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NOV - 1 1994
DEPARTMENT OF REAL ESTATE

By K. Friederholt

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of) NO. H-25092 LA
MARCELLA MARIE SLAVIK)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 5, 1993, a Decision, later modified by an Order In Connection With Decision dated March 5, 1993, was rendered herein revoking the real estate salesperson license of Respondent, MARCELLA MARIE SLAVIK (hereinafter "Respondent"), effective March 31, 1993, but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. Said restricted license was issued on or about April 27, 1993.

On August 2, 1994, 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.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that grounds do not presently
4 exist to deny the issuance of an unrestricted real estate
5 salesperson license to Respondent.

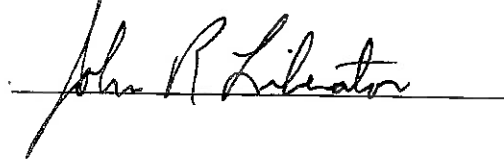
6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement is granted and that an
8 unrestricted real estate salesperson license be issued to
9 Respondent, MARCELLA MARIE SLAVIK after Respondent satisfies
10 the following conditions within one (1) year from the date of
11 this Order:

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

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15 This Order shall become effective immediately.

16 DATED: October 27, 1994.

17 JOHN R. LIBERATOR
18 Interim Commissioner

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21 MARCELLA MARIE SLAVIK
22 2109 Carnegie Lane A
23 Redondo Beach, California 90278
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FILED

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DEPARTMENT OF REAL ESTATE
[Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation
Against:

No. H- 25092 LA

MARCELLA MARIE SLAVIK

Respondent.

ORDER IN CONNECTION WITH DECISION

Comes now the Real Estate Commissioner to make the following Order in connection with his Decision of March 5, 1993.

With reference to Paragraph 5 of the "Disposition"
found in the Proposed Decision dated February 11, 1993, it is
ordered that Respondent, as a condition of receiving a restricted
real estate salesperson license shall, within nine months from the
issuance of the restricted license, submit evidence satisfactory
to the Commissioner of taking and successfully completing the
courses specified in subdivisions (a) and (b) of Section 10170.5
of the Real Estate Law for renewal of a real estate license. If
Respondent fails to present such evidence the restricted license

1 may be suspended and said suspension shall not be lifted until
2 Respondent has submitted the required evidence of course
3 completion.

4 Upon renewal of the license issued pursuant to this
5 Order, Respondent shall submit evidence of taking and successfully
6 completing the continuing education requirements of Article 2.5 of
7 Chapter 3 of the Real Estate Law for renewal of a real estate
8 license.

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10 Dated: March 5, 1993

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12 CLARK WALLACE
13 Real Estate Commissioner

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16 BY: John R. Liberator
17 Chief Deputy Commissioner
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FILED
MAR 11 1993

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
MARCELLA MARIE SLAVIK,)
Respondent.)
No. H- 25092 LA
L- 57647

DECISION

The Proposed Decision dated February 11, 1993 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 March 31, 1993.

IT IS SO ORDERED March 5, 1993

CLARK WALLACE
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE
State of California

In the Matter of the Accusation
Against:

MARCELLA MARIE SLAVIK,

Respondent.

PROPOSED DECISION

OAH No. L-57647

Agency No. H-25092 LA

This case came on for hearing on January 20, 1993, at Los Angeles before Richard E. Ranger, Administrative Law Judge of the Office of Administrative Hearings, the administrative court of California.

Marjorie P. Mersel, Counsel, Department of Real Estate, represented complainant.

Gerald S. Tarlow, Attorney at Law, represented respondent who appeared in person.

Oral and documentary evidence was received, argument was presented, and the hearing was concluded. The record remained open for post hearing evidence. On January 26, 1993, a letter and court docket were received ex parte from respondent's counsel. Complainant apparently was not copied. On January 27, 1993, respondent's post-hearing documents were marked for identification as Exhibit B, and complainant was noticed pursuant to Government Code section 11513.5. On February 4, 1993, complainant's response was received indicating no objection. The letter was marked for identification as Exhibit 4 and Exhibit B was received in evidence.

FACTS

1. On May 7, 1990, the Department of Real Estate issued a salesperson license to respondent Marcella Marie Slavik with no employing broker. To date she has not activated the license by employment with any broker. The license will expire on May 6, 1994.

2. On May 18, 1992, Steven J. Ellis, complainant, filed an accusation against respondent in complainant's official capacity as a Departmental Deputy Commissioner. In the accusation respondent is charged with having been convicted of a moral turpitude substantially related crime in 1991.

3. Respondent's conviction is established: On November 13 1991, in the Municipal Court of South Bay Judicial District, County of Los Angeles, State of California, in case no. 91M10887, respondent entered a plea of nolo contendere to a charge of violating Penal Code section 666 (petty theft with prior jail term). Respondent's no contest plea was pursuant to People v. West (1970) 3 Cal.3d 595. Respondent was thereafter placed on summary probation for two years on terms and conditions consisting of a \$1,150.00 fine, and obedience to all laws and orders of court.

4. The facts and circumstances of respondent's offense were not established in Municipal Court. Nor was respondent expressly found guilty. The court merely accepted respondent's nolo contendere plea pursuant to People v. West and placed respondent on probation for 2 years on limited conditions.

5. In this proceeding it is established that on September 27, 1991, respondent went into a South Bay shopping center department store and walked out in a new pair of pants without paying for the merchandise. Upon entering the store respondent went to a ladies pants rack, selected four pairs of pants like the pants she wore at the time, and entered a store dressing room. While in the dressing room, respondent removed the price tags from a new pair of pants, put on the new pants after removing her own, exited the dressing room, and placed four pairs of pants back on the rack, including her own. She then walked out of the store wearing the new pants, without payment. The new pants respondent appropriated were priced at approximately \$40.00. She was financially able to pay for the merchandise at the time.

6. Respondent's explanation for taking the pants on September 27, 1991 is that she had boyfriend problems at the time, she was meeting him for a date that evening and wanted to look good, and that as a result of her problem with the friend she was under considerable emotional stress.

7. Respondent's explanation is supported by the psychological evaluation of Bernard Feldman, Ph.D., a clinical psychologist officed in Torrance, California. Respondent began an evaluation with Dr. Feldman on or about August 11, 1992, and saw him on four additional occasions in August 1992. On September 1, 1992, Feldman rendered a written evaluation in which he concludes that respondent's act of shoplifting was an "unconscious impulsive expression of her extreme distress as a

result of the break-up with her fiance and the destruction of her goal to be married." Feldman also states respondent's tension built up over a period of 10 days during which period she experienced considerable suppressed anger at her fiance and herself. Dr. Feldman does not view respondent as a kleptomaniac, or her shoplifting as an act of moral turpitude. She was merely reacting to emotional stress.

8. Marcella Marie Slavik, 34, is primarily an interior decorator with her own business officed in Torrance and operated as Slavik's Designs. She has never worked as a real estate agent. She obtained the license to use in connection with her interior decorating business. In 1980 respondent graduated from El Camino College in Redondo Beach with a certificate in Interior Design and Architecture and thereafter worked for approximately 10 years as an interior decorator at a company in Hawthorne. She started her own business about three years ago. Respondent has complied with the conditions of her probation and there is no evidence to date of repeat offenses during the year and two months since her plea.

ISSUE DETERMINATION

Cause exists to suspend or revoke respondent's license pursuant to Business and Professions Code sections 490 and 10177(b) in that she has been convicted of a substantially related crime by reason of finding nos. 3, 4, 5 and 6. However, in light of respondent's evidence of mitigation and rehabilitation it would not be against the public interest to place respondent on administrative probation on terms and conditions.

DISPOSITION

The real estate salesperson license issued to respondent Marcella Marie Slavik is revoked. However, a restricted real estate salesperson's license shall be issued to respondent pursuant to Business and Professions Code section 10156 if respondent applies therefor within thirty (30) days from the effective date of this decision. The restricted license issued to respondent shall be subject to all the provisions of Business and Professions Code section 10156.7, and to the following limitations, conditions, and restrictions imposed under authority of section 10156 of the 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 guilty of or of nolo contendere to a crime which bears a substantial relationship to respondent's qualifications,

functions or duties as a real estate licensee, or in the event of any violation of probation condition in Los Angeles Municipal Court Case No. 91M10887.

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 such evidence of successful course completion as the Real Estate Commissioner may require, the failure of which may result in the summary suspension of respondent's restricted license.

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 which shall certify:

- (1) That the employing real estate broker has read the Decision of the Commissioner which granted the right to a restricted license; and,
- (2) That the employing real estate 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 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 of a restricted license, until two (2) years have elapsed from the date of issuance of the restricted license to respondent.

Dated: FEB. 11, 1993


RICHARD E. RANGER
Administrative Law Judge

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III

At all times herein mentioned, respondent was licensed by the Department of Real Estate of the State of California as a real estate salesperson, or possessed renewal rights for such a license.

IV

On or about November 13, 1991, in the Municipal Court of South Bay Judicial District County of Los Angeles, State of California, respondent was convicted of the crime of violating Penal Code Section 666 (Petty theft with prior jail term), a crime involving moral turpitude

V

The crime of which respondent was convicted bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

VI

Respondent's criminal conviction is cause under Sections 490 and 10177(b) of the Business and Professions 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 MARCELA MARIE SLAVIK under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such

1 other and further relief as may be proper under other applicable
2 provisions of law.

3 Dated at Los Angeles, California
4 this 18th day of May, 1992.

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8 Deputy Real Estate Commissioner
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cc: Marcela Marie Slavik
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