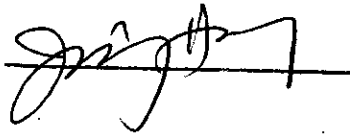


FILED
DEC 4 2001

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27628 LA
)
SHERI ELAINE BOYD,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 13, 1999, a Decision was rendered herein revoking the real estate salesperson 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 or about February 22, 1999, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On February 21, 2001, 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 the petition of Respondent and
2 the evidence and arguments in support thereof. Respondent
3 has demonstrated to my satisfaction that Respondent meets
4 the requirements of law for the issuance to Respondent of
5 an unrestricted real estate salesperson license and that
6 it would not be against the public interest to issue said
7 license to Respondent SHERI ELAINE BOYD.
8

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

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

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

21 This Order shall be effective immediately.

22 Dated: November 28, 2001.

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 *Paula Reddish*
26
27

cc: Sheri Elaine Boyd
P.O. Box 8186
Van Nuys, CA 91409

By: [Signature]

* * * * *

No. H-27628 LA

L-198 070-586

Alan R Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the)	
Accusation of:)	Case No. H-27628 LA
)	
SHERI ELAINE BOYD,)	OAH No. L1998070586
)	
Respondent.)	
_____)	

AMENDED PROPOSED DECISION

This matter came on for hearing before John F. Grannis, Administrative Law Judge Pro Tem of the office of Administrative Hearings, on September 18, 1998, at Los Angeles, California.

James R. Peel, Staff Counsel, represented complainant, Thomas McCrady ("complainant").

Respondent, Sheri Elaine Boyd, ("respondent") appeared personally and represented herself.

Oral and documentary evidence was received at the hearing, and the matter was submitted for decision. The original Proposed Decision in this case was issued on October 13, 1998. It was vacated and superceded by the Amended Proposed Decision issued on October 28, 1998, which is hereby vacated and superceded by this Second Amended Proposed Decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following factual findings:

1. Complainant, acting in his official capacity as Deputy Real Estate Commissioner of the State of California, Department of Real Estate ("Department"), and not otherwise, filed the Accusation herein on July 15, 1998.

2. On April 12, 1996, in the Los Angeles County Municipal Court, Los Angeles Judicial District, Case No. 6PN02534, respondent was convicted, on a plea of guilty, of violating Penal Code Section 602(j), Trespass, a misdemeanor. Respondent was sentenced to summary probation for a period of twelve (12) months, plus a fine and penalty assessment in the aggregate sum of \$272.00.

3. This conviction arose out of an incident on March 15, 1996, in which respondent was caught in the act of shoplifting some children's clothing at a "Pic'N'Save" store. Respondent admits that she entered the store with the intent to steal these clothes so she could sell them for cash at a garage sale. Her only explanation for this conduct is that she was poor, her baby was hungry, and she had no job, no food and no money. Respondent admits that these reasons do not excuse her crime.

4. Respondent paid her fine and penalty assessment in a timely fashion and successfully completed her probation. She is no longer subject to court supervision. This conviction is her only violation of law of any kind.

5. On November 6, 1997, respondent filed an application with the Department for the issuance of a real estate salesperson's license. In response to Question 25 on her application, respondent failed to disclose her 1996 trespass conviction.

6. On November 19, 1997, the Department issued a real estate salesperson's license to respondent, under the provisions of Business and Professions Code Section 10153.4. This action ensued upon the Department's discovery of respondent's 1996 trespass conviction.

7. Respondent testified credibly and persuasively that she did not intend to falsify her application or to defraud or deceive the Department in any way. She filled the application out at home, without any legal or other advice of any kind. She honestly believed that she had no criminal record as a result of her completion of summary probation. She made this same mistake when she applied for a cosmetology license in March 1998. After receiving notice of the filing of the Accusation in this case, she called the Cosmetology Board to correct the information on that application. That Board, with knowledge of her conviction, subsequently issued her a cosmetology license.

8. Respondent was also credible and persuasive in testifying that her arrest in March 1996 was a turning point in her life. She realized she needed to work hard to become a fit mother to her daughter, and to make a better life for both of them. She has since submitted herself to the discipline of her Christian faith, and now respects other people and their property. She has applied for and received her cosmetology license, and is now the owner/operator of a beauty salon in Van Nuys, California.

She has studied for, taken, and passed her real estate exam, and is awaiting the outcome of this case to begin meeting her continuing education requirement. If she retains her license, respondent will return to work with her former supervising broker, Century 21 Albert Foulad Realty Corporation, in Encino, California. Mr. Foulad is aware of her conviction.

LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists for the suspension or revocation of respondent's real estate salesperson's license, as set forth in Findings 2,3 and 5, under the provisions of Business and Professions Code Sections 498 and 10177(a).

2. Respondent's lack of actual intent to defraud, deceive, or misrepresent herself to the Department, as set forth in Finding 7, is considered a mitigating factor in this case.

3. As set forth in Finding 8, respondent has satisfied a number of the Department's own rehabilitation criteria, which are set forth in Section 2912 of the Regulations of the Real Estate Commissioner. Her 1996 trespass conviction occurred over two (2) years ago [§2912(a)]. She has undergone a complete change in attitude from the attitudes she held at the time of the conviction in question [§2912(l)], and this has been accompanied by the development of new and different social and business relationships [§2912(h)]. In particular, she has set career goals for herself and has succeeded in becoming the owner/operator of her own business (2912(j)). At the same time, she has undertaken a much more stable lifestyle, and has committed herself to the support of her young daughter [§2912(i)].

4. It is clear that discipline is warranted in this case. It is equally clear that no legitimate public interest would be served by any action that would permanently deprive respondent of her real estate salesperson's license. Respondent is clearly remorseful for her past criminal conduct. Indeed, she has made the most of that event to change her attitudes and her life for the better. As a result, she has become a much more dedicated parent and is now a hard-working, productive member of society. The record in this case clearly supports the conclusion that she is highly unlikely to backslide into any form of dishonest behavior. Her prospects for continued successful rehabilitation appear to be excellent.

5. The purpose of an administrative disciplinary proceeding is to protect the public interest, not to punish the individual. Camacho v. Youde (1979) 95 Cal.App.3d 161,164. The record in this case justifies revocation of respondent's

existing license, and issuance of a restricted license. A suspension of respondent's license, while perhaps useful in impressing upon her the gravity of her past misbehavior, leaves in place too few preventive impediments to the remote chance of future misconduct. By contrast revocation, combined with the issuance of a properly conditioned restricted license, has the beneficial advantage of requiring respondent to repeat the application process with greater care for the truth and accuracy of the information she provides. It will also permit the imposition of an emphatic requirement that respondent make timely and diligent progress toward completion of her continuing education requirements. And, perhaps most importantly, it will ensure an explicit commitment by her prospective employing broker, or any future employing broker, to the conscientious supervision of her conduct as a licensee, including supervision of the truth and accuracy of any documents which respondent will in the future prepare and sign as a real estate licensee.

ORDER

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

All licenses and licensing rights of respondent Sheri Elaine Boyd under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code Section 10156.5, upon respondent's application and payment of the required fee within ninety (90) days after the effective date of this Decision. The restricted license so 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 the authority of Business and Professions Code Section 10156.6:

1. The restricted license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate Order suspend the restricted license in the event of:

- (a) The conviction of respondent (including any conviction based upon a plea of no contest) of a crime which is substantially related to respondent's fitness or qualifications as a real estate licensee; or
- (b) The receipt of evidence satisfactory to the Commissioner that respondent has violated any provisions of the California Real Estate Law, the Subdivided Lands Law, the Regulations of the Real Estate Commissioner or any limitations, conditions or restrictions attaching to the restricted license.

2. Respondent shall not be eligible to apply for either the issuance of an unrestricted real estate license or the removal of any of the limitations, conditions or restrictions attaching to the restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.

3. Respondent shall submit, with any application for license under an employing broker, or with any application for transfer to a new employing real estate broker, a statement signed by the prospective employing broker, on a form approved by the Department, which shall certify as follows:

- (a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and
- (b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee, and will otherwise exercise close supervision over the licensee's performance of any and all acts for which a license is required.

4. Respondent's restricted real estate salesperson's license is issued subject to the requirements of Business and Professions Code Section 10153.4, to wit: Respondent shall, within eighteen (18) months after the issuance of the license revoked herein, submit evidence satisfactory to the Real Estate Commissioner of her successful completion, at an accredited institution, of two of the courses listed in Business and Professions Code Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to satisfy this condition, the restricted license shall be automatically suspended effective eighteen (18) months after the date of issuance of the license revoked herein. Said suspension shall not be lifted unless prior to the expiration of the restricted license respondent has submitted the required evidence of course completion, and the Commissioner has given written notice to respondent of the lifting of the suspension.

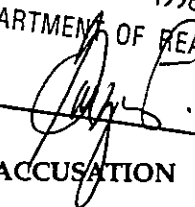
DATED: December 17, 1998



JOHN F. GRANNIS
Administrative Law Judge Pro Tem
Office of Administrative Hearings

SACTO

198-0211-028
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 05 1998
DEPARTMENT OF REAL ESTATE
By: 

In the Matter of the Accusation of)

SHERI ELAINE BOYD,)

Respondent.)

) NOTICE OF HEARING ON ACCUSATION

) Case No. H-27628 LA

) L-1998-070-586

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, 2nd. Floor, Los Angeles, California 90012 on September 18, 1998. at 10:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: August 5, 1998

DEPARTMENT OF REAL ESTATE

By:


JAMES R. PEEL
DRE, Counsel

cc: SHERI ELAINE BOYD.
RW, OAH & SACTO

SACTO

JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
State Bar 47055

(213) 897-3937

FILED
APR 28 1998
DEPARTMENT OF REAL ESTATE

By [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-27628 LA
SHERI ELAINE BOYD,)	<u>A C C U S A T I O N</u>
)	
)	
Respondent.)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SHERI ELAINE BOYD, alleges as follows:

I

The Complainant, Thomas Mc Crady a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

SHERI ELAINE BOYD (hereinafter referred to as respondent) is presently licensed and/or has license rights as a real estate salesperson subject to Section 10153.4(c) of the Business and Professions Code, (hereinafter Code).

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III

On or about November 18, 1997, respondent was issued a real estate salesperson license by the Department of Real Estate of the State of California following respondent's application therefor filed on or about November 6, 1997, and has continuously thereafter been so licensed.

IV

In response to Question 25 of said license application, to wit: "Have you ever been convicted of any violation of law?", respondent marked the box denoting "No".

V

In truth, on or about April 12, 1996, in the Municipal Court for the County of Los Angeles, State of California, respondent was convicted of violating Penal Code Section 602j (trespass), a crime involving moral turpitude in that respondent stole clothing belonging to Pic N'Save.

VI

Respondent's failure to reveal the criminal matter set forth in Paragraph V above, in said application, constitutes the procurement of a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in said application, which is cause for suspension or revocation of respondent's real estate salesperson license under Sections 498 and 10177(a) of the Code.

VII

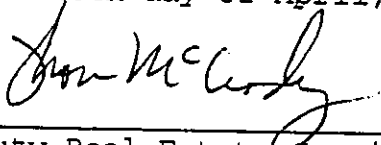
The conduct of respondent, as alleged in paragraph V above, is cause for suspension or revocation of respondent's



1 real estate salesperson license under Sections 490 and 10177(b)
2 of the Code.

3 WHEREFORE, complainant prays that a hearing be
4 conducted on the allegations of this Accusation and, that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against all licenses and licensing rights of respondent
7 SHERI ELAINE BOYD, under the Real Estate Law (Part 1 of Division
8 4 of the Business and Professions Code) and for such other and
9 further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California this 28th day of April, 1998.

12 
13 _____
14 Deputy Real Estate Commissioner
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21 cc: SHERI ELAINE BOYD
22 Sacto.
23 RW

24 JRP:rgp
25
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