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JUN 03 2000

DEPARTMENT OF REAL ESTATE

By Juan A. Amador

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MARIE ABUKHALIL KALFAYAN,)
Respondent.)

No. H-27441 LA

ORDER GRANTING REINSTATEMENT OF LICENSE

On August 19, 1998, an Order was rendered herein revoking the real estate broker license of Respondent, 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 January 5, 1999, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On October 6, 1999, Respondent petitioned for reinstatement of said real estate broker 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 including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

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

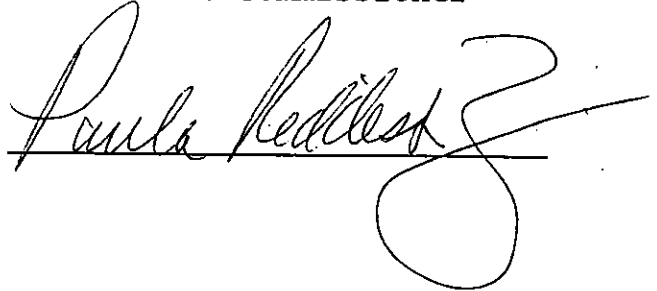
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

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: May 19, 2000.
22

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)

MARIE ABUKHALIL KALFAYAN,)

Respondent.)

Case No. H-27441 LA
OAH No. L-1998010401

FILED
FEB 27 1998
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **June 3, 1998**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation 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.

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 subpoenas 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.

Dated: February 27, 1998.

DEPARTMENT OF REAL ESTATE

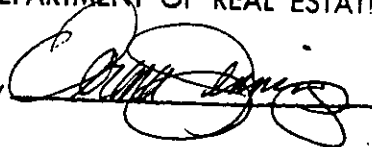
cc: Marie Abukhalil Kalfayan
Sacto.
OAH

By:

V. Ahda Sands
V. AHDA SANDS, Counsel

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FILED
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DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-27441 LA
) NO. L-1998010401
)
MARIE ABUKHALIL KALFAYAN,) STIPULATION AND AGREEMENT
)
)
)
)
Respondent.)

It is hereby stipulated by and between MARIE ABUKHALIL KALFAYAN (sometimes referred to as Respondent), and the Complainant, acting by and through V. Ahda Sands, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on December 19, 1997, in this matter:

1. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

2. Respondent further acknowledges that the Real Estate Commissioner held a hearing on this Accusation on June 3, 1998, before the Office of Administrative Hearings for the purpose of proving the allegations therein. Respondent was present at the



1 hearing and participated therein. Further, Respondent had an
2 opportunity to read and review the Proposed Decision of the
3 Administrative Law Judge dated June 25, 1998.

4 3. Respondent understands that pursuant to Government
5 Code Section 11517(c), the Real Estate Commissioner has rejected
6 the Proposed Decision of the Administrative Law Judge. Respondent
7 further understands that pursuant to the same Section 11517(c), the
8 Real Estate Commissioner may decide this case upon the record,
9 including the transcript, without taking any additional evidence,
10 after affording Respondent the opportunity to present written
11 argument to the Real Estate Commissioner.

12 4. The Order or any subsequent Order of the Real Estate
13 Commissioner made pursuant to this Stipulation and Agreement shall
14 not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Department of Real Estate
16 with respect to any matters which were not specifically alleged to
17 be causes for accusation in this proceeding.

18 5. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations in Paragraphs 2
20 to 5 of the Accusation filed in this proceeding are true and correct
21 and the Real Estate Commissioner shall not be required to provide
22 further evidence of such allegations.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions and
25 waivers and solely for the purpose of settlement of the pending
26 Accusation, it is stipulated and agreed that the following
27 determination of issues shall be made:

1 The conduct of Respondent, as described in Paragraph 4
2 of the Accusation is grounds for the suspension or revocation of
3 all of the real estate licenses and license rights of Respondent
4 under the provisions of Section 490 and 10177(b) of the Business
5 and Professions Code.

6 ORDER

7 WHEREFORE THE FOLLOWING ORDER is hereby made:

8 All licenses and licensing right of Respondent MARIE
9 ABUKHALIL KALFAYAN under the Real Estate Law are revoked; provided,
10 however, a restricted real estate salesperson license shall be
11 issued to Respondent pursuant to Section 10156.5 of the Business
12 and Professions Code if Respondent makes application therefor and
13 pays to the Department of Real Estate the appropriate fee for the
14 restricted license within 90 days from the effective date of this
15 Decision. The restricted license issued to Respondent shall be
16 subject to all of the provisions of Section 10156.7 of the
17 Business and Professions Code and to the following limitations,
18 conditions and restrictions imposed under authority of Section
19 10156.6 of that Code:

20 1. The restricted license issued to Respondent may
21 be suspended prior to hearing by Order of the Real
22 Estate Commissioner in the event of Respondent's
23 conviction or plea of nolo contendere to a crime which
24 is substantially related to Respondent's fitness or
25 capacity as a real estate licensee.
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1 2. The restricted license issued to Respondent may
2 be suspended prior to hearing by Order of the Real
3 Estate Commissioner on evidence satisfactory to the
4 Commissioner that Respondent has violated provisions of
5 the California Real Estate Law, the Subdivided Lands
6 Law, Regulations of the Real Estate Commissioner or
7 conditions attaching to the restricted license.

8 3. Respondent shall not be eligible to apply for the
9 issuance of an unrestricted real estate license nor for
10 the removal of any of the conditions, limitations or
11 restrictions of a restricted license until one year
12 has elapsed from the effective date of this
13 Decision.

14 4. Respondent shall submit with any application for
15 license under an employing broker, or any application
16 for transfer to a new employing broker, a statement
17 signed by the prospective employing real estate broker
18 on a form approved by the Department of Real Estate
19 which shall certify:

20 (a) That the employing broker has read the
21 Decision of the Commissioner which granted
22 the right to a restricted license; and

23 (b) That the employing broker will exercise
24 close supervision over the performance by
25 the restricted licensee relating to
26 activities for which a real estate
27 license is required.



1 5. Respondent shall, within nine months from the
2 effective date of this Decision, present evidence
3 satisfactory to the Real Estate Commissioner that
4 Respondent has, since the most recent issuance of an
5 original or renewal real estate license, taken and
6 successfully completed the continuing education
7 requirements of Article 2.5 of Chapter 3 of the
8 Real Estate Law for renewal of a real estate license.
9 If Respondent fails to satisfy this condition, the
10 Commissioner may order the suspension of the restricted
11 license until the Respondent presents such evidence.
12 The Commissioner shall afford Respondent the
13 opportunity for a hearing pursuant to the
14 Administrative Procedure Act to present such evidence.
15 Dated this 4th day of August, 1998.

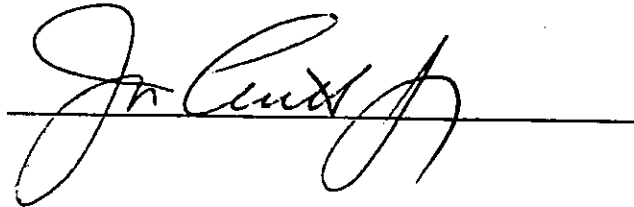
16 *V. Ahda Sands*
17 _____
18 V. Ahda Sands,
19 Real Estate Counsel
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1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision in this mater and shall become effective at
3 12 o'clock noon on September 29 , 1998.

4 IT IS SO ORDERED 8/19 , 1998.

5 JIM ANTT, JR.
6 Real Estate Commissioner

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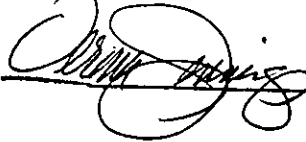
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FILED
JUL 24 1998

DEPARTMENT OF REAL ESTATE

by 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
MARIE ABUKHALIL KALFAYAN,	)	NO. H-27441 LA
Respondent.	)	L-1998010401

NOTICE

TO: Respondent MARIE ABUKHALIL KALFAYAN.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 25, 1998, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 25, 1998, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 3, 1998, and any written argument hereafter submitted on behalf of Respondent and Complainant.

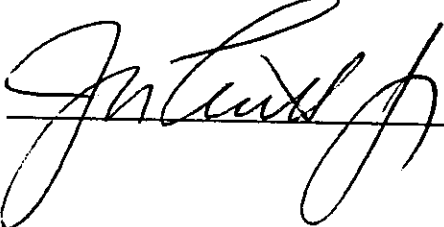
1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of June 3, 1998, at the Los Angeles office of
4 the Department of Real Estate unless an extension of the time is
5 granted for good cause shown.

6 Written argument of Complainant to be considered by me
7 must be submitted within 15 days after receipt of the argument of
8 Respondent at the Los Angeles office of the Department of Real
9 Estate unless an extension of the time is granted for good cause
10 shown.

11 DATED: _____

7/14/98

12 JIM ANTT, JR.
13 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. H-27441 LA
	)	
MARIE ABUKHALIL KALFAYAN,	)	OAH No. L-1998010401
	)	
	)	
Respondent.	)	
	)	

PROPOSED DECISION

On June 3, 1998, in Los Angeles, California, Denny R. Davis, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

V. Ahda Sands, Counsel, represented the complainant.

Respondent was present and represented herself.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, filed this accusation against Respondent in his official capacity.

II

Respondent Marie Abukhalil Kalfayan is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real estate broker. She was originally licensed as a broker by the Department of Real Estate on November 18, 1983.

III

On May 28, 1996, in the Municipal Court, Burbank Judicial District, Los Angeles County, State of California, respondent was convicted of violation of Penal Code section 484(a) a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions and duties of a real estate licensee under Title 10, California Code of Regulations section 2910.

The facts and circumstances underlying the conviction are as follows: On May 13, 1996, respondent took approximately \$24 worth of miscellaneous merchandise (consisting of two rolls of processed film and one video) from Price Club without paying for them. Respondent was detained for having violated Penal Code Section 484(a). She was released on a signed promise to appear before the Municipal Court of California, County of Los Angeles, Burbank Judicial District. Respondent appeared as ordered. She was convicted. As a consequence of her conviction, respondent was placed on court probation for three years and was ordered to pay a total of \$640 in fines, fees and assessments. Respondent is still on probation.

IV

The crime (the May 21, 1996 shoplifting incident) of which respondent was convicted involved moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee under Title 10, California Code of Regulations, section 2910(a)(1). As set forth in the regulation, Respondent unlawfully took the property of another. Real Estate brokers occupy a position of trust and responsibility toward the property of others and they function without supervision.

V

Respondent expressed sincere remorse over her actions. In explaining the circumstances which led up to her conviction, she testified that those explanations, under no circumstances, constituted an excuse for her conduct. She reiterated several times that her actions were contrary to the way she was raised and the way she raised her daughter; she testified convincingly that, even if she were penniless in the future, she would not resort to theft.

Respondent was not only extremely embarrassed, humiliated and ashamed of having been arrested and convicted for shoplifting, she continues to feel shame for having committed the wrong.

VI

Respondent has shown significant rehabilitation in this matter. More than two years have elapsed since the offense was committed. Respondent wishes to pursue education and employment as a loan officer in the field of real estate. Respondent, over the age of fifty, maintains a stable family life with her sixteen year old daughter.

The likelihood that respondent would engage in similar misconduct in the future appears remote. Under all of the circumstances herein presented, respondent has demonstrated that she can be licensed as a real estate broker, with a restricted license, and this can be done without harm to the public.

DETERMINATION OF ISSUES

I

Cause for the revocation of Respondent's real estate broker's license pursuant to Business and Professions Code section 490 and 10177(b) was established by reason of Findings III and IV.

II

The matters set forth in Findings V and VI are considered in making the Order below.

III

Although respondent's conviction resulted from activities which are similar to her current licensed activities to the extent that both require trust, the mitigation and rehabilitation set forth in Finding V, as well as the fact that the activities leading to her conviction occurred two years ago, indicate that it would not be against the public interest to grant her a restricted broker license.

ORDER

Respondent's license and her licensing rights under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code 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 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 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 one year has elapsed from the effective date of this Decision.
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

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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.

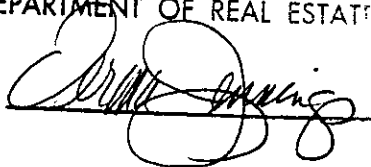
Dated: June 25, 1998

D. R. Davis

DENNY R. DAVIS
Administrative Law Judge
Office of Administrative Hearings

FILED
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1 V. AHDA SANDS, Counsel
State Bar No. 146983
2 Department of Real Estate
107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 (213) 897-3937
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FILED
DEC 19 1997
DEPARTMENT OF REAL ESTATE
By 

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-27441 LA
12 MARIE ABUKHALIL KALFAYAN,)
13 Respondent.)
14 _____)
15

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against MARIE ABUKHALIL KALFAYAN (hereinafter "Respondent") is
19 informed and alleges as follows:

20 1.

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

25 2.

26 The Complainant, Thomas McCrady, a Deputy Real Estate
27 Commissioner of the State of California, makes this Accusation
against Respondent in his official capacity.



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6.

Respondent was originally licensed by the Department of Real Estate of the State of California (Department) as a real estate broker on November 18, 1983.

On or about May 28, 1996, in the Municipal Court, Burbank Judicial District, Los Angeles County, Respondent was convicted of violation of Section 484(a) of the California Penal Code (petty theft of two rolls of processed film and a video), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, Chapter 6 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

In aggravation, Respondent was sentenced to three years probation. Respondent's current probation status will not end until May 28, 1999.

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

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 MARIE ABUKHALIL KALFAYAN under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other provisions
8 of law.

9 Dated at Los Angeles, California
10 this 19th day of December, 1997.

11 *Thomas McCraoy*
12 For THOMAS McCraoy
13 Deputy Real Estate Commissioner
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24 cc: Marie Abukhalil Kalfayan
25 Sacto.
26 MA
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