

FILED
APR 14 2008
DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28777 LA
)
ELIZABETH GARCIA,)
)
Respondent.)
)

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 21, 2001, a Decision was rendered herein
revoking Respondent's real estate salesperson license.

On June 8, 2005, Respondent petitioned for
reinstatement of said real estate salesperson license, and
the Attorney General of the State of California has been
given notice of the filing of said petition.

I have considered the petition of Respondent and
the evidence and arguments in support thereof. Respondent
has demonstrated to my satisfaction that Respondent meets
the requirements of law for the issuance to Respondent of an

1 unrestricted real estate salesperson license and that it would
2 not be against the public interest to issue said license to
3 Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that a real estate
6 salesperson license be issued to Respondent if Respondent
7 satisfies the following conditions within twelve (12) months
8 from the date of this Order:

- 9
- 10 1. Respondent shall take and pass the real estate
11 salesperson license examination.
 - 12 2. Respondent shall submit a completed application
13 and payment of the fee for a real estate salesperson license.

14 This Order shall become effective immediately.

15 DATED: _____

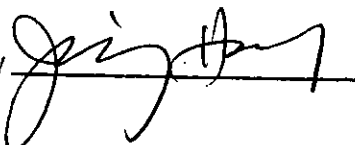
16 3/12/08
17 JEFF DAVI
18 Real Estate Commissioner
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FILED
MAR 30 2001

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Accusation of)
ELIZABETH GARCIA,)
Respondent.)

No. H-28777 LA
L-2000100509

DECISION

The Proposed Decision dated March 2, 2001, 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.

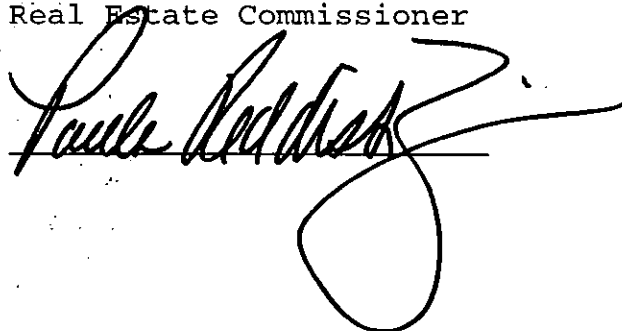
The Decision suspends or revokes one or more real estate licenses on grounds of knowingly making a false statement of fact required to be revealed in an application for license.

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 April 19, 2001

IT IS SO ORDERED March 21, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ELIZABETH GARCIA,

Respondent.

Case No. H-2877 LA

OAH No. 2000100509

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on February 15, 2001.

Martha Rosett, Counsel, represented the complainant.

Respondent appeared in person and represented herself.

Oral and documentary evidence and evidence by way of stipulation and official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, determines, and orders as follows:

FACTUAL FINDINGS

PARTIES AND JURISDICTION

1

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in his official capacity.

On or about August 9, 1999, Respondent, pursuant to the provisions of § 10153.3 of the Business and Professions Code (hereinafter "Code"), made application to the Department of Real Estate of the State of California ("Department") for a real estate salesperson license, with the knowledge and understanding that said application would be subject to the terms of Code § 10153.4.

These proceedings are brought under the provisions of § 10100, Division 4 of the Business and Professions Code of the State of California and §§ 11500 through 11528 of the Government Code. All prehearing jurisdictional requirements have been met. Jurisdiction for this proceeding does exist.

**FINDINGS
RE
ACCUSATION**

On or about August 17, 1993, in the Los Angeles County Municipal Court, Downey Judicial District, Respondent was convicted on her plea of nolo contendere to two counts of violating Penal Code Section 476(A) (passing counterfeit notes). This is a crime of moral turpitude substantially related to the qualifications, functions and duties of a real estate licensee. Respondent was sentenced to three years probation, ordered to pay a fine of \$2,205 (due in monthly installments) and to perform 200 hours of community services.

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?," Respondent marked the box, "No." Relying on the representations made in this application, the Department issued Respondent a real estate salesperson license on or about September 4, 1999.

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The crime occurred approximately eight years ago and is, *per se*, remote. Certain of the circumstances of the crime-purchasing goods from retail merchants by writing checks against a closed account-involves dishonest conduct. The passage of time from that conduct is, *per se*, rehabilitative. However, the conduct set forth in Finding 5-failure to disclose the conviction despite the clear command to do so in the application-is dishonest conduct. That dishonest conduct is recent. That recent act demonstrates a lack of integrity and trustworthiness.

LEGAL CONCLUSIONS

1

Respondent's failure to reveal the criminal matters set forth in Finding 4, in said application, constitutes the procurement of a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in said application. Said conduct is cause for suspension or revocation of respondent's real estate salesperson license pursuant to *Business and Professions Code §§ 498 and 10177(a) and 10177(a)*.

2

The objective of an administrative proceeding relating to discipline, if any, is to protect the public; to determine whether a license holder has exercised her privilege in derogation of the public interest. Such proceedings are not for the primary purpose of punishment: *Fahmy v. MBC* (1995) 38 Cal.App. 4th 810, 817; *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng.Rep. 1385. Certain of that public interest is set forth in the rationale of *Harrington v. Department of Real Estate 214 Ca. App. 3rd 394*.

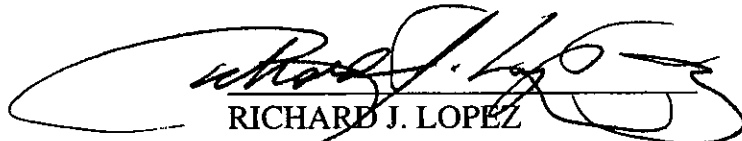
... Furthermore, appellant's lack of candor in completing his license application is itself sufficient to sustain a finding that appellant does not yet appreciate the need to speak honestly about and to accept responsibility for one's actions. As the ALJ accurately noted, "One's character trait for honesty and integrity is an important qualification to be a real estate salesperson inasmuch as clients rely on the licensee's integrity in representing them, disclosing important facts about the properties he is privy to and holding monies in a fiduciary capacity." The public exposing itself to a real estate licensee has reason to believe the licensee must have demonstrated a degree of honesty and integrity in order to have obtained a license. (*Golde v. Fox, supra, 98 Cal.Ap.3rd at p. 178.*) Neither the trial court nor the ALJ abused its discretion in concluding appellant failed to demonstrate successful rehabilitation. . .

The order which follows is consistent with that rationale and with the public interest.

ORDER

All licenses and license rights of Respondent Elizabeth Garcia, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), are hereby revoked.

Dated: 2 March 2001



RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:lp

SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 ELIZABETH GARCIA,)
)
 _____)
 Respondent (s)

Case No. H-28777 LA
OAH No. L-2000100509

FILED
JAN - 4 2001
DEPARTMENT OF REAL ESTATE

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent (s):

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 THURSDAY, FEBRUARY 15, 2001, 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: January 4, 2001

By 
MARTHA J. ROSETT, Counsel

cc: Elizabeth Garcia
v Sacto.
OAH

*Sacto
slay*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
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DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation)

Case No. H-28777 LA)

OAH No. L-2000100509)

ELIZABETH GARCIA,)

Respondent(s).)

By *Janice B. Orone*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

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, 6th Floor, Suite 630, Los Angeles, California, on DECEMBER 28, 2000, 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: November 6, 2000

DEPARTMENT OF REAL ESTATE

By: *Martha J. Rosett*
MARTHA J. ROSETT, Counsel

cc: Elizabeth Garcia
Sacto.
OAH

RE Form 501 (Rev. 8-97)

MJR:ibo

SAC

1 MARTHA J. ROSA, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth Street, #350
4 Los Angeles, CA 90013
5
6 (213) 576-6982
7 (213) 576-6914

FILED
SEP 25 2000
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H- 28777 LA
12 ELIZABETH GARCIA,)
13 Respondent.)
14 _____)
ACCUSATION

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of
17 Accusation against ELIZABETH GARCIA (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 in his official capacity.

23 II

24 On or about August 9, 1999, Respondent, pursuant to
25 the provisions of Section 10153.3 of the Business and
26 Professions Code (hereinafter "Code"), made application to the
27 Department of Real Estate of the State of California
("Department") for a real estate salesperson license, with the

1 knowledge and understanding that said application would be
2 subject to the terms of Code Section 10153.4.

3 III

4 In response to Question 25 of said application, to
5 wit: "Have you ever been convicted of any violation of law?"
6 Respondent marked the box, "No." Relying on the
7 representations made in this application, the Department issued
8 Respondent a real estate salesperson license on or about
9 September 4, 1999.

10 IV

11 On or about August 17, 1993, in the Los Angeles
12 County Municipal Court, Downey Judicial District, Respondent
13 was convicted on her plea of nolo contendere to two counts of
14 violating Penal Code Section 476(A) (passing counterfeit
15 notes). This is a crime of moral turpitude substantially
16 related to the qualifications, functions and duties of a real
17 estate licensee. Respondent was sentenced to three years
18 probation, ordered to pay a fine of \$2,205 (due in monthly
19 installments) and to perform 200 hours of community service.

20 V

21 Respondent's failure to accurately reveal the
22 conviction set forth in Paragraph IV above in her application
23 for a real estate license constitutes the procurement of a real
24 estate license by fraud, misrepresentation, deceit, or by
25 making a material misstatement of fact and omitting material
26 facts in said application, which procurement is cause for
27 suspension, revocation or other restriction of Respondent's



1
2 license and/or license rights under Sections 498 and 10177(a)
3 of the Code.

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and license rights of Respondent,
8 ELIZABETH GARCIA, under the Real estate Law (Part 1 of
9 Division 4 of the Business and Professions Code), and for such
10 other and further relief as may be proper under other
11 applicable provisions of law.

12 Dated at Los Angeles, California
13 this 25th day of September, 2000.

14
15 THOMAS MCCRADY
16 Deputy Real Estate Commissioner
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18
19
20
21
22
23
24
25

26 cc: Elizabeth Garcia
27 Thomas McCrady
Sacto.
LF