

JEFF DAVIS
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ATOOSA VANESSA STYC,

Respondent.

Case No. H-3444-SD

OAH No. L2006030972

PROPOSED DECISION

Alvin J. Korobkin, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 23, 2006, in San Diego, California.

Truly Sughrue, Counsel, represented complainant J. Chris Graves, Deputy Real Estate Commissioner, Department of Real Estate, State of California.

No appearance was made by or on behalf of Respondent Atoosa Vanessa Styc, who was served with all required jurisdictional documents. The Office of Administrative Hearings and the attorney for the complainant received a letter from Andrew Wilensky, Esq., the attorney representing respondent, dated August 22, 2006, stating that neither Mr. Wilensky nor respondent would be appearing at the hearing on August 23, 2006, and requesting that the hearing proceed in their absence.

At the end of the hearing on August 23, 2006, the matter was submitted.

FACTUAL FINDINGS

Jurisdictional Matters

1. On June 22, 2006, complainant J. Chris Graves, Deputy Real Estate Commissioner, Department of Real Estate (the Department), State of California, signed the Accusation in his official capacity. The Accusation alleged there were grounds to suspend or revoke all licenses and license rights of respondent under the Real Estate Law, as a result of respondent being convicted of petty theft on August 23, 2005, and being convicted of petty theft on June 12, 2006. The Accusation and other required jurisdictional documents were served on respondent, who timely filed a Notice of Defense.

License History

2. As of June 1, 2005, respondent was licensed and/or had license rights under the Real Estate Law as a real estate salesperson, License No. 00903027. The license expires on May 11, 2008.

Respondent's Convictions

3. On or about August 23, 2005, in the San Diego Superior Court, respondent was convicted, upon her plea of guilty, of violating Penal Code sections 484(a)-488 (Petty Theft). Petty theft is a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee under California Code of Regulations, title 10, section 2910. Respondent was placed on three years summary probation, ordered to pay fines and fees of \$407.00 by September 20, 2005, and ordered to attend a shoplifting education class.

On or about June 12, 2006, in the Orange County Superior Court, respondent was convicted, upon her plea of guilty, of violating Penal Code sections 484-490.1 (Petty Theft). Respondent was placed on two years informal probation, and ordered to pay fines and fees of \$320, payable at the rate of \$100 per month beginning July 12, 2006.

Circumstances of the Offenses

4. On or about February 8, 2004, respondent shoplifted children's clothing valued at \$94 from a Saks Fifth Avenue department store in Orange County. She was not convicted of this offense until June 12, 2006. On or about March 23, 2005, respondent shoplifted a handbag valued at \$1,100 from a Neiman Marcus department store in San Diego. She was convicted of this offense on August 23, 2005.

LEGAL CONCLUSIONS

Purpose of Disciplinary Action

1. The basic reason for disciplinary action in matters of this kind is the protection of the public against unethical and dishonest conduct on the part of those engaged in the real estate business. *Small v. Smith* (1971) 16 Cal.App.3d 450, 456.

Burden and Standard of Proof

2. In an action seeking to impose discipline against the holder of a real estate license, the burden of proof is on complainant to establish the charging allegations by clear and convincing evidence. See, *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 857.

Applicable Statutes

3. Government Code section 11520, subdivision (a) provides in part:

“(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent’s express admissions or other evidence and affidavits may be used as evidence without any notice to respondent. . .”

4. Business and Professions Code section 490 provides in part:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . .”

5. Business and Professions Code Section 10177 provides in part:

“The commissioner may suspend or revoke the license of a real estate licensee . . . who has done any of the following. . .

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude . . .”

Substantial Relationship

6. Honesty and truthfulness are two qualities deemed by the Legislature to bear on one’s fitness and qualification to be a real estate licensee. If a conviction reflects unfavorably on the licensee’s honesty, it may be said the licensee lacks the necessary qualifications to maintain a license. The Legislature intended to ensure that real estate brokers and salespersons will be honest, truthful and worthy of the fiduciary responsibilities which they will bear. *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402.

7. California Code of Regulations, title 10, section 2910 provides in part:

“(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves: . .

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator. . .”

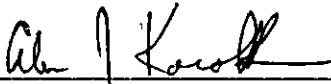
Cause Exists to Revoke Respondent's License

8. Cause exists to revoke respondent's real estate salesperson's license under Business and Professions Code sections 490 and 10177, subdivision (b), as set forth in Factual Findings 3 and 4. Clear and convincing evidence established that on August 23, 2005, respondent was convicted, upon her plea of guilty, of petty theft; and that on June 12, 2006, respondent was convicted, upon her plea of guilty, of petty theft. Petty theft is a crime involving moral turpitude. These convictions are substantially and adversely related to the qualifications, functions and duties of a real estate licensee. Respondent chose not to appear at the hearing, either in person or by representation, and did not present any evidence of rehabilitation. The evidence clearly supports the revocation of respondent's real estate salesperson license, and all licensing rights under the Real Estate Law.

ORDER

Real Estate Salesperson License No. 00903027 and all licenses and other licensing rights of respondent Atoosa Vanessa Styc under the Real Estate Law are revoked.

DATED: 9/27/06


ALVIN J. KOROBKIN
Administrative Law Judge
Office of Administrative Hearings

KLAC

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
JUN 26 2006

DEPARTMENT OF REAL ESTATE

By Arnell Shawver

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ATOOSA VANESSA STYC,)
13 Respondent.)

No. H-3444 SD

FIRST AMENDED
ACCUSATION

14
15 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ATOOSA VANESSA STYC (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law (Part 1 of Division 4 of the
26 Business and Professions Code) (Code) as a real estate
27 salesperson.

III

On or about August 23, 2005, in the Superior Court, County of San Diego, Respondent was convicted of a violation of Section 484(a)-488 of the California Penal Code (Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

On or about June 12, 2006, in the Superior Court, County of Orange, Respondent was convicted of a violation of Section 484-490.1 of the California Penal Code (Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under the provisions of law.

J. Chris Graves
J. CHRIS GRAVES
Deputy Real Estate Commissioner

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
MAR 10 2008

DEPARTMENT OF REAL ESTATE

By *Arne Shaver*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of)
13 ATOOSA VANESSA STYC,)
14 Respondent.)

No. H-3444 SD

ACCUSATION

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II

Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (Code) as a real estate salesperson.

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On or about August 23, 2005, in the Superior Court, County of San Diego, Respondent was convicted of a violation of Section 484(a)-488 of the California Penal Code (Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

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J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 10th day of February, 2006