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FILED

SEP 01 2011

DEPARTMENT OF REAL ESTATE

By *L. Frost*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of

CINDY MAI NGUYEN,

Respondent.

No. H-9269 SF

ORDER GRANTING UNRESTRICTED LICENSE

On October 12, 2005, a Decision was rendered herein denying 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 November 12, 2005, and Respondent has operated as a restricted licensee since that time.

On March 4, 2011, 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 Respondent of

///

1 an unrestricted real estate salesperson license and that it would not be against the public interest
2 to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
4 restrictions is granted and that a real estate salesperson license be issued to Respondent if
5 Respondent satisfies the following requirements:

- 6 1. Submits a completed application and pays the fee for a real estate
7 salesperson license within the 12 month period following the date of this Order; and
8 2. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed
11 application, or (ii) within the 12 month period following the date of this Order.

12 This Order shall become effective immediately.

13 IT IS SO ORDERED 8/3/11

14 BARBARA J. BIGBY
15 Acting Real Estate Commissioner

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1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED
OCT 14 2005

DEPARTMENT OF REAL ESTATE

By 

7 **DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11 CINDY MAI NGUYEN

12
13 Respondent

)
) No. H- 9269 SF

)
) **STIPULATION AND**
) **WAIVER**

14
15 It is hereby stipulated by and between CINDY MAI NGUYEN (hereinafter "Respondent") and
16 Respondent's attorney, Scott G. Lyon, Esq., and the Complainant, acting by and through James L. Beaver,
17 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the
18 Statement of Issues filed on June 8, 2005 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and the
20 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
21 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
22 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
23 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the
24 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
25 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
26 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets
27 all the requirements for issuance of a real estate salesperson license. Respondent further understands that by

1 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
3 to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and
7 Professions Code. Respondent understands that any such restricted license will be issued subject to and be
8 limited by Section 10153.4 of the Business and Professions Code.

9 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's
10 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's
11 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver
12 is accepted by the Real Estate Commissioner. However, Respondent is not waiving Respondent's right to a
13 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and
14 Waiver is not accepted by the Commissioner.

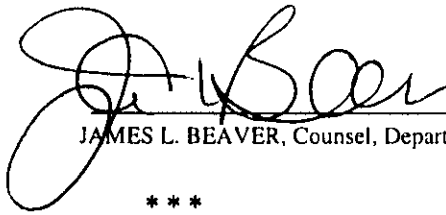
15 Respondent further understands that the following conditions, limitations, and restrictions will attach
16 to a restricted license issued by the Department of Real Estate pursuant hereto:

- 17 1. The license shall not confer any property right in the privileges to be exercised including the
18 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
19 to exercise any privileges granted under this restricted license in the event of:
 - 20 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears
21 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or
 - 22 b. The receipt of evidence that Respondent has violated provisions of the California Real
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
24 conditions attaching to this restricted license.
- 25 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license
26 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted
27

1 license until two years have elapsed from the date of issuance of the restricted license to
2 Respondent.

- 3 3. With the application for license, or with the application for transfer to a new employing broker,
4 Respondent shall submit a statement signed by the prospective employing broker on a form
5 approved by the Department of Real Estate wherein the employing broker shall certify as
6 follows:
- 7 a. That broker has read the Statement of Issues which is the basis for the issuance of the
8 restricted license; and
 - 9 b. That broker will carefully review all transaction documents prepared by the restricted
10 licensee and otherwise exercise close supervision over the licensee's performance of acts
11 for which a license is required.
- 12 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of
13 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within
14 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to
15 the Commissioner of successful completion, at an accredited institution, of two of the courses
16 listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,
17 advanced real estate finance, or advanced real estate appraisal. If Respondent fails to timely
18 present to the Department satisfactory evidence of successful completion of the two required
19 courses, the restricted license shall be automatically suspended effective eighteen (18) months
20 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
21 the restricted license, Respondent has submitted the required evidence of course completion and
22 the Commissioner has given written notice to Respondent of the lifting of the suspension.
- 23 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified
24 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,
25 and shall not be entitled to the issuance of another license which is subject to Section 10153.4
26 until four years after the date of the issuance of the preceding restricted license.
27

1 Sept 22, 2005
2 Dated


3
4 JAMES L. BEAVER, Counsel, Department of Real Estate

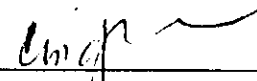
5 ***

6 I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are
7 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
8 by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509,
9 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights,
10 including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine
11 witnesses against me and to present evidence in defense and mitigation of the charges.

12 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
13 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
14 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
15 to the Department a fax copy of her actual signature as it appears on the Stipulation and Waiver, that receipt
16 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received
17 the original signed Stipulation and Waiver.

18 9/15/05


19 Dated


20 CINDY MAI NGUYEN, Respondent

21 *I have reviewed the Stipulation and Waiver as to form and content and have advised my client*
22 *accordingly.*

23 9/15/05

24 Dated


25 SCOTT G. LYON, Attorney for Respondent

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED

10-12-08


Jeff Day
Real Estate Commissioner

1 DEIDRE L. JOHNSON, Counsel
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2 Department of Real Estate
P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789
5
6
7

FILED
JUN 08 2005
DEPARTMENT OF REAL ESTATE

By *Jean Arund*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Application of)
13 CINDY MAI NGUYEN,) NO. H- 9269 SF
14 Respondent.) STATEMENT OF ISSUES
15)

16 The Complainant, E. J. HABERER II, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Statement
18 of Issues against CINDY MAI NGUYEN, alleges as follows:

19 I

20 CINDY MAI NGUYEN (hereafter Respondent), pursuant to
21 the provisions of Section 10153.3 of the Business and Professions
22 Code, made application to the Department of Real Estate of the
23 State of California for a real estate salesperson license on or
24 about May 24, 2004, with the knowledge and understanding that any
25 license issued as a result of said application would be subject
26 to the conditions of Section 10153.4 of the Business and
27 Professions Code.

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II

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

FIRST CAUSE OF ACTION

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "Yes," and disclosed an unknown conviction in 1997. Respondent failed to disclose the conviction alleged in Paragraph IV below.

In response to a subsequent letter from the Department of Real Estate asking the same question, Respondent disclosed that in 1997 she was convicted of "petty theft (PC 484)...."

IV

On or about January 5, 1998, in the Municipal Court of California, County of Santa Clara, Respondent was convicted of violation of Penal Code Section 484/488 (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.

V

Respondent's failure in the application for licensure to disclose the conviction alleged above constitutes the attempt to procure a real estate license by fraud, misrepresentation, or deceit; and/or by a making material misstatement of fact in said

1 application; and/or by knowingly making a false statement in said
2 application, which is cause for denial of Respondent's application
3 for a real estate license under Sections 480(c) and/or 10177(a)
4 of the Business and Professions Code.

5 VI

6 The crime of which Respondent was convicted as alleged
7 above constitutes cause for denial of Respondent's application
8 for a real estate license under Sections 480(a) and/or 10177(b)
9 of the California Business and Professions Code.

10 SECOND CAUSE OF ACTION

11 VII

12 Respondent made a prior application to the Department
13 of Real Estate of the State of California for a real estate
14 salesperson license on or about June 10, 2002.

15 VIII

16 In response to Question 25 of said 2002 application,
17 to wit: "Have you ever been convicted of any violation of law?",
18 Respondent answered "Yes," and disclosed an unknown conviction
19 in 1991. In response to a subsequent letter from the Department
20 of Real Estate asking the same question, Respondent answered
21 "No." Respondent failed to disclose the conviction alleged in
22 Paragraph IV above.

23 IX

24 Respondent's failure in the 2002 application for
25 licensure to disclose the conviction alleged above constituted
26 the attempt to procure a real estate license by fraud,
27 misrepresentation, or deceit; and/or by a making material

1 misstatement of fact in said application; and/or by knowingly
2 making a false statement in said application.


3 X

4 Effective on or about September 29, 2003, in Case No.
5 H-8394 SF, OAH Case No. N-2003050660, before the State of
6 California Department of Real Estate, the 2002 real estate
7 salesperson license application of Respondent described above
8 was denied pursuant to Sections 480(a), 480(c), 10177(a), and
9 10177(b) of the Code. The grounds for denial were based in whole
10 or in part on acts which, if done by a real estate licensee,
11 would be grounds for the suspension or revocation of a California
12 real estate license.

13 XI

14 The facts alleged in Paragraphs VII, VIII, IX, and X
15 above constitute cause for denial of Respondent's 2004
16 application for a real estate license under Sections 480(c)
17 10177(a), and/or 10177(f) of the Business and Professions Code.

18 WHEREFORE, the Complainant prays that the above-entitled
19 matter be set for hearing and, upon proof of the charges contained
20 herein, that the Commissioner refuse to authorize the issuance
21 of, and deny the issuance of, a real estate salesperson license
22 to Respondent, and for such other and further relief as may be
23 proper in the premises.

24 
25 E. J. HABERER II
26 Deputy Real Estate Commissioner

26 Dated at Oakland, California
27 this 7th day of June, 2005