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FILED

SEP 20 2017

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of

LYNNETTE STROEGER,

Respondent.

CalBRE No. H-6494 SAC

OAH No. 2017021035

STIPULATION AND WAIVER

AND DECISION AFTER REJECTION

This matter came on for hearing before Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California, in Oakland, California, on June 12, 2017.

Kyle T. Jones, Counsel, represented the Complainant, Tricia D. Parkhurst, in her official capacity as a Supervising Special Investigator with the Bureau of Real Estate ("the Bureau"). Respondent, LYNNETTE STROEGER, appeared and was represented by Edgardo Gonzalez.

Evidence was received, the record was closed, and the matter was submitted on June 12, 2017.

On July 11, 2017, the Administrative Law Judge rendered a Proposed Decision which the Real Estate Commissioner (hereinafter "the Commissioner") declined to adopt as his Decision herein. Pursuant to Section 11517 of the Government Code of the State of California,

1 Respondent was served with notice of the Commissioner's determination not to adopt the Proposed
2 Decision along with a copy of the Proposed Decision. Respondent was notified that the case would
3 be decided by the Commissioner upon the record, the transcript of proceedings, and upon written
4 argument offered by Respondent and Complainant.

5 Written argument was not submitted by Respondent. Written argument was not
6 submitted on behalf of Complainant. The parties wish to settle this matter without further
7 proceedings.

8 The following shall constitute the Decision of the Commissioner in these
9 proceedings.

10 The Findings of Fact and Legal Conclusions in the Proposed Decision dated July 11,
11 2017, and attached hereto as Exhibit A are hereby adopted in full as part of this Decision.

12 Pursuant to Section 11517(c)(2)(E) of the California Government Code, the Order in
13 the Proposed Decision dated July 11, 2017, is hereby amended as follows:

14 ORDER

15 Respondent's application for a real estate salesperson license is denied;
16 provided, however, a restricted real estate salesperson license shall be issued to
17 Respondent pursuant to Section 10156.5 of the Business and Professions Code. The
18 restricted license issued to the Respondent shall be subject to all of the provisions of
19 Section 10156.7 of the Business and Professions Code and to the following limitations,
20 conditions and restrictions imposed under authority of Section 10156.6 of said Code:

21 1. The license shall not confer any property right in the privileges to be
22 exercised, and the Real Estate Commissioner may by appropriate order suspend the right
23 to exercise any privileges granted under this restricted license in the event of:

24 (a) The conviction of Respondent (including a plea of nolo contendere) of
25 a crime which is substantially related to Respondent's fitness or capacity as a real estate
26 licensee; or
27

1 **(b) The receipt of evidence that Respondent has violated provisions of the**
2 California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
3 Commissioner or conditions attaching to this restricted license.

4 **2. Respondent shall not be eligible to apply for the issuance of an**
5 unrestricted real estate license nor the removal of any of the conditions, limitations or
6 restrictions attaching to the restricted license until three (3) years have elapsed from the
7 date of issuance of the restricted license to Respondent.

8 **3. With the application for license, or with the application for transfer to a**
9 new employing broker, Respondent shall submit a statement signed by the prospective
10 employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Bureau of
11 Real Estate which shall certify as follows:

12 **(a) That the employing broker has read the Decision which is the basis**
13 for the issuance of the restricted license; and

14 **(b) That the employing broker will carefully review all transaction**
15 documents prepared by the restricted licensee and otherwise exercise close supervision
16 over the licensee's performance of acts for which a license is required.

17 **4. Respondent shall notify the Commissioner in writing within 72 hours of any**
18 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office
19 Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of Respondent's
20 arrest, the crime for which Respondent was arrested and the name and address of the arresting law
21 enforcement agency. Respondent's failure to timely file written notice shall constitute an
22 independent violation of the terms of the restricted license and shall be grounds for the suspension
23 or revocation of that license.

24
25 8/21/17
26 DATED _____

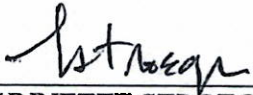
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KYLE T. JONES
Real Estate Counsel

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I have read the Stipulation and Waiver and Decision After Rejection and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the Administrative Procedure Act, and I willingly, intelligently, and voluntarily waive those rights.

8/14/2017
DATED


LYNNETTE STROEGER
Respondent

I have reviewed this Stipulation and Waiver as to form and content and have advised my clients accordingly.

8/15/17
DATED


EDGARDO GONZALEZ
Attorney for Respondent

The foregoing Stipulation and Waiver and Decision After Rejection is hereby adopted as my Decision and Order in this matter and shall become effective at 12 o'clock noon on
OCT 11 2017

IT IS SO ORDERED September 15, 2017

WAYNE S. BELL
REAL ESTATE COMMISSIONER


By: DANIEL J. SANDRI
Chief Deputy Commissioner

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AUG 07 2017

BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of)	CalBRE No. H-6494 SAC
)	
LYNNETTE STROEGER,)	OAH No. 2017021035
)	
Respondent.)	

NOTICE

TO: LYNNETTE STROEGER, Respondent, and EDGARDO GONZALEZ , his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 11, 2017, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 11, 2017, is attached hereto 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 Monday, June 12, 2017, and 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 Monday, June 12, 2017, at the Sacramento office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

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Written argument of complainant to be considered by me must be submitted within
15 days after receipt of the argument of respondent at the Sacramento Office of the Bureau of Real
Estate unless an extension of the time is granted for good cause shown.

DATED: 8/4/17

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By 
DANIEL J. SANDRI
Chief deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

LYNNETTE STROEGER,

Respondent.

No. H-6494 SAC

OAH No. 2017021035

PROPOSED DECISION

Administrative Law Judge Perry O. Johnson, State of California, Office of Administrative Hearings, heard this matter on June 12, 2017, in Oakland, California.

Counsel Kyle T. Jones, Legal Division, Bureau of Real Estate, represented complainant Tricia D. Parkhurst.

Attorney at Law Edgardo Gonzalez represented respondent Lynnette Stroeger, who was present for the proceeding.

On June 12, 2017, the parties submitted the matter for decision, and the record closed.

FACTUAL FINDINGS

1. On January 31, 2017, complainant Tricia D. Parkhurst (complainant), in her official capacity as a Supervising Special Investigator, Bureau of Real Estate, State of California (the bureau), made the Statement of Issues against Lynnette Stroeger (respondent).

2. On May 27, 2016, the bureau received respondent's application for a real estate salesperson license. Respondent had signed the application on May 25, 2016.

The application remains pending as the bureau has refused to issue a license to respondent due to her past acts and omissions that appear to disqualify her for licensure.

Record of Criminal Conviction

3. On March 26, 2012, under Case No. 12CR0709 WQH, in the United States District Court, the Southern District of California, by way of a guilty plea, respondent was convicted of violating title 18 United States Code section 1001, subdivision (a)(2), (false statement to federal officer), a felony.

The felony offense for which respondent was convicted in March 2012 is substantially related to the qualifications, functions, or duties of a real estate licensee. Respondent used fraud, deceit, falsehood, or misrepresentation to achieve an end.

4. The facts and circumstances of respondent's felony offense arose out of events relating to respondent's statements to Federal Bureau of Investigation (FBI) Special Agents of the FBI's Office of Inspector General (IG) regarding her work as a loan application processor. In particular, the FBI IG was investigating the specifics of a mortgage loan made with an FBI Agent named Williard Beaver, who had come to respondent regarding an application made in August 2006 to purchase a house in Modesto, California. The FBI IG understood that agent Beaver had presented written documents showing his monthly employment income at \$14,575. Respondent processed the loan. When the FBI IG agents interviewed respondent in June 2011, respondent made statements and representations in support of the loan that she knew were "false, fictitious, and fraudulent." Both agent Beaver and respondent knew that the annual income of the mortgage loan applicant was approximately \$70,000, rather than \$174,900.

5. As a consequence of the March 2012 conviction, the federal court placed respondent on a two-year term of probation. And, the United States District Court for the Southern District of California ordered respondent to pay a special assessment in the amount of \$100. The federal court waived imposition of a fine against respondent. The conviction record shows that respondent was subject to "standard conditions of supervision," which included that she: (1) not leave the jurisdiction; (2) regularly report to a probation officer, (3) support her dependents; (4) work regularly at a lawful occupation; and (5) answer truthfully all inquiries by the probation officer.

Matters in Extenuation

6. At the hearing of this matter, respondent persuasively advanced that she had known former agent Beaver since the two individuals had been children growing up in San Diego. Her deep friendship towards the individual swayed her better judgment to aid Mr. Beaver to acquire the residence in Modesto.

Respondent's Background and Matters in Mitigation

7. Respondent is 43 years old. She is an intelligent and very contrite individual.

8. In 1992, respondent graduated from Samuel F. B. Morse High School in San Diego. She enrolled at San Diego City University, and studied at that institution for approximately one year. She worked for approximately another year and then she attended Marrick College (now known as Kaplan University) over a one-year period when she studied aspects of the medical assistant occupation.

9. With her training, respondent worked as a medical assistant in a medical family practice for a group of physicians.

10. In 1997, respondent moved to New York State with the aim of working as a medical assistant in a cardiology practice. She worked at the Cornell University/ Presbyterian Hospital as a medical assistant as well as an administrative assistant for a period of nine years in various departments.

11. While in New York, respondent attended City University of New York (CUNY) / Hunter College with the hope of becoming a registered nurse.

12. In 2003, respondent acquired licensure as a real estate salesperson in New York State. She last actively worked as a real estate agent in that state during 2007. She was, however, licensed as a real estate agent in New York from 2003 until 2007, when she allowed the license to expire without renewal.

13. In approximately 2004, respondent learned that her father had become seriously ill due to a heart malady. So at that time, respondent began the process of moving from New York back to San Diego during 2005 to help her father in his operation of a tax preparation service. (Respondent traveled bi-coastal in the continuation of her New York real estate practice until 2007.)

Through the CTEC (California Tax Education Council) program, respondent received an Enrolled Agent's certification with the Internal Revenue Service in approximately 2005, and she began to work through her father's tax preparation office. In time, her father recovered his health and respondent decided to open an independent tax preparer's office.

Also at the time of beginning her independent tax preparer's office, respondent became associated in 2006 or 2008 with Valley Vista Mortgage, through which she offered and processed real estate mortgage loans. She worked part time as a loan originator through Valley Vista Mortgage until the end of 2008. Thereafter, respondent secured employment as a loan processor through various banks, namely Bank of

America, Wells Fargo, and Countrywide Bank. She became a bankruptcy specialist regarding mortgage loan processing.

The loan for her friend, whose income misinformation led to the FBI investigator's questioning respondent in a manner that resulted in the 2011 conviction, was processed in 2006 when respondent first began work for Valley Vista Mortgage.

14. In 2007, respondent obtained an appointment and commission as a notary public with the California Secretary of State. The Notary Public commission supplemented her work as a tax preparer. (Respondent functioned as a notary public until 2015, when the notary public commission and appointment were revoked by the Secretary of State on grounds of respondent's felony conviction.)

Witnesses in Support of Rehabilitation

15. At the hearing of this matter, respondent called two witnesses.

KIM STROEGER

16. Mr. Kim Stroeger (Mr. Stroeger) offered compelling testimonial evidence in support of respondent.

Mr. Stroeger has been married to respondent since 2009. The couple has two children, ages seven and four years old. Respondent and Mr. Stroeger reside in San Jose.

Mr. Stroeger has a background as a computer engineer. He is employed through Twitter where he aids managers of that corporation.

Mr. Stroeger has a vivid recollection of the date in 2012 when two FBI agents came to the residence for him and his wife to interview respondent about events that had occurred many years in the past. The incident was emotionally upsetting and remains in his mind as a traumatic recollection. Mr. Stroeger was supportive of respondent during the federal court conviction action.

Mr. Stroeger persuasively notes that respondent's strong religious background and the support of her family enabled her to overcome the ordeal relating to the federal criminal court proceedings, which led to the conviction. He admires respondent's dedication in meeting all obligations in meeting terms of rehabilitation due to the federal court conviction.

Mr. Stroeger knows that respondent continues to be deeply religious. And, he views his wife as being an honest and conscientiously decent person. And, he knows that respondent is an exceedingly devoted mother to the couple's two children.

Mr. Stroeger attributes respondent's crime to her inherent desire to help others. In his view, respondent went "too far" in her desire to help her friend secure a mortgage loan through misinformation, and also when she lied to FBI agents about her friend's attempt to conceal the misinformation relating to the "liar's loan."

ROBERT STEVEN PIERCE

17. Mr. Robert Steven Pierce came to the hearing to offer testimony in the capacity of the potential supervising real estate professional who would oversee respondent's activities.

Mr. Pierce has been the responsible real estate licensee for Keller Williams Realty in Fremont, California, for 15 years. He has been a licensed real estate salesperson for 27 years, and a licensed California lawyer for 34 years.

Mr. Pierce met respondent approximately three to four months before the hearing date when she filed an application to work as a real estate agent through Keller Williams. At the time of their initial contact, respondent disclosed her criminal conviction. Mr. Pierce as well as the Officer Manager for the Fremont Office, Ms. Gina Hanson, view respondent's past criminal act as a "one-time incident." (A letter, which was written by Ms. Hanson, is part of the record for this matter.)

As the broker-in-charge, Mr. Pierce proclaims that Keller Williams Realty can provide ample assurance that respondent will be supervised during a period that the bureau may require her to operate under a restricted real estate salesperson license.

Matters that Negatively Impact Upon Respondent's Progress towards Rehabilitation

18. For the hearing in this matter, respondent did not provide documentary proof that in the immediate past she has had significant or conscientious involvement in community, religious, or privately sponsored programs designed to provide social benefits or to ameliorate social problems. (Respondent did express that through Ms. Violeta Sy, she attended Bible Study and attended Bay Area Christian Church and the South Bay Church. Through South Bay Church, respondent volunteered at a church Art's Festival where she engaged in children's face painting. But, respondent offered no document or letter from a church official that describes the nature and extent of respondent's volunteer work at South Bay Church.)

Matters in Rehabilitation

19. Respondent's felony conviction in the federal court occurred more than four years, two months before the date of the Statement of Issues filed by complainant

against respondent. And, measured against the date of the hearing in this matter, her conviction occurred five years, three months in the past.

20. As to the federal court's probation order that she pay an assessment, respondent paid the federal court's assessment of \$100 on May 29, 2012.

21. Respondent's two-year term of probation ended on March 25, 2014. Therefore more than three years have passed since the expiration of respondent's term of probation due to the federal court conviction.

22. Respondent acknowledged committing the federal felony offense, and she poignantly states great regret and anguish for her impetuous acts of aiding a long-term friend in filing a false and fraudulent application for a mortgage loan. (The irony is that due to his termination from the position as an FBI agent, Mr. Beaver has bitter feelings towards respondent; and, their friendship has dissolved.)

23. With regret, respondent looks back at her acts, which she now views as illogical and without direction. She now realizes that she should never have succumbed to her friend's request for assistance in securing a mortgage on a house located in Modesto, California.

24. Respondent poignantly testified that her friendship and concern for the wellbeing of her childhood acquaintance, who had long aspired to be an agent of the FBI, did not excuse her conduct when she made false statements to investigators from the Inspector General's Office of the FBI.

25. Over approximately 12 years respondent has been employed as a tax preparer and bookkeeper. She has received no complaints or reports of malfeasance in the provision of tax preparation services.

26. Over the past decade, respondent has annually renewed her CTEC certificate in order to remain a Registered Tax Preparer for California and federal taxes. Her current certificate is valid through October 31, 2017.

27. Over many years, respondent has completed occupational training courses, including a two-hour course in Ethics, through the Golden State Tax Training Institute, Inc. The last certificate of completion was issued to respondent on October 26, 2016.

28. In 2013, respondent enrolled at Mission College in Santa Clara to study accounting. She plans to acquire a degree in accounting. With her education in accounting, respondent has expanded her work as a bookkeeper.

29. Respondent has personal stability by reason of her family life with her husband and two children, who reside at respondent's house in the City of Fremont. And, a sibling offered a strong character letter into the record for this matter on behalf of respondent.

30. Respondent has the support and respect of various individuals where she lives and works. She offered seven letters¹ by persons who endorsed her licensure as a real estate professional. The letters express amazement and surprise with respondent's history of committing a felony offense. The letters state that respondent is a competent and dedicated tax preparer, who has shown honesty and integrity in her business dealings.

31. Respondent has formulated a changed attitude from the time of her past criminal act to the present time of maturity and stability of thought, which shield her from engaging in the type of misbehavior and criminal conduct that led to her felony conviction in the federal court.

32. Respondent has changed business practices that related to the circumstances that provided the genesis for making false statements. She has not engaged in loan processing as an independent operative for approximately nine years. And as to tax preparation work, respondent is diligent in verifying the accuracy of records used in finalizing state and federal tax returns.

Ultimate Finding

33. The weight of the evidence supports the determination that it would not be against the public interest for the bureau to issue respondent a real estate salesperson license on a restricted basis for a period of three years.

LEGAL CONCLUSIONS

1. Business and Professions Code section 480, subdivision (a), provides that the bureau may deny a license on the ground that the applicant has "been convicted of a crime . . . [that] . . . is substantially related to the qualifications, functions or duties of the business . . . for which (an) application is made."

¹ A letter, dated May 9, 2017, by Violeta Sy; a letter, dated May 9, 2017, by Kim Stroeger; a letter, dated May 19, 2017, by Angela Kverno; a letter, dated May 10, 2017, by Gayle Montisano; a letter, dated May 8, 2017, by Christen Habib; a letter, dated May 13, 2017, by Collette Jeffs; and, a letter, dated April 24, 2017, by Liza Malabunga.

Business and Professions Code section 10177, subdivision (b), establishes that the bureau may deny the issuance of a license to an applicant who has “[e]ntered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee”

2. Criteria for substantial relationship between respondent’s federal felony conviction for making a false statement to a federal officer with the qualifications, functions, or duties of a real estate licensee are grounded in California Code of Regulations, title 10, section 2910, subdivision (a)(4).

California Code of Regulations, title 10, section 2910, subdivision (a)(4), provides a criterion for substantial relationship as: “the employment of . . . fraud, deceit, falsehood or misrepresentation to achieve an end.” In 2006, respondent engaged in deceit, falsehood and misrepresentation when she “processed” a loan application for a mortgage of an individual, who greatly exaggerated his income as a FBI agent. Then, five years later, she again engaged in deceit, falsehood and misrepresentation when the Inspector General’s Office of the FBI sent two investigators to interview respondent about her role in helping secure a loan based upon untrue information.

3. Cause exists to deny licensure to respondent under Business and Professions Code section 10177, subdivision (b), together with Code section 480, subdivision (a), by reason of the matters set forth in Factual Finding 3, along with Legal Conclusions 1 and 2.

4. Complainant cites *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, for the proposition that honesty is an integral characteristic for a real estate licensee and that when an applicant for licensure demonstrates acts of dishonesty in the past along with false information being advanced during the application process, the individual is not a proper candidate for licensure and the application. But, in respondent’s case, she has overcome her past acts of making false statements regarding a mortgage loan application and her dishonesty with FBI agents. Her immediate past few years of hard work, family development, religious observation, and continuing education show that she has overcome the deficiencies highlighted in the *Harrington* decision.

5. Matter in extenuation, respondent’s background, witnesses in rehabilitation, matters in mitigation, and matters in rehabilitation as set forth in Factual Findings 6 through 17, and 19 through 28, have been considered in making the Order below.

6. The bureau has developed 14 criteria to be used to evaluate rehabilitation of an applicant for a license who has committed a crime. (Cal. Code Regs., tit. 10, § 2911.) These criteria attempt to gauge whether the applicant has changed so that a

repeat of her criminal behavior is unlikely. Of the many criteria, arguably the most important in predicting future conduct is section 2911, subdivision (n): “[c]hange in attitude from that which existed at the time of the conduct in question.” (*Singh v. Davi* (2012) 211 Cal.App.4th 141, 148–49.) Respondent has demonstrated a change in attitude. She vividly proclaims that she was gravely in error when she helped her friend fraudulently procure a loan and then when interviewed by law enforcement officers about the loan, she lied about the matter.

As prescribed by California Code of Regulations, title 10, section 2911, respondent has been successful in attaining the constellation of positive attributes in accordance with the bureau’s criteria for rehabilitation from the record of her single federal court conviction.

7. It would not be against the public interest for respondent to hold a restricted real estate salesperson license for a period of three years.

ORDER

Respondent Lynnette Stroeger’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 the 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:

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:

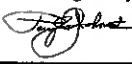
- (a) The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent’s fitness or capacity as a real estate licensee; or
- (b) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

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 years have elapsed from the date of issuance of the restricted license to respondent.

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 Bureau 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.

DATED: July 11, 2017

DocuSigned by:

281854099E7453
PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings