

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

APR 23 2014

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)
ANAT FEDERMAN,)
Respondent.)

No. H-39154 LA
L-2013110525

STIPULATION AND WAIVER
AFTER REJECTION

I, ANAT FEDERMAN, Respondent herein do hereby affirm that I have applied to the Bureau of Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all the statutory requirements for the issuance of the license, including the payment of the fee therefor.

I acknowledge that I have received and read the Statement of Issues filed by the Bureau of Real Estate on November 18, 2013, in connection with my application for a real estate salesperson license. I acknowledge that by entering into this Stipulation and Waiver, I am stipulating that the Real Estate Commissioner has found grounds to justify the denial of the issuance of an unrestricted real estate salesperson license to me. I agree that there are grounds to deny the issuance of an unrestricted real estate salesperson license to me pursuant to California Business and Professions Code Sections 475(a)(2), 480(a) and 10177(b) for my failure to disclose my 1997 conviction for violating Penal Code Section 484(a) (Theft), a misdemeanor.

1 I further acknowledge that the Real Estate Commissioner held a hearing on this
2 Statement of Issues on January 23, 2014, before the Office of Administrative Hearings for the
3 purpose of requiring further proof of my honesty and truthfulness and to prove other allegations
4 therein. I was present at the hearing and participated therein. Further, I have had an
5 opportunity to read and review the Proposed Decision of the Administrative Law Judge.

6 I understand that pursuant to Government Code Section 11517(c), the Real Estate
7 Commissioner has rejected the Proposed Decision of the Administrative Law Judge. I further
8 understand that pursuant to the same Section 11517(c), the Real Estate Commissioner may
9 decide this case upon the record, including the transcript, without taking any additional
10 evidence, after affording me the opportunity to present written argument to the Real Estate
11 Commissioner.

12 I further understand that by signing this Stipulation and Waiver, I am waiving my right
13 to obtain a dismissal of the Statement of Issues through proceedings under Government Code
14 Section 11517(c) if this Stipulation and Waiver ("Stipulation") is accepted by the Real Estate
15 Commissioner. However, I also understand that I am not waiving my rights to further
16 proceedings to obtain a dismissal of the Statement of Issues if this Stipulation and Waiver is not
17 accepted by the Real Estate Commissioner.

18 I hereby request that the Real Estate Commissioner in his discretion issue a restricted
19 real estate salesperson license to me under the authority of California Business and Professions
20 Code Section 10156.5. I understand that any such restricted license will be issued subject to the
21 provisions and limitations of California Business and Professions Code Sections 10156.6 and
22 10156.7.

23 I further understand that the following conditions, limitations, and restrictions will
24 attach to a restricted real estate salesperson license issued by the Bureau of Real Estate pursuant
25 hereto:

- 26 1. The license shall not confer any property right in the privileges to be exercised,
27 including the right of renewal, and the Real Estate Commissioner may by

1 appropriate order suspend the right to exercise any privileges granted under this
2 restricted license in the event of:

3 a. The conviction of Respondent (including a plea of nolo contendere) to a crime
4 that bears a substantial relationship to Respondent's fitness or capacity as a
5 real estate licensee; or

6 b. The receipt of evidence that Respondent has violated provisions of the
7 California Real Estate Law, the Subdivided Lands Law, Regulations of the
8 Real Estate Commissioner, or conditions attaching to this restricted license.

9 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real
10 estate license nor the removal of any of the conditions, limitations, or restrictions
11 attaching to the restricted license until two (2) years have elapsed from the date of
12 issuance of the restricted license to Respondent.

13 3. With the application for license, or with the application for transfer to a new
14 employing broker, Respondent shall submit a statement signed by the prospective
15 employing broker on a form approved by the Bureau of Real Estate wherein the
16 employing broker shall certify as follows:

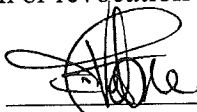
17 a. That broker has read the Decision which is the basis for the issuance of the
18 restricted license; and

19 b. That broker will carefully review all transaction documents prepared by the
20 restricted licensee and otherwise exercise close supervision over the licensee's
21 performance of acts for which a license is required.

22 4. Respondent shall notify the Real Estate Commissioner in writing within 72 hours
23 of any arrest by sending a certified letter to the Real Estate Commissioner at the
24 Bureau of Real Estate, Post Office Box 137013, Sacramento, CA 95813-7013.
25 The letter shall set forth the date of Respondent's arrest, the crime for which
26 Respondent was arrested, and the name and address of the arresting law
27 enforcement agency. Respondent's failure to timely file written notice shall

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

3 4-14-14
4 Dated


5 _____
6 Amelia V. Vetrone, Counsel, Bureau of Real Estate

7 5. I have read the Stipulation and Waiver, and its terms are understood by me and are
8 agreeable and acceptable to me. I understand that I am waiving rights given to me
9 by the California Administrative Procedure Act (including, but not limited to,
10 California Government Code Sections 11517 and 11523), and I willingly,
11 intelligently, and voluntarily waive those rights.

12 6. Respondent can signify acceptance and approval of the terms and conditions of this
13 Stipulation and Waiver by faxing a copy of its signature page, as actually signed by
14 Respondent, to the Bureau of Real Estate at the following telephone/fax number:
15 (213) 576-6917. Respondent agrees, acknowledges, and understands that by
16 electronically sending to the Bureau of Real Estate a fax copy of his/her actual
17 signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy
18 by the Bureau of Real Estate shall be as binding on Respondent as if the Bureau of
19 Real Estate had received the original signed Stipulation and Waiver.

20 4/8/14
Dated


21 _____
22 Anat Federman, Respondent

23 ///
24 ///
25 ///
26 ///
27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

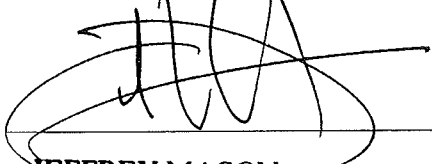
I have read the Statement of Issues filed herein, the Proposed Decision of the Administrative Law Judge dated February 24, 2014, and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent ANAT FEDERMAN if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted salesperson license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED APR 22 2014.

Real Estate Commissioner



JEFFREY MASON
Chief Deputy Commissioner

filed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

MAR 24 2014

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

ANAT FEDERMAN,

Respondent.

No. H-39154 LA

OAH No. 2013110525

NOTICE

TO: ANAT FEDERMAN, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 24, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 24, 2024, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on January 23, 2014, any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of January 23, 2014, at the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of Complainant to be considered by me must be submitted within 15 days after receipt of the argument of Respondent at the Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

DATED: 3/16/2014

REAL ESTATE COMMISSIONER



WAYNE S BELL

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

ANAT FEDERMAN,

Respondent.

Case No. H-39154 LA

OAH No. 2013110525

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on January 23, 2014.

Amelia V. Vetrone, Staff Counsel, represented Complainant Robin Trujillo, Deputy Real Estate Commissioner of the Bureau of Real Estate (Bureau).

Respondent Anat Federman represented herself.

Oral and documentary evidence was received and the matter was submitted January 23, 2014.

Complainant brings this Statement of Issues to deny Respondent's application for a real estate salesperson license. For the reasons set out below, the application is denied.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Statement of Issues in her official capacity.
2. On November 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 September 11, 1997, in Los Angeles County Municipal Court case number 7PN05630, respondent was convicted on her guilty plea of theft (Pen. Code, § 484,

subd. (a)), a misdemeanor. The court found there was a factual basis for the plea. Respondent shoplifted clothes from a Macy's department store. Respondent was sentenced to one day in jail with credit for one day served, fined \$775, and placed on summary probation for one year.

Failure to Disclose Conviction

4. Respondent did not disclose her criminal conviction in her license application. Question 1 of Part D of the application asked, "Have you ever been convicted of a misdemeanor or felony?" Respondent checked the "No" answer box. Below the question, in a section headed "Conviction Details," the application explained, "All convictions must be disclosed, no matter how long ago they occurred, even if the plea or verdict was set aside, the conviction was dismissed or expunged, or you have been pardoned." The bottom quarter of the page was a chart in which the applicant was asked to disclose the court, case number, arresting agency, conviction date, code section violated, disposition, and whether the conviction was a misdemeanor or felony. Question 5, which was just above the chart, said, "Complete one line for each violation and provide explanation below. If you are unable to provide the information, provide all the information you can obtain, with an explanation for the missing information." Respondent testified at hearing that she failed to disclose the conviction because she "felt it was all gone and forgotten."

Mitigation, Aggravation and Rehabilitation

5. Respondent paid the fine and completed probation. Her conviction was dismissed under Penal Code section 1203.4 on November 10, 1998. She has no other criminal convictions.

6. Respondent volunteers with the American Friends of Meir Panim (Meir Panim is an Israeli charity devoted to fighting poverty in Israel), helping with registrations for fundraising events. Orly Tal, Meir Panim's west coast region development and event coordinator, wrote a letter in which she describes Respondent as her "best friend for 20 years," and praised her as a dedicated volunteer.

7. Respondent undertook education in design since her conviction. She has been employed since July 2013 as a designer at Showcase Kitchen & Baths. Her job involves going into other people's homes. Respondent introduced a letter from Daryl Rice, the owner of Showcase Kitchen & Baths, describing Respondent as kind, considerate, and conscientious. Respondent is also a certified yoga instructor.

8. Respondent is 41 years old. She was 25 when she was convicted. She is married, but there was no evidence of how long she has been married or whether she has children.

LEGAL CONCLUSIONS

1. There is cause to deny the application under Business and Professions Code sections 475, 480 and 10177,¹ as paragraph 4 of the Statement of Issues alleges. 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 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 CCR section 2910, subdivision (a)(8), “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. Cause also exists to deny the application under Business and Professions Code sections 475, subdivision (a)(1), 480, subdivision (c), and 10177, subdivision (a), as paragraph 5 of the Statement of Issues alleges. Sections 475, subdivision (a)(1), and 480, subdivision (c) allow the Department to deny a license to an applicant who has knowingly made a material misstatement of fact on a license application. Section 10177, subdivision (a) allows the Department to deny a license to an applicant who has “attempted to procure [a real estate license] by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.” Respondent’s answering “no” to the question about whether she had been convicted of a crime (Factual Finding 4) was a knowing misstatement.

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

(a) It has been more than 16 years since her sole 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 has paid all fines and other monetary penalties. (CCR § 2911, subd. (g); Factual Finding 5).

(c) She completed probation and had her conviction expunged. (CCR § 2911, subs. (e) and (c); Factual Finding 5.)

(d) She undertook vocational education for economic self-improvement. (CCR § 2911, subd. (i); Factual Finding 7.)

¹ “Section” or “§” will refer to the Business and Professions Code, unless preceded by “CCR,” which denotes references to title 10 of the California Code of Regulations

- (g) She is involved in community or charitable programs. (CCR § 2911, subd. (l); Factual Finding 6.)
- (h) While the length of time since the conviction might otherwise indicate a change in attitude since the conduct in question (CCR § 2911, subd. (n)), her failure to disclose the conviction indicates a failure to take responsibility for her action.

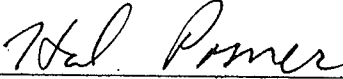
4. Respondent has shown considerable rehabilitation since her conviction, but her failure to disclose the conviction in her license application requires that the license application be denied.

ORDER

Respondent Anat Federman's application for a real estate salesperson license is denied.

Not Adopted

DATED: February 24, 2014



HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings