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FILED
OCT 13 2005
DEPARTMENT OF REAL ESTATE
By Jean Arent

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of SHANAZ SEDDIQUI, Respondent.	No. H-8233 SF

ORDER GRANTING UNRESTRICTED LICENSE

On April 28, 2003, a Decision was rendered herein denying the 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 June 11, 2003, and Respondent has operated as a restricted licensee since that time.

On January 18, 2005, 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 her of an unrestricted real estate salesperson license and that it would not be against the public interest to issue said license to Respondent.

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

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

2. Within nine (9) months from the date of this order respondent shall:

(a) Submit a completed application and pay the appropriate fee for a real estate salesperson license, and

(b) Submit evidence of having taken and successfully completed the courses specified in subdivisions (a) (1), (2), (3) and (4) of Section 10170.5 of the Real Estate Law for renewal of a real estate license.

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

///

This Order shall become effective immediately.

DATED: 10-12, 2005.

JEFF DAVI
Real Estate Commissioner

FILED
MAY - 2 2003
DEPARTMENT OF REAL ESTATE
By Laurie A. Zon

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA
* * *

In the Matter of the Application of SHANAZ SEDDIQUI, Respondent.	NO. H-8233 SF OAH NO. N-2002110457

DECISION

The Proposed Decision dated April 7, 2003, 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 23, 2003.

IT IS SO ORDERED April 28, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of	
SHANAZ SEDDIQUI	Case No. H-8233 SF
Respondent.	OAH No. N 2002110457

PROPOSED DECISION

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings heard this matter on March 19, 2003, in Oakland, California.

James L. Beaver, Counsel, represented the complainant Les R. Bettencourt, Deputy Real Estate Commissioner of the State of California.

Respondent Shanaz Seddiqui appeared on her own behalf.

The matter was submitted on March 19, 2003.

FACTUAL FINDINGS

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

2. On or about June 14, 2002, the Department of Real Estate (Department) received an application for a real estate salesperson license from Shanaz Seddiqui (respondent). The application was dated June 15, 2002, and signed under penalty of perjury.

3. On the application respondent answered "No" in response to question 25 "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE." Respondent failed to respond to question number 27, which directed her to provide a detailed explanation of any violation whose disclosure was required pursuant to question 25. Respondent's answer to question 25 was false or misleading in that she had been convicted of the offense

set forth in Finding 4. Respondent's failure to answer question 27 was also misleading in that she had been convicted of the offense set forth in Finding 4.

4. On June 1, 1989, in the Municipal Court of the State of California for the County of Santa Clara, respondent was convicted, upon a plea of guilty, of violation of Welfare and Institutions Code section 10980, subdivision (c)(2)(fraud to obtain aid), a misdemeanor.[1] Fraud to obtain aid is a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate salesperson.

Imposition of sentence was suspended and respondent was placed on two years probation on terms and conditions that included completion of 150 hours of volunteer service. Respondent successfully completed probation and has not been involved in any known criminal activity since that time. Respondent has no other convictions.

5. According to respondent, the circumstances of her conviction are that in late 1988 or early 1989, while her family was receiving welfare payments, her husband performed and was paid for work that was not reported to the Welfare Department. Respondent explained that neither she nor her husband was working when they initially began receiving welfare payments. Respondent's husband had been laid off his job as an assembly technician and respondent was a student. Respondent's husband was later called back to work for a temporary 2 month assignment. Neither respondent nor her husband reported the income from the temporary assignment and they continued to receive welfare payments during the two month period. Respondent admits she knew they were required to report her husband's temporary income. However, they did not do so because her husband's return to work was only temporary and they knew he would soon be out of work again.

Respondent and her family received welfare for six or seven months before her husband returned to work full-time. Respondent's family subsequently received a letter stating that they had received an overpayment of aid. Respondent contacted the Welfare Department and was told they owed $4,456.00, which included fines and penalties. Respondent borrowed the money from her sister and repaid what was owed through the Welfare Department. Respondent thought the matter had been resolved, but she later received a letter from the court. The Welfare Department told respondent they did not know why she had received the letter. Respondent went to court and showed the judge her receipt for payment. The judge sentenced respondent to 150 hours of volunteer service and two years probation.

6. With respect to her failure to list her criminal conviction on her real estate license application, respondent explains that she did not understand that the court process resulted in a criminal conviction and/or that the "conviction" was still on her record. It was respondent's understanding that the court proceeding was part of the Welfare Department

[1] On motion of the district attorney, respondent's offense was declared a misdemeanor pursuant to Penal Code section 17.

process and that by performing 150 hours of volunteer service, in addition to repaying the aid overpayment, she had taken care of the matter. Respondent admits she was read her rights in court, but states she did not understand at the time that she was being charged with a crime because she was not familiar with the system or the process. Respondent immigrated to the United States from Afghanistan/Pakistan in 1981 and at the time of the incident she did not understand English well or what was happening regarding the matter. In addition, in the 13 years since her conviction respondent has worked in financial institutions and has been fingerprinted, tested and granted United States citizenship, all without any reference to a conviction. This reinforced respondent's belief that the aid overpayment issue and been resolved.

7. During her testimony, respondent maintained good eye contact and appeared very sincere. She was also very candid about her improper receipt of aid and accepted responsibility for her actions. Her testimony was very credible.

8. Respondent is 41 years old. She has been married to her husband for many years and has two children, ages 19 and 11. From January 1999 to November 2001 respondent was employed with Meriwest Credit Union & Mortgage in San Jose, California. Between March 1997 and November 1999, respondent had a business license and worked in sales for Mountain Man Candy in San Jose, California. Prior to 1997 she worked for Great Western Bank and has also worked for the postal service in a temporary capacity for approximately 2 years. In addition, respondent has taken classes at San Jose City College and obtained a certificate from Heald College in 1983. Respondent currently volunteers and is very involved with the Afghanistan Public Library Foundation, serving as the treasurer of that organization. Obtaining a real estate license is a personal goal respondent has set for herself. She is very interested in real estate sales as a result of purchasing property (she and her husband own their own home as well as income property). Respondent also helped process real estate loans while working for a bank, which she found interesting. In addition, respondent feels that obtaining a license will enable her to help provide support for her family.

9. At hearing respondent submitted letters of reference from two family members, Adam Seddiqui and Vaus D. Aslaun, attesting to respondent's trustworthiness, honesty and dedication to family.

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 4.

2. It was not established that cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480, subdivision (c) and 10177,

subdivision (a) [attempting to procure a license by fraud, misrepresentation, deceit or material misstatement in the application] for failure to disclose that she had been convicted of a crime on her application for a real estate license. Respondent credibly explained her misunderstanding regarding the nature of her conviction.

3. Notwithstanding respondent's prior conviction and her failure to disclose that conviction on her application for licensure, 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. In this regard it is noted that respondent's conviction occurred over 13 years ago and respondent has not engaged in any known criminal conduct since that time. It is also noted that respondent's failure to list her conviction resulted from her misunderstanding of the court process rather than from any active intent to deceive the Department. Respondent also seems motivated to improve her own life (by setting and achieving personal goals) and the lives of those she loves. It thus appears unlikely that respondent will engage in criminal conduct in the future.

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 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 two 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 principals, 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: 4/7/03

CHERYL R. TOMPKIN
Administrative Law Judge
Office of Administrative Hearings

FILED
JAN - 8 2003
DEPARTMENT OF REAL ESTATE
By [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

SHANAZ SEDDIQUI,

Respondent

Case No. H-8233 SF

OAH No. N-2002120228

FIRST AMENDED
NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **WEDNESDAY, MARCH 19, 2003**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: JANUARY 8, 2003

By James L. Beaver
JAMES L. BEAVER, Counsel

(12)

FILED
NOV 15 2002
DEPARTMENT OF REAL ESTATE
By [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

SHANAZ SEDDIQUI,

Respondent

Case No. H-8233 SF

OAH No.

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at

THE OFFICE OF ADMINISTRATIVE HEARINGS
THE ELIHU HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 206
OAKLAND, CALIFORNIA 94612

on **MONDAY, DECEMBER 30, 2002**, at the hour of **1:30 P.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

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DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 15, 2002

By Deidre L. Johnson
DEIDRE L. JOHNSON, COUNSEL

RE 500 (Rev. 8/97)

LZ

JAMES L. BEAVER, Counsel (SBN 60543)
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
NOV - 5 2002
DEPARTMENT OF REAL ESTATE
By Laurie B.

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of
SHANAZ SEDDIQUI,
Respondent.

No. H-8233 SF

STATEMENT OF ISSUES

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against SHANAZ SEDDIQUI (hereinafter "Respondent"), alleges as follows:

I

Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity.

II

On or about June 14, 2002, Respondent made application to the Department of Real Estate of the State of California (hereinafter "the Department") for a real estate salesperson license with the knowledge and understanding that, pursuant to the provisions of Section 10153.3 of the Business and Professions Code, any license issued as a result of said application would be subject to the conditions of Section 10153.4 of the California Business and Professions Code (hereinafter "the Code").

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law? Convictions expunged under Penal Code Section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense", Respondent concealed and failed to disclose the conviction described in Paragraph IV, below.

IV

On or about June 1, 1989, in the Municipal Court of the State of California, County of Santa Clara, Santa Clara County Judicial District, Respondent was convicted of the crime of Welfare Fraud in violation of Welfare and Institutions Code Section 10980(C)(2), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

V

In failing to reveal the conviction described in Paragraph IV, above, in said application, Respondent attempted to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which constitutes cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

VI

Respondent's criminal conviction, as described in Paragraph IV, above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

WHEREFORE, 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 in the premises.

Les R. Bettencourt

LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 29th day of October, 2002.