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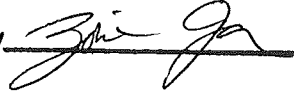
BEFORE THE DEPARTMENT OF REAL ESTATE

FILED

STATE OF CALIFORNIA

JUL 22 2013

BUREAU OF REAL ESTATE

By 

In the Matter of the Application of)	DRE No. H-38748 LA
)	OAH No.2013030346
CHRISTINA GINGER CARRILLO,)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated June 19, 2013, 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.

Pursuant to Section 11517(c) (2) of the Government Code, the following corrections are made to the Proposed Decision.

Proposed Decision, Page 1, Paragraph 2, Line 1, "Connie Trujillo" is corrected to read "Robin Trujillo."


The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is enclosed hereto for the information of respondent.

If and when a petition for removal of restrictions is submitted, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is enclosed for respondent's information.

This Decision shall become effective at 12 o'clock noon on August 12, 2013 .

IT IS SO ORDERED

7/12/2013
REAL ESTATE COMMISSIONER



WAYNE BELL

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

Christina Ginger Carrillo,

Respondent.

Case No. H-38748 LA

OAH No. 2013030346

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on May 20, 2013.

Julie L. To, Staff Counsel, represented Complainant ^{Robin} Connie Trujillo, Deputy Real Estate Commissioner in the Department of Real Estate (Department).

Attorney Edgardo Gonzalez represented Respondent Christina Carrillo.

Oral and documentary evidence was received and the matter was submitted May 20, 2013.

The Department brings this Statement of Issues to deny Respondent's application for a real estate salesperson license. For the reasons set out below, the license is denied but respondent is granted a restricted license.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Statement of Issues in her official capacity.
2. On June 5, 2012, Respondent applied for a real estate salesperson license. The Department refused to grant the application and Respondent timely requested a hearing.

Criminal Conviction

3. On January 18, 2011 in Los Angeles Superior Court case number 0SY09018, Respondent was convicted on her no contest plea of petty theft (Pen. Code, § 484, subd. (a)),

a misdemeanor. She wrote a bad check. Respondent was placed on summary probation for three years, fined \$1,430, ordered to pay \$179.63 in restitution to the victim, and ordered to complete 31 days of community labor.

Mitigation, Aggravation and Rehabilitation

4. Respondent paid the fine and restitution, but did not complete the required community labor. On May 21, 2012, she admitted to violating probation and served five days in jail. On January 29, 2013, the court granted her request for early termination of probation. Her conviction has not been expunged.

5. Respondent's conviction arose out of a visit to Elly's European Skin Clinic in Torrance on August 4, 2010. Respondent was surprised at the amount of the bill, which was larger than she expected because the technician wound up performing more services than Respondent had intended to have done. Respondent thought the technician was throwing in the extra services gratis because there was no discussion of additional cost. Respondent brought \$60 in cash with her and the bill came to \$178. In payment, Respondent wrote a check on an account that had been closed. She testified at hearing that the account's being closed was a coincidence: she and her husband had recently separated and she did not know that her husband had closed the account. When her check did not clear, the skin clinic contacted Respondent, who was then in Dallas. They agreed that Respondent could take care of paying the bill when she returned to California, but Respondent forgot about it because she was concerned about saving her marriage. Respondent's testimony, and the documentary evidence, show that between 2008 and 2010 she and her husband were having serious marital difficulties, and indeed were on the verge of divorce even as their daughter was born in 2008.

6. Respondent has been married 12 years and has an eight-year-old son and four-year-old daughter. They are also taking care of, and in the process of becoming legal guardians for, Respondent's 14-year-old niece, the daughter of one of Respondent's sisters who is not meeting parental responsibilities.

7. Respondent is 29. She was emancipated at 15 and married at 16. Both her parents were drug users, and her father and stepfather were abusive, according to the hearing testimony of Amelia Lazzara, Respondent's older sister (who is not the mother of the niece mentioned in Factual Finding 6). Respondent became an office manager for a remodel business at 16, and started doing real estate "flip" transactions when she was 19. She was able to put together groups of investors to buy and sell houses because she had by then acquired celebrity friends, including Eddie van Halen. She and her husband were featured in "Flip That House," a television show on The Learning Channel, between 2005 and 2007. In 2007, she organized a limited liability company, Next Life Investments, to do real estate investment training, and set up that business in Dallas. She is no longer in the property flipping business.

8. Respondent and her husband saw a marriage counselor once or twice a week from October 2010 through December 2012. At hearing, she testified that their marriage

is extremely strong, a sentiment also voiced in a May 13, 2013 letter from the counselor, Ernesto Segismundo. He wrote that Respondent and her husband were receptive to his advice and still contact him occasionally. Segismundo also opined that Respondent is an "honest person and strives to better herself and others around her," and would not repeat "the mistakes of her past."

9. Respondent completed a "CheckWi\$e" online checking account management course on October 19, 2012.

10. Every year for the last eight years, Respondent and her family volunteer with Toys for Tots, driving a rented trailer with toys to the Manzanita and Campo Native American Reservations near the Mexican border. Respondent is the vice chair of the school site council at the math/science magnet elementary school her son attends. The council decides how some raised funds are spent, and respondent handles some of the money.

11. Alexa Hoyt, CEO of Keller Williams Palos Verdes Realty, testified that Respondent applied to work at her firm nearly a year ago, and disclosed her conviction at that time. Hoyt pointed out that in Respondent's dealings with investors and flipping properties, she has already dealt with the public in ways that are more difficult to do than the typical duties of a real estate salesperson. Hoyt testified that she will supervise Respondent if Respondent is licensed, that a restricted license will not be a problem, and that the broker of record, Jeffrey Curtis, knows of the Statement of Issues.

12. Respondent submitted a letter from Bill Nugent, a Rancho Palos Verdes real estate broker, longtime friend of Respondent's family, and member of the church that Respondent and her husband attend. Nugent is "aware of her past errors and mistakes" and believes Respondent is moral, trustworthy, compassionate and dedicated. He wrote that he would be happy to have her work in his brokerage. Greg Schwartz, who also holds a real estate broker's license but uses it mainly to transact on his own behalf, wrote about how Respondent skillfully and generously taught him about valuing distressed properties and estimating costs of rehabilitating them. He also wrote that respondent was "remorseful and ashamed." Respondent's landlord also wrote to say that Respondent and her husband were good tenants and there have been no problems with bad checks.

LEGAL CONCLUSIONS

1. Cause exists to deny the license under Business and Professions Code sections 475, 480 and 10177,¹ as alleged in paragraph 5 of the Statement of Issues. Section 480, subdivision (a)(1) (which, under section 475, governs a license denial under these circumstances) allows a board to deny a license to an applicant who has been "convicted of a crime" (even if the conviction has been expunged or dismissed under Penal Code section

¹ Further references to the Business and Professions Code are cited as sections.

1203.4), if the crime is “substantially related to the qualifications, functions, or duties of the business or profession for which application is made.” (§480, subd. (a)(3)(B).) Section 10177, subdivision (b), which applies specifically to the Department, similarly allows it to deny a license to an applicant who has been convicted of “a crime substantially related to the qualifications, functions, or duties of a real estate licensee.” Under California Code of Regulations title 10, section 2910, subdivision (a)(8),² “any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator” is substantially related. Respondent’s crime of theft (Factual Finding 3) was an illegal act to confer an economic benefit on herself.

2. Respondent has the burden of showing rehabilitation from her conviction. She has met many of the applicable criteria for rehabilitation set out in CCR section 2911:

- (a) It has been more than three years since her conviction (Factual Finding 3), meeting the criterion of “passage of not less than two years since the most recent criminal conviction” in CCR section 2911, subdivision (a).
- (b) She paid the court-ordered restitution to the victim. (CCR § 2911, subd. (b); Factual Finding 4.)
- (c) She has paid all fines and other monetary penalties. (CCR § 2911, subd. (g); Factual Finding 4).
- (d) She completed probation (CCR § 2911, subd. (e); Factual Finding 4), but she has not had the conviction expunged. (CCR § 2911, subd. (c); Factual Finding 4).
- (e) She has achieved a stable family life with considerable effort and cost, and is not only meeting her own parental obligations, but assuming those of her sister. (CCR § 2911, subd. (h); Factual Findings 6 and 8.)
- (f) She has significant involvement with community and charitable work. (CCR § 2911, subd. (h); Factual Finding 10.) There was no evidence of education or vocational training since the conviction. (CCR § 2911, subd. (h).)
- (g) She has demonstrated a change in attitude from that which existed when she committed the crime. (CCR § 2911, subd. (n).) She went to the trouble of taking a course in checking account management (Factual Finding 9), and there is ample evidence, including testimony of witnesses other than respondent, of her remorse and determination to avoid trouble in the future. (Factual Findings 8 through 12.)

3. Respondent was convicted of a misdemeanor that involved malfeasance in handling money and is therefore of particular concern, but she has shown substantial rehabilitation, and two brokers say they have confidence in her competence and integrity and

² Further references to title 10 of the California Code of Regulations are cited as “CCR.”

are willing to supervise her work. The public can be protected if she is granted a restricted license.

ORDER

Respondent Christina Ginger Carrillo's application for a real estate salesperson license is denied, but a restricted real estate salesperson license shall be issued to Respondent under Business and Professions Code section 10156.5. 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 that 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 issuance of an unrestricted real estate license or 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.

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:

(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 shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice

shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: June 19, 2013

Howard Posner

HOWARD POSNER

Administrative Law Judge

Office of Administrative Hearings