

Sachs

FILED

MAR 11 2019

DEPT. OF REAL ESTATE



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*

In the Matter of the Application of:	)	DRE No. H-41229 LA
	)	
TIFFANI MARIE BATE,	)	OAH No. 2018120153
	)	
Respondent.	)	

---

DECISION

The Proposed Decision dated February 1, 2019, 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. The earliest date on which the applicant may reapply for a license is one year from the effective date of this Decision. If and when application is again made for this license, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 10, 2019.

IT IS SO ORDERED March 5, 2019

DANIEL SANDRI  
ACTING REAL ESTATE COMMISSIONER

  
\_\_\_\_\_

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

TIFFANI MARIE BATE,

Respondent.

DRE No. H-41229 LA

OAH No. 2018120153

**PROPOSED DECISION**

David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, heard this matter on January 28, 2019, in Los Angeles, California. Tiffani Marie Bate (respondent) represented herself. Maria Suarez (complainant), Supervising Special Investigator, was represented by Diane Lee, Counsel for the Department of Real Estate (Department).

Oral and documentary evidence was received. The matter was submitted for decision on January 28, 2019.

**FACTUAL FINDINGS**

1. Complainant brought the Statement of Issues in her official capacity.
2. On January 22, 2018, respondent filed an application with the Department for issuance of a real estate salesperson license. No license has been issued.
3. In her 2018 application, respondent disclosed four convictions, but did not disclose two other convictions, discussed in more detail below. Respondent also provided to the Department documents related to a seventh conviction; however, that matter was dismissed under Penal Code section 1203.4, and is not included in the Statement of Issues. By letter dated March 29, 2018, the Department informed respondent that her application was subject to further review and that she might be contacted to provide more information about the convictions.
4. On March 1, 2002, in the Superior Court of California, County of Los Angeles, case no. 1SB08291, respondent was convicted on her plea of nolo contendere of violating Penal Code section 484, subdivision (a), theft, a misdemeanor. The court found

there was a factual basis for the plea. Imposition of sentence was suspended and respondent was placed on summary probation for one year on terms and conditions, including that she obey all laws, serve one day in jail (with credit for one day served), and pay total fines and fees of \$945. Bench warrants were issued in several instances when respondent failed to make scheduled payments. Respondent was found in violation of probation when she failed to make scheduled payments, and her probation was extended. On February 17, 2004, respondent was in custody, her probation was continued, and she was ordered to serve five days in jail, with credit for three days served. Upon her release from jail on February 18, 2004, her probation was terminated. Respondent disclosed this conviction in her license application.

5. The facts and circumstances underlying the March 2002 conviction relate to respondent's actions on October 30, 2001, in a store at the Del Amo Fashion Center in Torrance, California. Based on a police report, respondent entered a store with another person and they both placed items into a bag, including baby clothes, with a total value of over \$150. They both left the store without paying.<sup>1</sup>

6. The police report, and others noted below, were moved and received into evidence pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448, which holds that, although a police report was hearsay, a portion was an exception to the hearsay rule and could be used as direct evidence and for any purpose. The *Lake* Court noted that the report, although unsworn, was potentially admissible because it was the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, as referenced in Government Code section 11513, subdivision (c). Further, the report was prepared by a public official in the scope of his duties and was therefore an official record under Evidence Code section 1280. The defendant's admission to the officer that he was driving was an exception to the hearsay rule under Evidence Code section 1220 relating to admissions. A witness statement confirming that the defendant was driving was administrative hearsay but could be used to explain or supplement the defendant's admission. However, other statements made by witnesses to the officer, as summarized in the report, were hearsay, no exception applied, and this administrative hearsay by itself could not be used to support a factual finding. In *Komizu v. Gourley* (2002) 103 Cal.App.4th 1001, a report of blood alcohol content did not qualify for an exception to the hearsay rule but was admitted subject to the administrative hearsay rule in Government Code section 11513, subdivision (d). It was properly used to explain and supplement a police officer's report, which contained circumstantial evidence of

---

<sup>1</sup> Respondent raised timely objections to various police reports based on hearsay, and those objections were sustained. The documents were received in evidence nevertheless, with limits placed on the use of the hearsay evidence. As explained in Government Code section 11513, subdivision (d), "[h]earsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. . . ." Such evidence is commonly referred to as administrative hearsay.

the driver's blood alcohol level. Combined, these two sources provided the trial court with substantial evidence sufficient to support a factual finding.

7. In her testimony at the hearing, respondent denied responsibility for any theft on October 30, 2001. Rather, she stated that she was in the wrong place at the wrong time when one of her friends stole baby clothes. Respondent noted that she did not have a baby at that time.

8. Factual Finding 5, relating to respondent's theft of merchandise as described in a police report, is based on administrative hearsay that is used to supplement and explain respondent's plea of nolo contendere to, and conviction of, violating Penal Code section 484, subdivision (a), theft. Other police reports, referenced below, are used in a similar manner.

9. On February 25, 2002, in the Superior Court of California, County of Orange, case no. 02HF0094, respondent was convicted on her plea of nolo contendere of violating Penal Code section 496, subdivision (a), receiving stolen property, a misdemeanor. The court found there was a factual basis for the plea, which was the result of a plea bargain whereby another criminal charge was dismissed. Imposition of sentence was suspended and respondent was placed on informal probation for three years with terms and conditions, including that she complete two days of Cal Trans service and 45 days of community service, and pay \$400 in fines. Respondent did not perform the Cal Trans and community service as ordered, and on two occasions she was found in violation of her probation. Respondent did not disclose this conviction in her license application.

10. The facts and circumstances underlying the criminal conviction are taken from the criminal court docket (exhibit 5), a police report (exhibit 6), and respondent's testimony. Respondent signed a guilty plea form in which she wrote that, on January 22, 2002, she was in possession of stolen cigarettes. As supplemented and explained in the police report, respondent drove two other persons who had stolen 54 cartons of cigarettes, total value \$2,187.10, from a Ralph's grocery store. The cigarettes were found in the trunk of respondent's car. Respondent at first was confused about which conviction she was asked to address, and then stated it was petty theft of cigarettes. When asked why she stole cigarettes, respondent stated that she was 20 years old, had a baby, and needed money.

11. On February 26, 2004, in the Superior Court of California, County of San Bernardino, case no. FWV029977, respondent was convicted on her plea of guilty of violating Penal Code section 487, subdivision (a), grand theft of personal property, a misdemeanor. The court found there was a factual basis for the plea, which was the result of a plea bargain under which another charge was dismissed. Pronouncement of judgment was withheld, and respondent was placed on revocable release for 36 months with terms and conditions, including that she serve 60 days in jail (with credit for 14 days served/good time credit), and pay fines and fees. Respondent did not pay restitution as ordered. On February 28, 2006, the court ordered probation revoked and terminated, without benefit of dismissal. Respondent did not disclose this conviction in her license application.

12. The facts and circumstances underlying the criminal conviction are taken from the criminal case docket (exhibit 7), and a police report (in exhibit 13, at p. 3).<sup>2</sup> On October 17, 2002, respondent and three other persons stole 60 cartons of cigarettes, valued at \$2,740.51, from an Albertsons market. In her testimony at the hearing, respondent denied the theft, stating that she let somebody use her car, probably because she was offered money for it. Nine or ten months later, respondent was detained on an arrest warrant. She stated that she was pregnant, but later stated that her first child was born in 2001, and her second child was born in 2008.<sup>3</sup> (Her third child was born in 2012.) Respondent stated that she was offered a plea deal with no jail time and that, due to her prior criminal record, she was advised to accept the terms.

13. On March 23, 2004, in the Superior Court of California, County of Los Angeles, case no. 3WL03365, respondent was convicted on her plea of nolo contendere of violating Penal Code section 666, petty theft with prior theft conviction, a misdemeanor. The court found there was a factual basis for the plea. Imposition of sentence was suspended and respondent was placed on summary probation for 24 months with terms and conditions, including that she serve three days in jail (with credit for three days served), perform 30 days of Cal Trans service, and pay a \$100 fine. Respondent was found in violation of probation on October 1, 2004. Thereafter, respondent filed proof of completion of Cal Trans and payment of the fine. Respondent disclosed this conviction in her license application.

14. The facts and circumstances underlying the criminal conviction are taken from the criminal case docket (exhibit 8), a police report (exhibit 9), and respondent's testimony. On October 3, 2003, respondent and others entered a Robinsons-May store and, among other things, removed items from clothes racks and directed others to the location of the items. Respondent then acted as a lookout. The police report includes that respondent was transported for medical review because she was pregnant at the time, which is inconsistent with her testimony at the hearing. In her testimony, respondent stated the incident was long ago and she did not recall it.

15. On May 12, 2011, in the Superior Court of California, County of Los Angeles, case no. GA082379, respondent was convicted on her plea of nolo contendere of violating Penal Code section 459, burglary, a felony. The court found there was a factual basis for the plea, which was the result of a plea bargain under which another charge was dismissed. Imposition of sentence was suspended and respondent was placed on formal probation for three years with terms and conditions, including that she serve one day in jail (with credit for

---

<sup>2</sup> Exhibit 13 relates generally to events underlying a conviction in 2017; however, page 3 is from a police report relating to the events in October 2002 underlying respondent's criminal conviction on February 26, 2004.

<sup>3</sup> Respondent's testimony was often confusing or inconsistent. Best efforts are made herein, without benefit of a transcript, to depict the relevant aspects of her testimony. The inconsistencies and confusion have a negative effect on respondent's credibility. (See Evid. Code, § 780.)

one day served), perform 30 days of community service in the PAAWS program, and pay total fines of \$270. Respondent did not complete the PAAWS program and was admonished to do so by the Court on October 25, 2013. On April 4, 2014, the court converted the PAAWS service to 30 days of general community service, and extended probation to May 11, 2015. Probation was later extended to expire on October 20, 2015. On February 23, 2016, the court granted relief under Proposition 47 and reduced the charge to a misdemeanor. Respondent disclosed this conviction in her license application.

16. The facts and circumstances underlying the criminal conviction are taken from the criminal case docket (exhibit 10), a police report (exhibit 11), and respondent's testimony. On January 9, 2011, respondent and another person entered a Macy's store and left without paying for clothing and luggage, total value \$553.94. Respondent testified that she committed theft by removing items from the store, and that she was with a friend she had known since age seven. Respondent did not recall other details, but she admitted that she entered the store with the intent to steal because she was young, had no job, and needed to feed her children.

17. On April 20, 2017, in the Superior Court of California, County of San Bernardino, case no. 16CR063326, respondent was convicted on her plea of no contest of violating Penal Code section 496, subdivision (a), receiving stolen property, a misdemeanor. The court found there was a factual basis for the plea, which was the result of a plea bargain whereby the charge was reduced from a felony to a misdemeanor. Imposition of sentence was suspended and respondent was placed on summary probation for 24 months with terms and conditions, including that she serve two days in jail (with credit for two days served), and pay total fines of \$270. Respondent disclosed this conviction in her license application.

18. The facts and circumstances underlying the criminal conviction are taken from the criminal case docket (exhibit 12), a police report (exhibit 13), and respondent's testimony. On November 11, 2016, respondent and three other persons entered a Macy's store and attempted to return merchandise without receipts. At a later traffic stop, police found all four persons in the car, including respondent, had Macy's bags with clothing that had been stolen. In her testimony, respondent stated that she was in the store with her daughter and purchased something. Her friends were returning items but did not have receipts. Respondent went to court with her receipt but, because of her criminal record, she was advised to make a plea bargain "for the lowest offense." Respondent denied wrongdoing and stated that she went into the store with the wrong people.

19. The crimes and acts described in Factual Findings 4 through 18 bear a substantial relationship to the qualifications, functions or duties of a real estate licensee under California Code of Regulations, title 10,<sup>4</sup> section 2910, subdivision (a)(8) and (10), discussed in more detail below.

---

<sup>4</sup> Further references to the California Code of Regulations relate to title 10, and are noted as "Regulation."

20. Respondent's license application had questions asking if respondent had been convicted of a felony or a misdemeanor. In a space to list conviction details, respondent gave information about the four convictions discussed in Factual Findings 4 through 8, and 13 through 18. Respondent did not disclose the two convictions discussed in Factual Findings 9 through 12.

21. Respondent testified that she obtained a printout of her convictions from the Airport Courthouse in Los Angeles County, and she used that information to complete her license application. She stated that the printout did not include her convictions in Orange and San Bernardino Counties, and that she had no intention to deceive the Department.

22. Respondent also submitted a written statement to the Department (in exhibit 1), stamped "received" November 5, 2018. In this statement and/or her testimony, respondent noted that her convictions were theft related and did not involve "misuse of substantial information." (*Id.*) She referred generally to the hard times in her life. Respondent completed the paralegal program at West Los Angeles Community College in 2012 and is a certified paralegal. She took courses at California State University, Dominguez Hills, in her major of communications, for semesters in the Fall of 2016 and the Winter 2017 (roughly August 2016 through March 2017). Respondent has worked as a paralegal in a law office for about one year. She wants to pursue real estate because family members are licensees, and at the suggestion of her mentor. She is also interested in going to law school. Respondent attends church occasionally with her daughters. Although asked, she gave no testimony about other community activities.

23. Respondent stated that she paid all fines and restitution and was never found in violation of her probations. She worked previously in marketing and modeling and had no work-related complaints against her. Respondent has three children to whom she states she must be responsible. In her written statement, respondent referenced a new start, integrity, and her desire to transition into a career in real estate.

### LEGAL CONCLUSIONS

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. The burden of proof is on the applicant to establish that she is entitled to the license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205; *Southern Cal. Jockey Club v. California Horse Racing Bd.* (1950) 36 Cal.2d 167.) The person against whom a statement of issues is filed generally bears the burden of proof at the hearing regarding the issues raised. (*Coffin v. Department of Alcoholic Beverage Control* (2006) 139 Cal.App.4th 471, 476.) Respondent has not met this burden.

///



*Causes for denial related to the convictions*

2. Under Business and Professions Code<sup>5</sup> section 10177, subdivision (b), an application for a real estate license may be denied for the applicant's conviction of a crime if the crime is substantially related to the qualifications, functions, or duties of a real estate licensee.

3. Under Code sections 475, subdivision (a)(2) and 480, subdivision (a)(1), an application can be denied for the applicant's conviction of a crime. Code section 480, subdivision (a)(1), adds that the crime must be substantially related to the qualifications, functions, or duties of a real estate licensee.

4. Under Regulation 2910, subdivision (a), as relevant here, a crime or act is substantially related to the qualifications, functions, or duties of a real estate licensee if it involves the doing of any unlawful act with the intent to confer a financial benefit upon the perpetrator or intent or threat of doing substantial injury to the property of another (subd. (a)(8)), or conduct which demonstrates a pattern of repeated and willful disregard for the law (subd. (a)(10)).

5. Each of the crimes for which respondent was convicted includes at least one of the factors of "substantial relationship" noted above, and all of the crimes depict a pattern of repeated and willful disregard for the law. Therefore, each crime is substantially related to the qualifications, functions, or duties of a real estate licensee under Regulation 2910, subdivision (a)(8) and (a)(10).

6. There is cause to deny respondent's application for a real estate salesperson license pursuant to Code sections 475, subdivision (a)(2), 480, subdivision (a)(1), and 10177, subdivision (b), because respondent has been convicted of crimes substantially related to the qualifications, functions, or duties of a real estate licensee, as set forth in Factual Findings 4 through 19.

7. In several instances, respondent denied that she committed the crime. However, under Code sections 493, the record of conviction is "conclusive evidence of the fact that the conviction occurred." The court in *Arneson v. Fox* (1980) 28 Cal.3d 440, 409, determined that applicants for a real estate license may not re-litigate the circumstances of their criminal convictions or impeach the conviction by explaining the "true" reasons for making their plea in the criminal case. Therefore, respondent's denials do not counteract the existence of the convictions and, to some extent, indicate a lack of rehabilitation for failure to acknowledge any fault or take any responsibility in the circumstances.

///

---

<sup>5</sup> All references to a statute are to the Business and Professions Code unless noted otherwise.

### *Failure to disclose convictions on the license application*

8. Under Code sections 475, subdivision (a)(1), 480, subdivision (d), and 10177; subdivision (a), an application can be denied if the applicant attempted to procure the license by fraud, misrepresentation, or deceit, or by making a material misstatement or false statement of fact in the application, or omitting to state a fact required to be revealed in the application.

9. There is cause to deny respondent's application for a real estate salesperson license pursuant to Code sections 475, subdivision (a)(1), 480, subdivision (d), and 10177, subdivision (a), because respondent made a false statement of fact and attempted to procure a license by misrepresentation when she incompletely answered the question concerning convictions by omitting two of her convictions, as set forth in Factual Findings 4 through 20.

10. To "knowingly" make a false statement does not require the intent to deceive. "The evil therefore is not in the intent to do harm, but in falsely certifying facts which are not true. . . ." (*Brown v. State Department of Health* (1978) 86 Cal.App.3d 548, 556.) The only intent required is the intent to induce action; in this case, the intent to have the license application approved. (See *Gagne v. Bertran* (1954) 43 Cal.2d 481; *Sixta v. Ochsner* (1960) 187 Cal.App.2d 485.)

### *Rehabilitation*

11. Criteria have been developed by the Department to evaluate the rehabilitation of an applicant who has been convicted of a substantially related crime or act. The relevant criteria, found at Regulation section 2911, are summarized below, including references to the relevant evidence.

Subdivision (a)(1), elapsed time of at least two years since the act or offense, which can be increased by considering the nature and severity of the crime and the licensee's history of criminal convictions that are "substantially related" to the qualifications, functions, or duties of a real estate licensee. Respondent's last conviction in 2017 was for acts that occurred on November 11, 2016; that is, two years and two months prior to the hearing. However, based on her several prior convictions, a period of good behavior longer than two years should be applied. Respondent does not meet this criterion.

Subdivision (a)(2), restitution. There was no evidence of restitution ordered by the court.

Subdivision (a)(3), expungement of the conviction. There was no evidence that any criminal conviction included in the Statement of Issues was expunged. However, another conviction was dismissed under Penal Code section 1203.4, often referred to as an expungement, and one criminal conviction for a felony was reduced to a misdemeanor.

Subdivision (a)(4), expungement of the requirement to register as a sex offender. Not applicable.

Subdivision (a)(5), completion of, or early discharge from, the criminal probation. Several criminal probations were violated and several were extended before they were completed. Respondent's current probation for her 2017 conviction is scheduled to be completed in April 2019.

Subdivision (a)(6), abstinence from drugs or alcohol that contributed to the crime. Not applicable.

Subdivision (a)(7), payment of any criminal fines or penalties. There is conflicting evidence, and it was not established that respondent paid all fines and fees ordered by the court. In several instances she was discharged from probation.

Subdivision (a)(8), stability of family life. Respondent testified to raising her three daughters. There was no other evidence that her family life is stable, one way or the other.

Subdivision (a)(9), enrollment in or completion of educational or training courses. Respondent completed courses and obtained a paralegal certificate, and has taken two semesters of college courses.

Subdivision (a)(10), discharge of debts. Not applicable.

Subdivision (a)(11), correction of business practices causing injury. There were no relevant business practices.

Subdivision (a)(12), significant involvement in community, church or private programs for social betterment. Respondent attends church on occasion but did not establish any involvement in church activities and or community programs for social benefit.

Subdivision (a)(13), new and different social and business relationships. Respondent provided no evidence of changes in her social relationships. Rather, after several instances of being in the wrong place with the wrong people, as she described it, in 2001, 2002 and 2003, she again associated with the wrong people in 2011 and again in 2016. Respondent has not recognized the role that negative social pressure played on her poor decisions and actions in the past.

Subdivision (a)(14), change in attitude from the time of conviction to the present, evidenced by: testimony of the applicant and others, including family members, friends or others familiar with his previous conduct and subsequent attitudes and behavior patterns, or probation or parole officers or law enforcement officials; psychiatric or therapeutic evidence; and absence of subsequent convictions "which reflect an inability to conform to societal rules when considered in light of the conduct in question." Respondent

submitted very little evidence in this regard. She has not accepted responsibility for her mistakes and has not demonstrated that she has learned from them. Respondent's criminal history established a prior inability to conform to societal rules, including as recently as 2016.

Subdivision (b) relates to mortgage loan originator endorsements and is not applicable.

12. Rehabilitation is akin to an affirmative defense; consequently, the burden of proof of establishing an affirmative defense is on the proponent of that defense. (*Whetstone v. Board of Dental Examiners* (1927) 87 Cal.App.156, 164.)

13. Respondent has a long history of convictions and did not disclose two in her application, all of which provide ample grounds to deny the application. It is troubling that respondent did not bring stronger supporting evidence, from sources other than herself. Evidence from outside sources could support respondent's application. "Favorable testimony of acquaintances, neighbors, friends, associates and employers with reference to their observation of the daily conduct and mode of living" can be helpful in determining whether a person seeking licensure is rehabilitated. (See *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317-318.)

14. A recent appellate opinion focuses attention on the particular rehabilitation criteria concerning whether criminal conduct is likely to be repeated. The court in *Singh v. Davi* (2012) 211 Cal.App.4th 141, determined in this regard that, of the many rehabilitation criteria, arguably the most important in predicting future conduct is change in attitude from that which existed at the time of the conduct in question. "California courts have considered various factors in reaching their decision as to the type of discipline or whether a person was a threat to the public. In real estate licensee disciplinary cases, some of these factors have included: (1) the likelihood of recurrence of the crime; (2) whether the person led an exemplary life before and after the incident which led to the conviction; and (3) whether the person was contrite and remorseful. (*Brandt v. Fox* (1979) 90 Cal.App.3d 737, 745-747)." (*Singh v. Davi, supra*, 211 Cal.App.4th at p. 150.)

15. Rehabilitation is a state of mind and the law looks with favor upon one who has achieved reformation and regeneration with the reward of the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Rehabilitation depends upon a track record of conduct that convinces the Department that that the public would be safe in granting privileges of licensure to respondent. A respondent must establish a track record of reliable, responsible and consistently appropriate conduct. Respondent bears the particular

burden of establishing rehabilitation sufficient to compel her licensure. (*In the Matter of Brown, supra.*)

16. Even assuming respondent was truthful in all of her testimony, her simplistic approach to her convictions and her license application bodes poorly for the public should she be granted licensure at this time. The real estate business is a complex one requiring the ability to understand intricate rules and laws, to make full and honest disclosures, to complete and execute complex and difficult forms, and to handle money and property of others in a responsible manner. In *Handeland v. Department of Real Estate* (1976) 58 Cal.App.3d 513, 518, the Court stated: "Disciplinary procedures provided for in the Business and Professions Code, such as section 10177, subdivision (d), are to protect the public not only from conniving real estate salesmen but also from the uninformed, negligent, or unknowledgeable salesman."

17. The failure to disclose a conviction "is itself sufficient to sustain a finding that [respondent] does not yet appreciate the need to speak honestly about and accept responsibility for one's actions. . . . One's character trait for honesty and integrity is an important qualification to be a real estate salesperson inasmuch as clients rely upon the licensee's integrity in representing them, disclosing important facts about the properties he is privy to and holding monies in a fiduciary capacity. [Quoting from the ALJ's Proposed Decision.] 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 the license." (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 406, quoting from *Golde v. Fox* (1979) 98 Cal.App.3d 167, 178.)

///

///

///

///

///

///

///

///

///

///

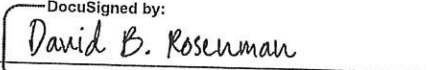
18. The duty to make a full disclosure in an application for a professional license is an absolute duty. Whether a failure to disclose is caused by intentional concealment, reckless disregard for the truth or an unreasonable refusal to perceive the need for disclosure, such an omission is itself strong evidence that the applicant lacks integrity and/or intellectual discernment required of a professional. (See *In re Gehring* (1943) 22 Cal.2d 708.)

19. The circumstances of respondent's criminal convictions, her failure to disclose all of her criminal convictions, and her failure to satisfy the majority of the rehabilitation criteria, support the conclusion that the public will be protected by the denial of her license application.

### ORDER

The application of respondent Tiffani Marie Bate for a real estate salesperson license is denied.

DATED: February 1, 2019

DocuSigned by:  
  
DAVID B. ROSENMAN  
Administrative Law Judge  
Office of Administrative Hearings