

FILED
DEC 7 - 1979

DEPARTMENT OF REAL ESTATE

By Roshni R. Kalidin
Roshni R. Kalidin

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

- - -

In the Matter of the Accusation of
MARY JANE DUGGAN,
Respondent.

No. H-4756 SF
N 13385

DECISION

The Proposed Decision dated August 30, 1979,
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.

This Decision shall become effective at 12 o'clock
noon on December 27, 1979.

IT IS SO ORDERED _____, 1979.

David H. Fox
DAVID H. FOX
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
MARY JANE DUGGAN,)
Respondent.)

NO. H-4756 SF

N 13385

PROPOSED DECISION

This matter came on regularly for hearing before Philip V. Sarkisian, administrative law judge of the Office of Administrative Hearings, at San Francisco, California, on August 28, 1979. Stephen W. Thomas, counsel, represented the complainant. The respondent appeared in person and was represented by John D. Fitzgerald, attorney at law. Oral and documentary evidence was introduced and the case was submitted.

Accordingly, the following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

At all times herein mentioned, Mary Jane Duggan (hereinafter referred to as respondent) was licensed by the Department of Real Estate of the State of California (hereinafter referred to as the Department) as a real estate salesperson.

II

The complainant, William O. Kewley, a deputy real estate commissioner of the State of California, acting in his official capacity as such and not otherwise, made the accusation against respondent.

III

Effective September 18, 1977, respondent was licensed as a real estate salesperson in the employ of Valley of California, Inc., dba Valley Realty (hereinafter referred to as

Valley), a firm duly licensed by the Department as a real estate broker. On or about said date, respondent entered into an agreement with Valley to act as manager of Valley's branch office located at 6920 Commercial Boulevard, Rohnert Park, California.

IV

At all times herein mentioned, George R. Faison and May H. Faison (hereinafter referred to as seller) were the owners of the real property commonly known and described as 2931 Robinson Lane, Santa Rosa, California (hereinafter referred to as the property). On or about July 10, 1977, seller entered into an agreement to sell the property to Dana C. and Gay C. Clarke (hereinafter referred to as buyer).

V

Thereafter, buyer sought financing from Great Western Savings and Loan Association (hereinafter referred to as lender) to purchase the property. Lender, prior to funding the loan, required evidence from Sonoma County (hereinafter referred to as county) that the septic system at the property functioned properly, and that the well located at the property contained potable water.

VI

On or about October 26, 1977, county issued a septic system and water supply inspection report for property located at 1291 Lloyd Avenue, Santa Rosa, California. The respondent, while acting in the capacity of a licensee and as Valley's branch manager, fraudulently altered said report without permission, consent, or authority of county to reflect that said report covered the property. Respondent did present or cause to be presented said altered report to lender, knowing the said report to be false and altered.

VII

In reliance upon the representations contained in said altered and false report, lender caused to be funded the loan to purchase the property. By grant deed recorded October 28, 1977, buyer obtained title to the property.

VIII

Before she caused the report to be altered, respondent had in her possession an earlier report on the property dated December 24, 1975. This report from the county stated that

the septic system functioned properly and the well contained potable water as of December 15, 1975. Respondent also had spoken to the sanitarian who made an inspection of the property in October of 1977. He stated that the septic system and well were acceptable to him and that he would recommend a clearance be issued to comply with the lender's requirements. The inspection report could not be issued for a number of days and the parties were anxious to close the escrow. Eventually the clearance was issued and no one was damaged by respondent's misconduct.

Respondent had no financial interest in the transaction. She reported her alteration of the clearance report to her broker the next day. The broker immediately discharged her.

IX

Respondent is well aware of her misconduct. She is contrite. She admitted all material allegations against her. There is no evidence of any prior disciplinary action against respondent. The event appears to have been an isolated act rather than evidence of a continuing course of dishonest behavior. Future violations of a similar nature are unlikely.

DETERMINATION OF ISSUES

Respondent has been guilty of acts and omissions constituting grounds for disciplinary action against her real estate salesperson license under the provisions of sections 10176(a), 10176(i), 10177(f), and 10177(j) of the Business and Professions Code of the State of California.

ORDER

Respondent's license is suspended for ninety (90) days, provided, execution of sixty (60) days of the suspension is stayed and respondent is placed on probation for a period of two (2) years upon condition that she obey all laws and regulations governing her activities as a real estate salesperson. The license is to be actually suspended for thirty (30) days. If respondent does not comply with the terms and probation, the real estate commissioner may, after notice and an opportunity for a hearing is afforded respondent, terminate her probation and reimpose all or any portion of the stayed suspension. If she does comply with the terms of probation, at the expiration of two years from the effective date of this decision, the stay shall become permanent.

DATED: 30 August 1979

Philip V. Sarkisian
PHILIP V. SARKISIAN
Administrative Law Judge

PVS:LHJ

COPY

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APR 23 1979

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DEPARTMENT OF REAL ESTATE

By Mary A. Morello
Mary A. Morello

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

- - -

In the Matter of the Accusation of)
MARY JANE DUGGAN,)
Respondent.)

NO. H-4756 SF
ACCUSATION

The complainant, WILLIAM O. KEWLEY, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against MARY JANE DUGGAN, alleges as follows:

I

That at all times herein mentioned, MARY JANE DUGGAN (hereinafter referred to as respondent) was licensed by the Department of Real Estate of the State of California (hereinafter referred to as the Department) as a real estate salesperson.

II

That the complainant, WILLIAM O. KEWLEY, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as such and not otherwise, makes this accusation against respondent.

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III

That effective September 18, 1977, respondent was licensed as a real estate salesperson in the employ of Valley of California, Inc., dba Valley Realty (hereinafter referred to as Valley), a firm duly licensed by the Department as a real estate broker; that on or about said date, respondent entered into an agreement with Valley to act as manager of Valley's branch office located at 6920 Commercial Boulevard, Rohnert Park, California.

IV

That at all times herein mentioned, George B. Faison and May H. Faison (hereinafter referred to as Seller) were the owners of the real property commonly known and described as 2931 Robinson Lane, Santa Rosa, California (hereinafter referred to as The Property); that on or about July 10, 1977, Seller entered into an agreement to sell The Property to Dana C. and Gay C. Clarke (hereinafter referred to as Buyer).

V

That thereafter, Buyer sought financing from Great Western Savings and Loan Association (hereinafter referred to as Lender) to purchase The Property; that Lender, prior to funding the loan, required evidence from Sonoma County (hereinafter referred to as County) that the septic system at The Property functioned properly, and that the well located at The Property contained potable water.

VI

That on or about October 26, 1977, County issued a

1 septic system and water supply inspection report for property
2 located at 1291 Lloyd Avenue, Santa Rosa, California; that
3 respondent, while acting in the capacity of a licensee and as
4 Valley's branch manager, fraudulently altered said report
5 without permission, consent, or authority of County to reflect
6 that said report covered The Property; that respondent did
7 present or cause to be presented said altered report to Lender,
8 knowing the said report to be false and altered.

9 VII

10 That in reliance upon the representations contained
11 in said altered and false report, Lender caused to be funded the
12 loan to purchase The Property; that by Grant Deed recorded
13 October 28, 1977, Buyer obtained title to The Property.

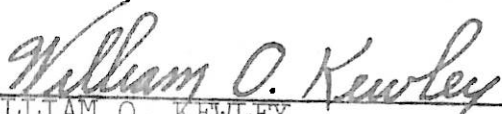
14 VIII

15 That by reason of the facts as hereinabove alleged,
16 respondent has been guilty of acts or omissions, or both,
17 constituting grounds for disciplinary action against respondent's
18 real estate salesperson license under the provisions of Sections
19 10176(a), 10176(i), 10177(f), and 10177(j) of the Business and
20 Professions Code of the State of California.

21 * * * * *

22 WHEREFORE, the complainant prays that the above-
23 entitled Accusation be set for a hearing, and upon proof of
24 the charges contained therein, that the Real Estate Commissioner
25 suspend or revoke the license and any license rights held by the
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1 respondent, and for such other and further relief as may be
2 proper in the premises.
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6 WILLIAM O. KEWLEY
7 Deputy Real Estate Commissioner

8 Dated at San Francisco, California
9 this 23rd day of April, 1979.
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