

FILED

JAN 11 2008

DEPARTMENT OF REAL ESTATE

By

Jean Arredondo

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-9095 SF
)
ELENA CHALDO,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 6, 2005, a Decision was rendered herein revoking the real estate salesperson license of Respondent effective July 11, 2005, 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 December 22, 2005 and Respondent has operated as a restricted licensee since that time.

On July 23, 2007, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate salesperson license and that it would
6 not be against the public interest to issue said license to
7 Respondent.

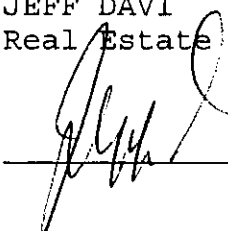
8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent if Respondent
11 satisfies the following conditions within nine (9) months from
12 the date of this Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: 1-8-08

22 JEFF DAVI
23 Real Estate Commissioner
24 
25 _____
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FILED
JUN 21 2005
DEPARTMENT OF REAL ESTATE

By S. Elzy
5 SF

NO. H-9095 SF
N-2005030462

The Proposed Decision dated May 24, 2005, 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 Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on JUL 11, 2005.

IT IS SO ORDERED 4-6-, 2005.

JEFF DAVIS
Real Estate Commissioner

gml

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of Accusation of:

ELENA CHALDO,

Respondent.

Case No. H-9095 SF

OAH No. N2005030462

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 10, 2005.

Real Estate Counsel Michael B. Rich represented complainant Les R. Bettencourt, Deputy Real Estate Commissioner.

Respondent Elena Chaldo was present and represented herself.

The matter was submitted for decision on May 10, 2005.

FACTUAL FINDINGS

1. Complainant Les R. Bettencourt filed the accusation in his capacity as a Deputy Real Estate Commissioner of the State of California.

2. Respondent Elena Chaldo is presently licensed and has license rights under the Real Estate Law (Bus. & Prof. Code, pt. 1, div. 4) as a real estate salesperson. Respondent has held a real estate salesperson license since February 24, 1999. Since October 25, 2003, respondent has been working in the employ of Intero Real Estate Services Inc. in Cupertino.

3. On March 13, 2003, respondent was convicted in Alameda County on her plea of nolo contendere to a misdemeanor violation of Penal Code sections 484/487, petty theft. The offense involves moral turpitude, and it is substantially related to the qualifications, functions, or duties of a real estate salesperson (Cal. Code Regs., tit. 10, § 2910, subd. (a)(1)). Imposition of sentence was suspended and respondent was placed on court probation for two years. Respondent was ordered to pay fines and fees of \$415.

4. The conviction arose from conduct that occurred on December 12, 2002. Respondent was accused of entering a retail store, removing tags from a jacket and a belt valued at \$205, putting the items in her purse, and leaving the store without paying for them.

Respondent admits taking the jacket, but not the belt. She states that she had previously purchased the belt and had a receipt for it. With respect to the jacket, respondent says she did not intend to steal it, but took it accidentally. Respondent was shopping for last minute gifts to bring with her on a trip home to Russia the following day. She says she was distracted and distraught by the breakup of her 20-year marriage. Respondent says she carried the jacket around the store considering whether to purchase it. She walked out of the store without paying for jacket. Respondent did not explain how the jacket got into her purse.

5. Respondent admitted to the security officers that she had taken the two items. She did so because she was fearful she would be jailed and miss her flight to Russia the next day.

6. Respondent has paid the fines and fees and she has successfully completed probation. She applied for an expungement of the conviction in March and is awaiting the court's ruling on her petition.

7. Respondent has no other criminal convictions.

8. This is respondent's first disciplinary action.

9. Respondent is 48 years old. Her divorce is completed. She has two adult sons for whom she provides financial support. One son is still in school. Respondent's other son is 28 years old. He attests that his mother was extremely distraught over the divorce and that for a "certain period of time she felt very emotionally unstable and that caused some completely abnormal action." He attests that the incident is out of character for his mother, and that she is now in good "psychological health."

10. Respondent is embarrassed by the conviction and she did not disclose the conviction to her broker. The broker did not provide evidence in support of respondent's character.

11. For the past three summers respondent has participated as a volunteer Russian translator for Adoption Adventure Network, a nonprofit agency that places orphaned Russian children with American families.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 490, subdivision (a), the Commissioner may suspend or revoke a real estate license if the licensee has been convicted of an offense that is substantially related to the qualifications, functions or duties of a real estate licensee. Under Business and Professions Code section 10177, subdivision (b), the Commissioner may suspend or revoke a real estate license if the licensee has been convicted of a crime involving moral turpitude. By reason of the matters set forth in Factual Finding 3, respondent has been convicted of petty theft, a crime involving moral turpitude and that is

substantially related to the qualifications, functions or duties of a real estate licensee. Cause exists to suspend or revoke respondent's real estate salesperson license pursuant to Business and Professions Code sections 490, subdivision (a) and 10177, subdivision (b).

2. In California Code of Regulations, title 10, section 2912, the Department has established criteria to be used in evaluating the rehabilitation of licensee. The burden is on respondent to show that she has sufficiently rehabilitated herself so that it would be appropriate to allow her to retain her real estate license. Respondent has met some of the relevant criteria. More than two years have elapsed since the conviction. Respondent paid the imposed fine and successfully completed probation. Her divorce is completed and she now has a stable family life. She has shown some involvement in community or church programs designed to provide social benefits. Respondent has not committed any subsequent offenses and thus has shown she can conform to societal rules. It appears that this offense was an isolated incident in respondent's life and for that reason is not likely to be repeated. It is of some concern that respondent did not disclose the conviction to her broker and that she did not present evidence from him about her work performance and character. While this is a close case, all things considered, it would not be contrary to the public interest to allow respondent to retain her license on a restricted basis, with the additional requirement that she complete an ethics course.

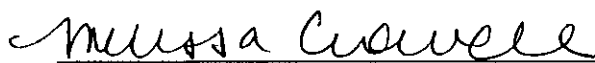
ORDER

All licenses and licensing rights of respondent Elena Chaldo under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.6 of the Business and Professions Code if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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 that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

3. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
- (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, 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. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
5. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.
6. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

DATED: May 24, 2005

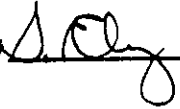


MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

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6 Telephone: (916) 227-0789

FILED
JAN 25 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ELENA CHALDO,) NO. H-9095 SF
13 Respondent.) ACCUSATION

14
15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against ELENA CHALDO (hereinafter referred to as
18 Respondent), is informed and alleges as follows:

19 I

20 The Complainant, LES R. BETTENCOURT, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in 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.

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III

On or about March 13, 2003, in the Superior Court, County of Alameda, State of California, Respondent was convicted of a violation of Section 488/484 of the California Penal Code (Petty theft), a crime involving moral turpitude and/or a crime 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

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

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.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 6th day of January, 2005