and cooperate with the Probation Officer in a plan for 50 hours community service (respondent had already made full restitution to the Department of Public Social Services). The court indicated that it would consider early termination of probation if respondent completed the community service and paid the restitution fine.

B. On November 23, 1998, respondent having shown proof of completion of all community service and payment of all restitution, the court terminated her probation pursuant to Penal Code section 1203.3 and ordered the plea of guilty set aside, a plea of not guilty entered, and the case dismissed pursuant to Penal Code section 1203.4.

IV

Respondent's conviction was a result of her taking AFDC payments to which she was not entitled, because she needed money to care for her three children. She has never been in trouble with the law before or since, and she is extremely remorseful that she allowed herself to transgress this one time. As noted above, she made full restitution before it came to court. Her employing broker testified at the hearing that respondent is exceptionally dependable and of high character such that he would have no reservations about placing her in a position of trust.

* * * * *

Pursuant to the foregoing findings of fact, the following is the legal basis for the decision:

I

Cause exists for license discipline against respondent pursuant to Business and Professions Code sections 490 and 10177(b), by reason of Finding III.

II

Upon consideration of all of the facts and circumstances herein, including observation of respondent's demeanor and comportment at the hearing, it would be consistent with the public interest to allow her to retain a restricted license.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent Lanette Peary 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 therefore and pays to the Department of Real Estate 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 follow limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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 to 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 nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has 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, 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 of 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 the 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: 8-6-99



W.F. BYRNES
Administrative Law Judge
Office of Administrative Hearings

WFB:lp

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 LANETTE PEARY,)
)
)
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 Respondent (s)

Case No. H-27939 LA
OAH No. L-1998120148

FILED
MAY 17 1999

DEPARTMENT OF REAL ESTATE
AMENDED NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By C.B.

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, CA 90013-1105 on FRIDAY, MAY 28, 1999, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation 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.

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: May 17, 1999

By Darlene Averetta
DARLENE AVERETTA, Counsel

cc: Lanette Peary
Broman Investments, Inc.
Samuel Ogbogu, Esq.
Sacto.
OAH

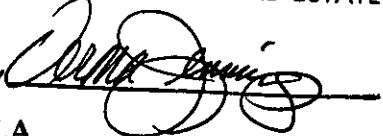
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
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DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation of)
)
LANETTE PEARY,)
)
Respondent.)

By 

Case No. H-27939 LA
OAH No. L-1998120148

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on January 27, 1999, at the hour of 1:30 p.m., or as soon thereafter as the matter can be heard, upon the Accusation 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.

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.

Dated: December 24, 1998.

DEPARTMENT OF REAL ESTATE

cc: Lanette Peary
Broman Investments, Inc.
Sacto.
OAH

By: 
DARLENE AVERETTA, Counsel

