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DEC 14 2010

DEPARTMENT OF REAL ESTATE

By L. Jiri

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

MELODY B. REYES,

Respondent.

No. H-9864 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 29, 2007, in Case No. H-9864 SF, a Decision was rendered revoking the real estate salesperson license of Respondent effective June 20, 2007, 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 20, 2007, and Respondent has operated as a restricted licensee since that time.

On November 23, 2009, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson

1 license and that it would not be against the public interest to issue said license to Respondent.

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

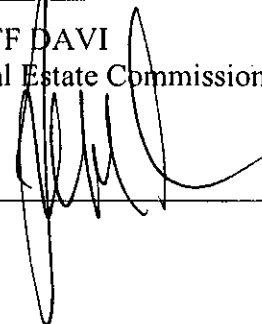
5 1. Submits a completed application and pays the fee for a real estate
6 salesperson license within the 12 month period following the date of this Order; and

7 2. Submits proof that Respondent has completed the continuing education
8 requirements for renewal of the license sought. The continuing education courses must be
9 completed either (i) within the 12 month period preceding the filing of the completed
10 application, or (ii) within the 12 month period following the date of this Order.

11 This Order shall become effective immediately.

12 DATED: 11/30/2009

13 JEFF DAVI
14 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

MELODY B. REYES,

Respondent.

Case No. H-9864 SF

OAH No. N2007020045

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on April 16, 2007.

Jeanine K. Clasen, Counsel, represented complainant Charles W. Koenig, Deputy Real Estate Commissioner, State of California.

Attorney Edward O. Lear represented respondent Melody B. Reyes, who was present.

At hearing, complainant was permitted to amend the accusation to allege Business and Professions Code section 10177, subdivision (f), as an additional ground for discipline. The matter was submitted on April 16, 2007.

FACTUAL FINDINGS

1. Complainant Charles W. Koenig, Deputy Real Estate Commissioner, issued the statement of issues in his official capacity.
2. Respondent Melody B. Reyes holds a real estate salesperson license that was issued by the department on January 5, 2005.
3. On March 10, 2005, respondent was convicted, on her plea of nolo contendere, in San Mateo County of a violation of Penal Code sections 484/490.5, petty theft of merchandise, a misdemeanor that involves moral turpitude and is substantially related to the duties of a real estate licensee. Imposition of sentence was suspended and respondent was placed on court probation for two years under terms and conditions that included payment of fines and assessments of \$467.50 and payment of \$139.37 in restitution. On March 27, 2007,

the court granted respondent early termination of probation and expunged the conviction pursuant to Penal Code section 1203.3.

4. Respondent's offense occurred on September 13, 2004. Respondent went to a Mervyn's store in Daly City. She selected a number of items for a baby shower for her first grandchild. "Miranda," a friend of respondent's, worked as a cashier in the home furnishings department of the store. Respondent took her items to Miranda for check-out. Respondent was charged for some of the items, but left the store with a number of items for which she had not paid.

5. The police contacted respondent some weeks later, in connection with an investigation of Miranda. Respondent told the police, and maintained at hearing, that at the time she left the store she was unaware that she had not paid for some of the items in her possession.

6. Respondent formerly held a commission as a notary public. Following a hearing before an administrative law judge, the Secretary of State issued a decision that revoked respondent's commission as a notary public effective January 5, 2007. The revocation was based on respondent's March 10, 2005 conviction. The decision noted that under the Secretary of State's disciplinary guidelines the conviction of an offense involving moral turpitude generally disqualifies a commissioned notary public from continuing to hold an appointment for ten years after satisfactory completion of probation.

7. Respondent no longer associates with Miranda.

8. Respondent accepts responsibility for her conviction. She is more careful about purchases. She is remorseful about the conduct that led to the conviction.

9. Respondent is married, the mother of two children, and a grandmother. She has lived with her family in South San Francisco for 19 years, and is a homeowner.

10. Since her conviction, respondent has returned to her church. She has participated in community service activities such as Habitat for Humanity, food drives for Casa de las Madres, and food preparation at St. Vincent de Paul.

11. Respondent is currently employed as a real estate agent with Integrity Realty in San Bruno. She has organized community service activities at her place of employment.

12. Nicole Neis, a real estate agent at Integrity Realty, testified and submitted a letter on respondent's behalf. Neis works with respondent and considers respondent a friend and colleague. Neis considers respondent hard-working, trustworthy, honest, a role model, and a great teacher. Neis was aware of respondent's conviction and the revocation of respondent's notary commission. Neis observed respondent distraught, "beating herself up," and remorseful over the incident.

13. Jennifer Vera, the broker/owner of Integrity Realty and Premier Lending Group, wrote a letter dated December 10, 2006, in support of respondent. Vera states that respondent has worked for her company for almost two years. Vera states that respondent has represented the company "with the utmost professionalism and outstanding morals." Vera is aware of respondent's conviction and that respondent's notary commission has been revoked; Vera nevertheless expresses "total faith in [respondent's] ethics and morals as a person and a Sales Agent in representation for my company."

14. Patricia Palma, a real estate agent at Integrity Realty, wrote a letter dated December 9, 2006, in support of respondent. Palma is aware of respondent's petty theft conviction and considers it "absolutely not in [respondent's] character." Palma characterizes respondent as honest, trustworthy, and a person of "great morals and values."

15. Lilah Wilson, the office manager of the Premier Lending Group, wrote a letter dated December 11, 2006, in support of respondent. Wilson is aware of respondent's conviction and considers it "most shocking because [respondent] would never do anything wrong knowingly." Wilson states respondent is sweet, kind, a hard worker, consistent, trustworthy and an asset to the company.

16. Several friends and family members submitted letters attesting to respondent's good character, ethics, and morals. These included Yvonne Casperson, Antonio Garcia, and Antroinette Medrano, each of whom was aware of respondent's conviction.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 10177, subdivision (b), the commissioner may suspend or revoke the license of a real estate licensee who has been convicted of a felony or a crime involving moral turpitude. Respondent's conviction was for a theft crime, and involved moral turpitude. Respondent's conviction, moreover, is substantially related to the qualifications, functions and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(1).) Cause exists to suspend or revoke respondent's license pursuant to section 10177, subdivision (b).

2. The revocation of respondent's commission as a notary public by the Secretary of State provides cause to suspend or revoke respondent's license pursuant to section 10177, subdivision (f). It is noted that that revocation was premised on the same conviction as alleged in this proceeding. It is further noted that the Secretary of State's criteria for rehabilitation differ from that of the Real Estate Commissioner.

3. The department's regulations set forth criteria for evaluating the rehabilitation of an applicant for a license. (Cal. Code Regs., tit. 10, § 2912.) More than two years have elapsed since respondent's conviction. She has been granted early termination of probation and her conviction has been expunged. She no longer associates with Miranda, who

apparently played a role in the events that led to the conviction. Respondent has a stable family life and is responsibly employed in the real estate industry. Her employer, co-workers, friends and family vouch for her honesty and good character. Respondent participates in church and community service activities. She has demonstrated a positive change in attitude from that which existed at the time of her offense, which appears to have been aberrational. The evidence established respondent's rehabilitation. It would not be against the public interest to allow respondent to practice real estate with a restricted license.

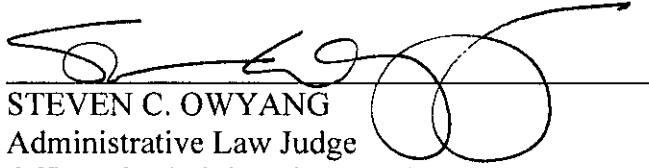
ORDER

All licenses and licensing rights of respondent Melody B. Reyes are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor 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 Business and Professions Code section 10156.7 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 not be eligible to apply for the issuance of an unrestricted real estate license or 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.
4. 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.
5. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance of an original or renewed 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 she presents such evidence. The commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: April 26, 2007


STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

1 JEANINE K. CLASEN, Counsel (SBN 164404)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0868 (Direct)

FILED
JAN 19 2007

DEPARTMENT OF REAL ESTATE

By K. Mar

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11 MELODY B. REYES,) H-9864 SF
12 Respondent.) ACCUSATION
13)

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15 The Complainant, CHARLES W. KOENIG, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against MELODY B. REYES, (herein "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "the Code") as a real
23 estate salesperson.

24 II

25 Complainant, CHARLES W. KOENIG, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity.

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III

On or about May 10, 2005, in the Superior Court of the State of California, County of San Mateo (Case Number NM344893), Respondent was convicted of the crime of Theft Of Merchandise in violation of Penal Code Section 484/490.5, a misdemeanor and a crime involving moral turpitude 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 10177(b) and 490 of the Business and Professions Code for suspension or revocation of Respondent's license 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 Code, and for such other and further relief as may be proper under provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 18th day of January, 2007.