

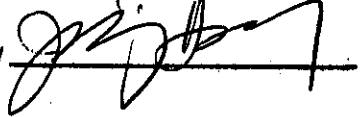
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FILED
SEP 27 2002

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Application of)
)
)
MYRNA G. CASTRO,)
)
)
)
Respondent.)
_____)

No. H-29488 LA
L-2002050710

DECISION

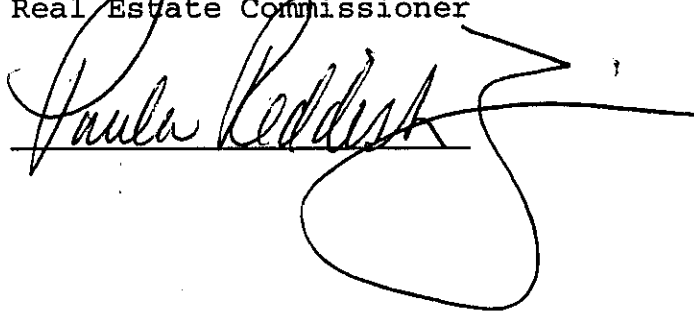
The Proposed Decision dated August 27, 2002 of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on October 17, 2002

IT IS SO ORDERED September 25, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
MYRNA G. CASTRO,
Respondent.

Case No. H-29488 LA
OAH No. L2002050710

PROPOSED DECISION

On August 5, 2002, in Los Angeles, California, Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Mary E. Work, Counsel, represented the Complainant.

Respondent Myrna G. Castro did not appear for the hearing in this matter.

On August 5, 2002, the record closed and the matter was deemed submitted.

FACTUAL FINDINGS

1. Complainant Maria Suarez ("complainant"), in her capacity of Deputy Real Estate Commissioner, Department of Real Estate, State of California ("the Department") made and filed the statement of issues against respondent Myrna G. Castro.
2. Upon a determination that the statement of issues and notice of hearing had been properly served in accordance with Government Code sections 11504, 11504.5, 11505 and 11509, the matter proceeded as a default hearing under Government Code section 11520.
3. On December 10, 2001, the Department received an application for licensure as signed by respondent Myrna G. Castro ("respondent"). Respondent made application for a real estate salesperson license. Respondent had signed the application for licensure on December 5, 2001, under a certification that the statements and answers in the application were true and correct.

The application remains pending as the Department has refused to issue a license to respondent due to her past acts and omissions that appear to disqualify her for licensure as a real estate salesperson.

History of Criminal Convictions

4. On November 8, 1995, the Municipal Court of California, County of Los Angeles, Van Nuys Judicial District, convicted respondent, on her plea of nolo contendere, of violating California Penal Code section 484e (Petty Theft—Acquired Credit Card Without Consent), a misdemeanor.

The offense of petty theft involves moral turpitude and is substantially related to the qualifications, functions or duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910).

5. The facts and circumstances of respondent's acts, which led to her conviction in November 1995, are described in a criminal complaint, dated September 29, 1995, as prepared by Office of City Attorney, County of Los Angeles.

The complaint shows that on September 13, 1995, respondent willfully and unlawfully acquired the credit card of Heather Hiltermann as issued by the Broadway Store without the consent of either the cardholder or the card issuer, and that respondent acquired the card with the intent to use, sell or transfer the card to a person other than the cardholder or card issuer.

6. As a result of the November 1995 conviction, the court suspended sentencing, placed respondent on summary probation under terms and conditions of probation. The court set the term of probation for 24 months. The court required that respondent pay a fee of \$100 to the California victims' restitution fund. Moreover, the court commanded respondent obey all laws.

7. On August 12, 1996, the Municipal Court of California, County of Los Angeles, Van Nuys Judicial District, convicted respondent, on her plea of nolo contendere, of violating California Penal Code section 484, subdivision (a) (Petty Theft), a misdemeanor.

The offense of petty theft involves moral turpitude and is substantially related to the qualifications, functions or duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910).

8. The facts and circumstances of respondent's acts, which led to her conviction in August 1996, are described in a criminal complaint, dated July 16, 1996, as prepared by Office of City Attorney, County of Los Angeles.

The complaint shows that on July 2, 1996, respondent stole merchandise of Sav-On Store that had a value of less than \$400. The store merchandise that respondent attempted to shoplift consisted of sunglasses, a hair dryer and cosmetics.

9. As a result of the August 1996 conviction, the court suspended sentencing and placed respondent on summary probation under terms and conditions of probation. The court set the term of probation for 24 months. The court required that respondent pay a fee of \$100 to the California victims' restitution fund. Moreover, the court commanded respondent to stay away from the premises of Sav-On Store.

Adverse Inference Due to Failure to Appear for Administrative Adjudication Hearing

10. In that respondent failed to appear at the hearing of this matter, no evidence in mitigation or rehabilitation is available. Hence, no basis exists to consider respondent's rehabilitation following her recent criminal conviction.

LEGAL CONCLUSIONS

Business and Professions Code section 490 provides that the Commissioner may suspend or revoke a license on the ground that the licensee has "been convicted of a crime ... (that) ... is substantially related to the qualifications, functions or duties of the business ... for which the license was issued...."


Business and Professions Code section 10177, subdivision (b) establishes that the Commissioner may suspend or revoke a license to a real estate licensee who has "been convicted of a felony, or a crime involving moral turpitude."

Cause to suspend or revoke respondent's license as a real estate salesperson exists under Business and Professions Code sections 490 and 10177, subdivision (b), by reason of the matters set forth in Factual Findings 4 and 7.

ORDER

The application of respondent Myrna G. Castro for a real estate salesperson license is denied.

DATED: August 27, 2002


PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

SACTO

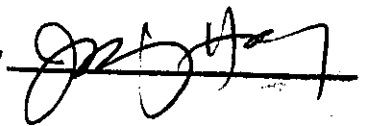
BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-29488 LA
)
) MYRNA G. CASTRO,) OAH No. L-2002050710
)
)
 _____)
 Respondent(s)

FILED
JUN 06 2002

DEPARTMENT OF REAL ESTATE

By 

NOTICE OF HEARING ON APPLICATION

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 MONDAY, AUGUST 5, 2002, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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

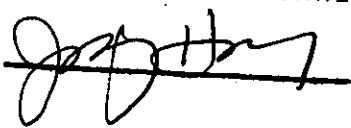
Dated: June 6, 2002

By 
MARY E. WORK, Counsel

cc: Myrna G. Castro
 ✓ Sacto.
 OAH

SMT

1 MARY E. WORK, Counsel
SBN 175887
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone (213) 576-6982
-Direct- (213) 576-6916
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7
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FILED
MAY 14 2002
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Application of) No. H-29488 LA
12 MYRNA G. CASTRO,) STATEMENT OF ISSUES
13 Respondent.)
14

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Statement
17 of Issues against MYRNA G. CASTRO (hereinafter "Respondent"), is
18 informed and alleges as follows:

I

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

II

24 Respondent made application to the Department of Real
25 Estate of the State of California (hereinafter "Department") for
26 a real estate salesperson license on or about December 10, 2001
27

1 with the knowledge and understanding that any license issued as a
2 result would be subject to the conditions of Section 10153.4 of
3 the Business and Professions Code (hereinafter "Code").

4 III

5 On or about August 12, 1996, in the Municipal Court of
6 Los Angeles, Van Nuys Judicial District, County of Los Angeles,
7 State of California, in Case No. 6PN05116, Respondent was
8 convicted, upon her plea of nolo contendere, to one count of
9 violating Penal Code Section 484(a) (Petty Theft), a misdemeanor
10 crime of moral turpitude that is substantially related under
11 Section 2910, Title 10, Chapter 6, California Code of Regulations
12 (hereinafter "Regulations") to the qualifications, functions or
13 duties of a real estate licensee.

14 IV

15 On or about November 8, 1995, in the Municipal Court of
16 Los Angeles, Van Nuys Judicial District, County of Los Angeles,
17 State of California, in Case No. 95P08179, Respondent was
18 convicted, upon her plea of nolo contendere, to one count of
19 violating Penal Code Section 484e(a) (Petty Theft-Acquired Credit
20 Card Without Consent), a misdemeanor crime of moral turpitude
21 that is substantially related under Section 2910 of the
22 Regulations to the qualifications, functions or duties of a real
23 estate licensee.

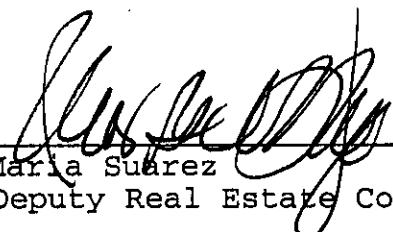
24 V

25 The crimes for which Respondent was convicted as set
26 forth above in Paragraphs III and IV constitute grounds for
27

1 denial of Respondent's application for a real estate license
2 under Sections 475(a), 480(a) and 10177(b) of the Code.

3 This statement of Issues is brought under the
4 provisions of Section 10100, Division 4 of the Business and
5 Profession Code of the State of California and Sections 11500
6 through 11529 of the Government Code.

7 WHEREFORE, Complainant prays that the above entitled
8 matter be set for hearing and, upon proof of the charges
9 contained herein, that the Commissioner refuse to authorize the
10 issuance of, and deny the issuance of, a real estate salesperson
11 license to Respondent, MYRNA G. CASTRO, and for such other and
12 further relief as may be proper under other provisions of law.

13
14
15 
16 Maria Suarez
Deputy Real Estate Commissioner

17 Dated at Los Angeles, California,
18 this 13th day of May, 2002.

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26
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cc: Myrna G. Castro
Maria Suarez
SACTO
EG