

FILED
JAN - 9 2007
DEPARTMENT OF REAL ESTATE

By K. H. Scholt

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28094 LA
)
MARIBEL MUNOZ,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On August 2, 1999, a Decision was rendered herein
revoking Respondent's real estate salesperson license.

On August 16, 2005, 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.

I have considered the petition of Respondent 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 license and that
it would not be against the public interest to issue said
license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement is granted and that a real estate
3 salesperson license be issued to Respondent, if Respondent
4 satisfies the following conditions within twelve (12) months
5 from the date of this Order:

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

8 2. Submittal of evidence satisfactory to the Real
9 Estate Commissioner that Respondent has, since Respondent's
10 license was revoked, taken and passed the written examination
11 required to obtain a real estate salesperson license.

12 This Order shall be effective immediately.

13 Dated: 1-3-07

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15 JEFF DAVI
16 Real Estate Commissioner
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cc: Maribel Munoz
5503 N. Roxburgh Avenue
Azusa, CA 91702

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

FILED
AUG. 12 1999
DEPARTMENT OF REAL ESTATE

By C. B.

In the Matter of the Accusation of) No. H-28094 LA
)
) MARIBEL MUNOZ,) L-1999040568
)
)
) Respondent.)
_____)

DECISION

The Proposed Decision dated July 7, 1999, 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 conviction of a crime and knowingly making a false statement of fact required to be revealed in an application for license.

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 September 1, 1999.

IT IS SO ORDERED August 2, 1999

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of

MARIBEL MUNOZ,

Respondent.

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File No. : H-28094-LA

OAH No. : L1999040568

PROPOSED DECISION

On June 16, 1999, in Los Angeles, California, Barbara Bailey Barnes, Administrative Law Judge Pro Tem, Office of Administrative Hearings, State of California, heard this matter.

Complainant, Thomas McCrady, was represented by Darlene Averetta, Staff Counsel.

Respondent, Maribel Munoz, ("Respondent"), appeared and represented herself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Accusation was made by Thomas McCrady, Complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.
2. On or about August 20, 1998, Respondent submitted an application to the Department of Real Estate ("the Department") for a real estate salesperson's license with the understanding that any license issued as a result of that application would be subject to the conditions of Business and Professions Code section 10153.4.

3. The Department issued Respondent a conditional real estate salesperson's license, number 01243767, on October 22, 1998. The conditional salesperson's license was to expire April 22, 2000, and the salesperson's license was to expire October 21, 2002. Notice of termination of employment was issued by the Department on May 28, 1999. The instant matter ensued thereafter.

4. In her application to the Department of August 20, 1998, in response to Question number twenty-five (25) of said application, to wit: *"Have you ever been convicted of any violation of the law? (You may omit any traffic violation where the disposition was a fine and the amount was \$100 or less)"*, Respondent checked the box denoting, "No", thereby constituting a material misstatement of fact and supplying false and misleading information to the Department.

5. On July 13, 1994, in the Municipal Court of Citrus Judicial District, County of Los Angeles, State of California, in Case No. 94 M08921, Respondent was convicted, on her plea of guilty, of violation of Penal Code Section 484 (a), *petty theft*, a crime involving moral turpitude and one that is substantially related to the qualifications, functions and duties of a real estate licensee.

6. The facts and circumstances underlying the Respondent's conviction were that on or about May 30, 1994, after shopping with her brother and sister-in-law, Respondent was found with items shoplifted from a Target store. Respondent walked out of the Target store carrying her baby nephew, his diaper bag and stroller. The items had been placed in the baby's diaper bag. Respondent was detained and subsequently cited by the security guard and police when she left the store, failing to pay for the items. Although Respondent claims she was unaware that the items were in the diaper bag and claims she started to leave Target only because the baby began to cry, the Respondent pleaded guilty to the crime. Respondent, however, was not represented by counsel throughout the proceedings.

7. As a consequence of her conviction of the crime, Respondent was placed on summary probation for a period of three (3) years under the conditions that she serve one (1) day in County jail, pay a fine of five-hundred seventy-five dollars (\$575), including penalty assessments, and restitution of five dollars (\$5); and stay away from Target Stores during the term of probation. The fine was to be paid in fifty-dollar (\$50) installments on the first day of each month, effective August 1, 1994 and continuing until fully paid. In lieu of the fine, Respondent was given the opportunity to perform ten (10) days of community service.

8. Respondent's probation was revoked and reinstated on at least five (5) occasions between August, 1994 and December, 1998. Several bench-warrants were issued and subsequently recalled for the Respondent during that time when Respondent failed to appear to make payments on the court-ordered fine. Respondent was required to spend additional days in jail due to her failure to make timely payments.

9. On April 28, 1998, Respondent's probation was extended to April 28, 2000. Respondent completed payment of the court-ordered fine on December 7, 1998.

10. Respondent expresses remorse for her involvement in the criminal matter, although she attributes her conviction to "taking the fall" for her sister-in-law, Anna Montoya. Respondent included in her documentary evidence (part of Respondent's Exhibit "A"), a letter purportedly authored by her sister-in law, dated March 29, 1999¹.

(In this letter, the sister-in-law admits committing the petty theft with her husband, Respondent's brother. According to the letter, the brother and sister-in-law were not permitted to admit guilt because Respondent "technically stole the item since she unknowingly walked out with the car." The brother and sister-in-law promised to pay Respondent's fines since they did not think this incident would affect Respondent in the future.)

The Administrative Law Judge finds this unsubstantiated evidence questionable given the number of probation violations, additional days in jail and the extension of Respondent's summary probation grant due to Respondent's failure to pay her fine.

11. Respondent paid her fines herself, asserting that she was violated on probation because her brother, after advising her to plead guilty, broke his promise to pay her fines. Respondent failed to follow up: "I let it go." Respondent had been living with her brother and his family for approximately one year at the time of her arrest. She had left her husband, was without legal counsel and was "nervous".

12. Respondent gave false and misleading information on her application to the Department because she "felt I could get away with it" and believed the conviction was her sister-in-law's fault. Respondent did not believe that she (the Respondent), was, in fact, guilty of committing the crime. Respondent now admits that this decision to falsify her application with the Department was "stupid", describing herself as honest and trustworthy now.

13. Respondent currently resides with her boyfriend and her seven-year old son. She has a high school education and is employed as an assistant by Dana Rosas of Remax Masters who is training Respondent in the real estate field. In a letter dated March 29, 1999, Ms. Rosas describes Respondent as "good and honest". Respondent has been a volunteer at the South El Monte Senior Center for the past five (5) years. According to a letter from Jose Sanchez, teacher at Parkview School, Respondent is very involved with her son's progress there and has been a volunteer on several class projects.

¹ Respondent's sister-in-law was not present in court and thus, unavailable for cross-examination. No corroborative evidence other than Respondent's testimony was presented.

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 salespersons license pursuant to Business and Professions Code section 490 (a), as that section interacts with section 10177 (b), for conviction of a crime, as set forth in Findings 5,6,7, 8 and 9.

Respondent's unlawful act of petty theft is an act which includes the intent to obtain a financial benefit. This reflects unfavorably on Respondent's honesty and truthfulness, traits that the legislature and the courts have deemed necessary in a real estate licensee. See *Golde v. Fox*, 98 Cal. App. 3d, 167 (1979). Respondent's participation in an illegal activity for personal gain also constitutes the kind of activity which has been held to constitute moral turpitude. See *Golde v Fox*, supra.

2. Cause exists for the suspension or revocation of Respondent's real estate salespersons license pursuant to Business and Professions Code 498, as that section interacts with Section 10177(a), due to Respondent's procurement of a real estate salespersons license by fraud, misrepresentation and or deceit, by knowingly making a material misstatement of fact in her application to the Department, as set forth in Findings 4, 5 and 12.

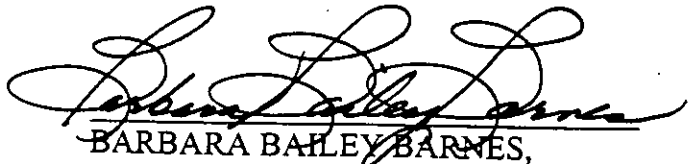
Although she expresses regret and remorse for her actions, Respondent's behavior in making application to the Department fails to reach the level of honesty and trustworthiness. Rather, her actions underscore the lack of rehabilitation. It would therefore be contrary to the public interest to allow Respondent to remain licensed by the Department.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Maribel Munoz, under the Real estate Law, are hereby revoked.

DATED: July 7, 1999



BARBARA BAILEY BARNES,
Administrative Law Judge Pro Tem
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

MARIBEL MUNOZ,

Respondent(s)

Case No. H-28094 LA

OAH No. L-1999040568

FILED
MAY - 7 1999
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By CA

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, JUNE 16, 1999, at the hour of 1:30 P.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.

DEPARTMENT OF REAL ESTATE

Dated: May 7, 1999

By

Darlene Averetta
DARLENE AVERETTA, Counsel

cc: Maribel Munoz
Mulhearn Realtors
Sacto.
OAH

5ACU
1 DARLENE AVERETTA, Counsel
2 State Bar No. 159969
3 Department of Real Estate
4 320 W. Fourth St., Suite 350
5 Los Angeles, California 90013-1105
6
7 (213) 576-6904

FILED
APR 15 1999
DEPARTMENT OF REAL ESTATE

By C. 27

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation of) NO. H-28094 LA
11)
12 MARIBEL MUNOZ,) A C C U S A T I O N
13 Respondent.)

14 The Complainant, Thomas McCrady, a Deputy Real Estate
15 Commissioner of the State of California, for cause of Accusation
16 against MARIBEL MUNOZ (hereinafter "Respondent"), alleges as
17 follows:

18 I

19 The Complainant, Thomas McCrady, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation in
21 his official capacity.

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II

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code"), as a real estate salesperson subject to Section 10153.4 of the Code. Respondent was issued a real estate salesperson license by the Department on October 22, 1998.

III

Respondent, pursuant to the provisions of Section 10153.3 of the Code, made application to the Department of Real Estate of the State of California on or about August 20, 1998, for a real estate salesperson license with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Code Section 10153.4.

IV

In response to Question 25 on said application, to wit: "Have you ever been convicted of any violation of law? (You may omit any traffic violation where the disposition was a fine and the amount was \$100 or less)", Respondent marked the answer box denoting "No".

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1 On or about July 13, 1994, in the Municipal Court
2 of Citrus Judicial District, County of Los Angeles, State of
3 California, Respondent was convicted on her plea of guilty of
4 one count of violating Penal Code Section 484(a) ("Petty Theft").
5 Said crime involves moral turpitude and bears a substantial
6 relationship under Section 2910, Title 10, California Code of
7 Regulations, to the qualifications, functions or duties of a real
8 estate licensee.
9

VI

10 Respondent's failure to reveal the conviction against
11 her as set forth in Paragraph V, above, constitutes the
12 procurement of a real estate license by fraud, misrepresentation
13 or deceit, by knowingly omitting to state a material fact, or by
14 making a material misstatement of fact in an application for a
15 real estate license. Said failure constitutes cause under Code
16 Sections 498 and 10177(a) for the suspension or revocation of
17 Respondent's license and license rights under the Real Estate
18 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 the licenses and license rights of Respondent,
5 MARIBEL MUNOZ, under the Real Estate Law (Part 1 of Division 4 of
6 the Business and Professions Code), and for such other and
7 further relief as may be proper under other applicable provisions
8 of law.

9 Dated at Los Angeles, California
10 this 15th day of April, 1999.

11 THOMAS MCCRADY
12 Deputy Real Estate Commissioner
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24 cc: Maribel Munoz
25 Mulhearn Realtors
26 Thomas McCrady
27 Sacto.
JM

