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FILED
MAR 27 2012

DEPARTMENT OF REAL ESTATE
By R. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MONICA E. FIGUEROA,

Respondent.

No. H-2106 FR

ORDER GRANTING UNRESTRICTED LICENSE

On April 11, 2008, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on July 3, 2008, and Respondent has operated as a restricted licensee since that time.

On October 18, 2011, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

I have considered Respondent's petition and the evidence submitted in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of

///

1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
4 restrictions is granted and that a real estate salesperson license be issued to Respondent subject to
5 the following understanding and conditions:

6 1. The license issued pursuant to this order shall be deemed to be the first
7 renewal of Respondent's real estate salesperson license for the purpose of applying the provisions
8 of Section 10153.4.

9 2. Within twelve (12) months from the date of this order Respondent shall:

10 (a) Submit a completed application and payment of the appropriate fee for a
11 real estate salesperson license, and

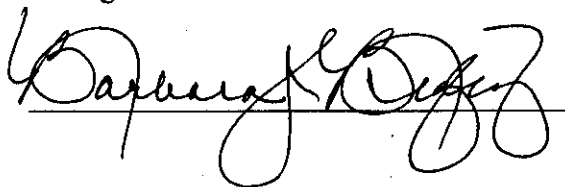
12 (b) Submit evidence of having taken and successfully completed the courses
13 specified in subdivisions (a) (1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
14 for renewal of a real estate license. The continuing education courses must be completed either
15 (i) within the 12 month period preceding the filing of the completed application, or (ii) within the
16 12 month period following the date of this Order.

17 3. Upon renewal of the license issued pursuant to this order, Respondent
18 shall submit evidence of having taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
20 license.

21 This Order shall become effective immediately.

22 IT IS SO ORDERED 2/17/12

23 BARBARA J. BIGBY
24 Acting Real Estate Commissioner

25 
26
27

FILED

APR 11 2008

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * *

By 

In the Matter of the Application of)	
MONICA E. FIGUEROA,)	NO. H-2106 FRESNO
Respondent.)	OAH NO. N-2007070197
)	

DECISION

The Proposed Decision dated March 11, 2008, 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.

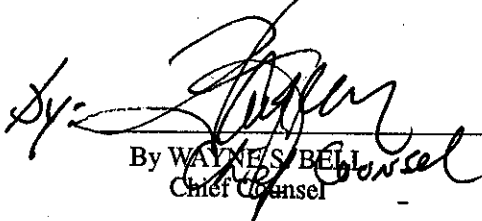
The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, 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 appended hereto.

This Decision shall become effective at 12 o'clock noon
on MAY - 2 2008

IT IS SO ORDERED APRIL 11, 2008

JEFF DAVI
Real Estate Commissioner

By 
Wayne S. Bell
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of
MONICA FIGUEROA,

Respondent.

Case No. H-2106 FRESNO

OAH No. 2007070197

PROPOSED DECISION

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings, heard this matter on February 13, 2008, in Oakland, California.

David Seals, Counsel, represented complainant John Sweeney, Deputy Real Estate Commissioner of the State of California.

Respondent Monica Figueroa appeared on her own behalf.

The matter was submitted on February 13, 2008.

FACTUAL FINDINGS

1. Official notice is taken that complainant John Sweeney made the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. On May 23, 2006, the Department of Real Estate (Department) received an application for a real estate salesperson license from Monica Figueroa (respondent). The application was dated May 16, 2006, and signed under penalty of perjury. On the application respondent disclosed that she had been convicted of the offense set forth in Finding 3.

3. On April 30, 2004, in the Superior Court of the State of California for the County of Monterey, respondent was convicted, upon a plea of nolo contendere, of violation of Penal Code sections 484, subdivision (a)(petty theft), a misdemeanor. Petty theft is a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate salesperson.

Respondent was placed on six months of court probation on terms and conditions that included serving two days in jail, which she was permitted to serve through a work alternative program, attendance at a theft offender program and payment of a \$100 fine.

Respondent successfully completed probation and has not been involved in any known criminal activity since that time. Her conviction was expunged effective April 25, 2006.

The facts and circumstances of the conviction are that on March 18, 2004, while in a JC Penny's store in Salinas, California, respondent concealed clothing value at approximately \$100 in the storage area at the bottom of her children's stroller. She then started to exit the store without paying for the clothing. According to the police report, a store loss prevention officer observed respondent enter a store elevator with the clothing visible in the storage area of the children's stroller. When respondent exited the elevator the clothing was no longer visible. The loss prevention officer did not find any discarded items in the elevator. Respondent spontaneously stated "I'm sorry," when she was stopped by the loss prevention officer as she attempted to exit the store.

4. The Real Estate Commissioner seeks to deny respondent's application for licensure because of her criminal conviction.

5. Respondent admits that she started to leave JC Penny without paying for the items in the storage area of her children's stroller. However, she maintains her failure to pay for the items was a simple oversight. According to respondent, as she was shopping her two children were constantly asking her to buy items that she did not need. To appease them she put them in the stroller. She had an empty Sears bag because she had returned some shoes prior to going to JC Penny. The children put the items they selected in the Sears bag. When respondent got into the elevator she put the bag of items in the storage area at the bottom of the stroller because she planned to continue shopping. Respondent insists she had simply forgotten the items were in the bottom of the stroller when she exited the store. However, as soon as the loss prevention officer stopped her she recalled the items were in the bottom of the stroller and apologized for her oversight. Respondent acknowledges that she was at fault in leaving the store without paying. However, she maintains that it was not intentional and that she would never intentionally put her children in such a situation. Respondent insists that she is "a good person" and points out that she has no history of criminal conduct before or after the incident. She asks that she be given an opportunity to hold a real estate license because she likes to work with people and feels that she could be very effective in the real estate arena.

6. Respondent is 29 years old. She was born in Mexico and moved to the United States when she got married 11 years ago. She and her husband have three children, ages 8, 5 and 2. Respondent currently works as a loan processor for Cornerstone Real Estate Group. She has held that position since September 7, 2006. Respondent represents that Jose J. Reyes, President of Cornerstone Real Estate Group, is aware of her conviction and is still willing to hire her as an agent if she obtains her license.

Respondent previously operated a family day care in Salinas, California for approximately three years. However, she did not transfer her license when she moved to her current residence in Soledad, California. Respondent represents the license was in good standing when she had it.

7. Respondent is very family oriented and spends a lot of time with her children, who participate in karate and swimming. She attends church with her family every week and makes monthly financial contributions to Oblates Missions.

8. At hearing, respondent's husband Raul Figueroa testified on her behalf. He sincerely believes that his wife simply forgot to pay for the items in the stroller and was quite fervent in his defense of her integrity. Figueroa described respondent as a wonderful wife and mother, and an honest woman who is always trying to improve herself. He feels her support has helped make him the man he is today -- a licensed notary, licensed realtor and former naval reservist who was honorably discharged.

9. Respondent submitted three letters of reference in support of her application. In a letter dated February 7, 2007, Jacqueline Gonzalez writes that respondent is always professional at work, is self motivated, a team player, a confident leader, and has strong interpersonal, organizational and administrative skills.

In a letter dated February 7, 2008, Rossy Santamaria, respondent's sister, attests to respondent's dedication to her family, commitment to whatever project she undertakes, willingness to help others, loyalty, strong work ethic, creativity and ability to solve problems.

In a letter dated February 7, 2008, Jose J. Reyes, President of Cornerstone Real Estate Group, describes respondent as competent, a team player, goal oriented, organized, punctual, devoted to her work and sociable. Reyes opines that respondent is "driven in equal measure by both quality and efficiency" and is an asset to his organization and the community.

In addition, respondent submitted a high school equivalency certificate dated September 28, 2000, certificates showing completion of several courses related to childcare and a certificate that shows she completed a three month registered tax preparer course in 2007. Respondent also produced additional documents written in Spanish (which were not submitted in evidence), with dates from 1993 to 2003, that generally attest that she was a good person at the time the documents were prepared, and that she successfully completed certain educational coursework.

10. Respondent has not completed all of the courses required under Business and Professions Code section 10153.4.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (b), in that respondent has been convicted of a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate sales person, as set forth in Finding 3.

2. This is a close case. Respondent's conviction was for petty theft due to failure to pay for merchandise prior to leaving the store. Respondent maintains the failure to pay was a mere oversight and the result of the stress and disorganization associated with trying to care for children while shopping. Although respondent's attempt to downplay the circumstances of her conviction is somewhat troubling, it is nevertheless determined that she has shown sufficient rehabilitation to warrant issuance of a conditional license. The conduct underlying respondent's conviction occurred nearly four years ago and she has not engaged in any known criminal conduct before or since that time. Respondent acknowledges that she was at fault in failing to check and ensure payment for all items before leaving the store. Respondent's husband and the writers of several character letters all generally attest to respondent's honesty and good character, which suggests respondent's conduct was an isolated incident. Respondent also appears to have a stable family life and a strong support network and to be motivated to succeed. It thus appears unlikely that respondent will engage in criminal conduct in the future. After considering all of the evidence, it is determined that it would not be against the public interest to grant respondent a real estate salesperson license upon appropriate terms and conditions.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code. 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 said 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 by 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 the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until three (3) years have elapsed from the date of issuance of the restricted license to respondent.

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 as follows:
- (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's restricted real estate salesperson license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two courses listed in section 10153.2, other than real estate principles, advanced real estate finance or advanced real estate appraisal. If respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting the restriction.
5. Pursuant to Section 10154, if respondent has not satisfied the requirements for an unqualified license under Section 10153.4, respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

DATED: _____

3/11/08


CHERYL R. TOMPKIN
Administrative Law Judge
Office of Administrative Hearing

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)
7

FILED
MAY 08 2007
DEPARTMENT OF REAL ESTATE
[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 MONICA E. FIGUEROA,) No. H-2106 FRESNO
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, John Sweeney, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against MONICA E. FIGUEROA (hereinafter "Respondent") alleges as
18 follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about May 23, 2006 with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section
25 10153.4 of the California Business and Professions Code.

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


JOHN SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 3^d day of May, 2007.