

FILED

SEP 11 2012

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY: 

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In the Matter of the Accusation of)
)
 LENA ALOOJIAN,)
)
 Respondent.)
_____)

No. H-37591 LA
OAH No. 2011110919

DECISION

The Proposed Decision dated August 8, 2012, 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, but the right to a restricted license is granted to Respondent.

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 OCI 01 2012.

IT IS SO ORDERED 8/29/2012

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

LENA ALOOJIAN,

Respondent.

Case No. H – 37591 LA

OAH No. 2011110919

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on July 23, 2012.

Julie L. To, Staff Counsel represented Robin Trujillo (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Benni H. Freund, Attorney at Law, represented Lena Alooajian (Respondent) who was present for the hearing.

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

The case was submitted for decision on July 23, 2012.

FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in her official capacity.
2. Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code), as a real estate salesperson. Her salesperson license was originally issued on November 1, 2004. The license expires on October 31, 2012, unless renewed.
3. On May 10, 2010, in the California Superior Court, County of Los Angeles, in Case No. 0SR00614, Respondent, upon her nolo contendere plea, was convicted of violating Penal Code section 602, subdivision (k), trespassing, a misdemeanor. The court suspended the imposition of sentence and placed Respondent on summary probation for a period of 24 months

upon certain terms and conditions including paying a fine and fees of \$656.00. Respondent paid the monetary amount in full and complied with all the terms and conditions imposed by the court. On May 31, 2012, the court granted Respondent's motion to expunge the conviction pursuant to Penal Code section 1203.4.

4. The facts and circumstances surrounding Respondent's conviction are as follows: Respondent went to Macy's to return some clothing she previously purchased. She had receipts for two of the items but none for three others. Macy's refused to exchange the items for which she did not have receipts. Respondent became very upset and proceeded to take three replacement items of clothing without paying for them. Respondent was detained by store security personnel.

5. Respondent has no other criminal convictions.

6. Respondent is very remorseful over her conviction and offered apologies. She stated that she has suffered emotionally as a result of her actions. At the time of the offense, she was also having problems with her marriage. As a result, she went to a marriage counselor and a personal psychiatrist. She continues to see the counselor on a monthly basis.

7. The broker for whom Respondent works is personally aware of her conviction. In a letter, submitted at the hearing in this matter, he stated that he will monitor all of Respondent's real estate transactions and activities.

8. Respondent is active in the affairs of her community. She regularly attends mass at her church. She volunteers feeding the homeless in Venice and received a letter of thanks from the organization sponsoring that effort.

9. Respondent's husband submitted two letters on behalf of his wife. He stated that his wife's behavior has changed since her conviction. He noted that she has adopted procedures to save receipts from store purchases to insure that such a situation as resulted in her conviction will not recur. His second letter dealt with Respondent's character which he found to be excellent.

10. Finally, Respondent submitted a letter from an attorney who has known Respondent in a professional capacity for several years. He found her to be intelligent, ethical, professional and reliable. He would consider her in the upper tier of most ethical and reliable real estate professionals. He also noted her otherwise unblemished record.

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 specifically set forth in California Code of Regulations, title 10, section 2910, subdivision: (8), in that it involved doing of an unlawful act with the intent of conferring a financial or economic benefit upon Respondent

3. Respondent's conviction, set forth in Factual Findings 3 and 4, constitutes cause for disciplinary action under Business and Professions Code sections 490 and 10177, subdivision (b) under the Real Estate Law.

3. The Department, in California Code of Regulations, title 10, section 2912, has adopted criteria for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for the revocation or suspension of the license has been initiated on account of a crime committed by the licensee. Two years are required to have past from the time of Respondent's latest criminal conviction. In the present case it just has been two years since Respondent's conviction. Respondent has paid the amounts assessed by the court and the conviction has been expunged. Respondent has indicated a willingness to report her activities to the Department on a quarterly basis. This arrangement was acceptable to the Department. Consequently, the appropriate action is to issue a restricted real estate salesperson license to Respondent including such a condition.

ORDER

All licenses and licensing rights of Respondent Lena Aloojian 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 following 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 of 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 two years have 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 or 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.

6. Professional Responsibility Condition:

Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

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7. Reporting Condition

Respondent shall report on a quarterly basis and in writing to the Department of Real Estate as the Real Estate Commissioner shall direct while the restricted license is in effect such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.



Dated: August 8, 2012.

N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings