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FILED
JUN 09 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28701 LA
)
CAROLINE YAGHMOURIAN,)
)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 1, 2001, a Decision was rendered herein
revoking Respondent's real estate salesperson license.

On or about October 31, 2002, 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 CAROLINE YAGHMOURIAN.

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 nine (9) 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10 license was revoked, taken and successfully completed, at an
11 accredited institution, a course in real estate practices and
12 one of the courses listed in Code Section 10153.2, other than
13 real estate principles, advanced legal aspects of real estate,
14 advanced real estate finance, or advanced real estate
15 appraisal.

16 3. Submittal of evidence satisfactory to the Real
17 Estate Commissioner that Respondent has, taken and successfully
18 completed the courses specified in subdivisions (a) (1), (2),
19 (3) and (4) of Section 10170.5 of the Real Estate Law for
20 renewal of a real estate license.

21 4. The license issued pursuant to this order shall
22 be deemed to be the first renewal of Respondent's real estate
23 salesperson license for the purpose of applying the provisions
24 of Section 10153.4.

25 ///
26 ///
27 ///

1 This Order shall be effective immediately.

2 Dated: June 3, 2004.

3 JOHN R. LIBERATOR
4 Acting Real Estate Commissioner

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6 _____

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26 cc: Caroline Yaghmourian
27 12423 Kittridge Street
 North Hollywood, CA 91606

FILED
MAR 6 2001

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By

[Signature]

* * * * *

In the Matter of the Accusation of)
)
CAROLINE YAGHMOURIAN,)
)
Respondent.)
_____)

No. H-28701 LA

L-2000100069

DECISION

The Proposed Decision dated February 9, 2001, 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 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 March 26, 2001

IT IS SO ORDERED

March 4, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

[Signature: Paula Reddish Zinnemann]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H 28701 LA

OAH No.: 2000100069

CAROLINE YAGHMOURIAN,
Respondent

PROPOSED DECISION

On December 18, 2000, in Los Angeles, California, Deborah Myers-Young, Administrative Law Judge, Office of Administrative Hearings, heard this matter.

Complainant, Thomas McCrady, Deputy Real Estate Commissioner of the State of California, was represented by Martha Rosett, Staff Counsel.

Respondent, Caroline Yaghmourian, ("Respondent"), was present and was represented by Frank M. Buda, Attorney at Law.

Oral and documentary evidence was received. The record was held open until January 5, 2001 to allow Respondent to introduce evidence that her conviction had been dismissed. Complainant was allowed to object to such evidence up to and including January 12, 2001. Respondent's attorney submitted a duplicate original of Respondent's Petition and Order to Dismiss Under Penal Code section 1203.4, which was properly and timely served upon the Office of Administrative Hearings and the Complainant on December 26, 2000. No objection was received from the Complainant by January 12, 2001. Therefore, the document was marked for identification and admitted as Respondent's Exhibit "H". The matter was submitted for decision and the record was deemed closed on January 12, 2000.

FACTUAL FINDINGS

The Administrative Law Judge Pro Tem makes the following factual findings:

1. The Accusation was filed by Thomas McCrady, Deputy Real Estate Commissioner of the State of California, acting in his official capacity.

2. Respondent was originally licensed as a conditional real estate salesperson on October 15, 1999, No. 01253647. The conditional license will expire on April 15, 2001, and the salesperson license will expire on October 14, 2003.

3. On September 29, 1999 Respondent filed an application with the Department of Real Estate (hereinafter "the Department"), for a salesperson's license. Respondent indicated on question 25 of her application that she had never been convicted of any violation of law. The application itself gave a definition of "conviction" just above the question: "'Convicted' as used in Question 25 includes a verdict of guilty by a judge or jury, a plea of guilty or of nolo contendere, ... All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed, or expunged or if you have been pardoned..."

4. On November 4, 1998, in the Municipal Court of Los Angeles, Van Nuys Judicial District, State of California, in Case No.8PN06637, Respondent was convicted, on her plea of nolo contendere, of violating Penal Code section 484(A), (Petty Theft).

5. Respondent was given a suspended sentence, and was sentenced to twenty-four months probation. She was ordered to serve one day in County Jail, with credit for one day served. She was further ordered to pay a fine of \$ 150.00, a penalty fund assessment of \$ 255.00, a \$ 35.00 installment fee, restitution in the sum of \$ 100.00, and attorney's fees in the sum of \$ 77.75, for a total of \$ 617.75. Alternatively, Respondent could perform 70 hours of community service in lieu of the fine. She was further ordered to perform 10 days of community service with Caltrans with credit for one day. She was further ordered to stay away from Robinson's-May Department Stores. On January 19, 1999, Respondent's fine was increased by \$ 50.00 in court costs for the bench warrant that was issued on January 12, 1999 for failure to submit proof of completion of the Caltrans service. Respondent paid \$ 642.75 in fines on January 19, 1999. She filed the evidence of completion of her Caltrans obligation on March 5, 1999.

6. The facts and circumstances underlying the conviction are that on October 9, 1998, Respondent was shopping at Robinson's-May with her then four-year old son. She exchanged some clothes she had previously purchased, and placed some children's clothing in her bag without paying because she was in a hurry to pick up her daughter from school. She was not thinking clearly, and was feeling angry, depressed and confused as the result of an abusive marriage that was ending.

7. Respondent's conviction of petty theft is substantially related to the qualifications, duties, and functions of a real estate salesperson.

8. Respondent explained that when she filled out the application, she was "in denial" about her criminal record, and "wanted to believe in her heart that it didn't

happen." Respondent further testified that she was not intentionally trying to mislead the Department by not disclosing the conviction in her application. Respondent admits that she told Deputy Neilson from the Department of Real Estate that she thought her conviction was dismissed and gone, and that is why she did not write it down. That testimony lacks credibility, as Respondent was still on probation at the time she filled out her application. The application clearly spells out that all convictions must be disclosed, even if they have later been dismissed. Further, there are no exceptions provided for in the application that allow an applicant to omit listing a conviction if one has mixed or unresolved feelings about the criminal conduct.

9. Respondent knew of her criminal conviction. She admitted taking items of clothing for which she did not pay. She was present at the arraignment, plea, and sentencing of her criminal case. Therefore, Respondent knowingly omitted to disclose the existence of her criminal conviction, a material fact, to the Department of Real Estate in her application, which she signed under penalty of perjury. This misstatement of fact influenced the Department of Real Estate to issue a real estate license to her.

10. In misrepresenting that she had not suffered a conviction, in the existing circumstances, Respondent procured a real estate license by fraud.

11. Respondent has successfully petitioned to dismiss her criminal conviction under Penal Code section 1203.4, as of December 11, 2000. She has no previous or subsequent criminal convictions. She is employed as a real estate agent with Century 21. Her employing broker, Jim Paul, is aware of her conviction, and will continue to employ and supervise her should she be given a restricted license. Respondent is supporting two children with her real estate license, and with her part-time accounting job at a YMCA. She is a member of the Burbank Board of Realtors. She has completed one transaction, and processed an \$ 8250.00 deposit without a problem. She 'caravans' to peoples homes with other agents, and estimates she has seen 30 homes in the last year. She has several family members who believe she regrets her actions and is learning from her mistake. She has several co-workers who know about her "situation", and believe she is an honest and hard-working salesperson. A former client believes she is honest and helpful. She is a Jehovah's Witness, and attends Kingdom Hall twice a month.

12. Respondent has not told her employer at the YMCA of her conviction. She did not tell her employing broker about her conviction until he received a copy of the Accusation.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge Pro Tem makes the following legal conclusions:

1. Cause exists to suspend or revoke Respondent's license to act as a real estate salesperson under Business and Professions Code sections 498 and 10177(a) for procurement of a real estate license by fraud, deceit, or making a material misrepresentation of fact in his application as set forth in Findings 3, 4, 5, 6, 7, 8, 9, and 10.

Business and Professions Code section 498 authorizes the revocation, suspension, or restriction of a real estate licensee when the license is secured by fraud and by a knowing omission of a material fact. Respondent knew of her criminal conviction, even though she may have been temporarily "in denial" at the moment she filled out her response to Question 25. She was still on probation at the time she filled out her application, and therefore her explanation that she thought her conviction was dismissed is not credible.

Business and Professions Code section 10177(a) further authorizes suspension or revocation of the license of a real estate licensee who has procured a real estate license by fraud and by making any material misrepresentation of fact in an application for a real estate license. Respondent misrepresented to the Department of Real Estate the fact that she had a criminal conviction, which was a material fact.

Respondent's failure to disclose her conviction in her application constitutes the procurement of a real estate license by knowingly omitting the material fact of her conviction in her application. Further, in knowingly misrepresenting to the Department that she had not suffered a conviction respondent procured her license by fraud.

2. Respondent's underlying Petty Theft conviction is substantially related to the qualifications, functions and duties of a real estate licensee.

3. Respondent has established some evidence of mitigation and rehabilitation. This evidence must be weighed against Respondent's failure to disclose the conviction in her application one-year ago, which is a recent act of dishonesty.

The California Code of Regulations, Title 10, Chapter 6, section 2912, establishes the criteria for determining rehabilitation. Respondent's conviction is two years old. (Section 2912(a)). Respondent has successfully completed the terms of her probation, paid her fines, and has received a dismissal, or expungement, of her conviction. (Section 2912 (c), (d), and (e)). She is meeting her parental responsibilities by supporting her two children. (Section 2912(i)). She is attending

church twice a month. (Section 2912(k)). She has several friends and family members who believe that she has a change in attitude. (Section 2912(l)).

However, Respondent has not corrected her business practices, as evidenced by her failure to disclose her conviction in her application one year ago. (Section 2912(g)). Golde v. Fox (1979) 98 Cal. App. 3d 167 speaks of the requirements of a real estate licensee. "Honesty and integrity are deeply and daily involved in various aspects of the practice." Id. at 176.


Respondent has not demonstrated the level of honesty and integrity required of a real estate licensee, by her failure to disclose her criminal conviction on her real estate. Her failure to disclose the conviction demonstrates a lack of rehabilitation. It further demonstrates a lack of candor that necessarily endangers the real estate buying public. The importance of full disclosures, full accountability for deposits, and the safety of personal property in homes easily accessed by a lock-box, is paramount in the real estate industry. The public would be at risk of harm should Respondent be allowed to maintain her real estate salesperson's license.

ORDER

WHEREBY THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Caroline Yaghmourian, No. 01253647 under the Real Estate Law are hereby revoked.

Date: February 9, 2001


Deborah Myers-Young
Administrative Law Judge

5910

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) Case No. H-28701 LA
)
CAROLINE YAGHMOURIAN,) OAH No. L-2000100069
)
_____) Respondent(s)

FILED
OCT 23 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

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 MONDAY, DECEMBER 18, 2000, 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: October 23, 2000

By

MARY E. WORK, Counsel

cc: Caroline Yaghmourian
Century 21 Paul & Associates Realty, Inc.
Frank M. Buda, Esq.

✓ Sacto.

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RE 501 (Rev. 8/97)

5210

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

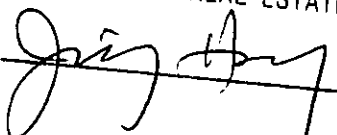
In the Matter of the Accusation of)
CAROLINE YAGHMOURIAN,)
Respondent.)

Case No. H-28701 LA

OAH No. L-2000100069

FILED
OCT 10 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

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 THURSDAY, NOVEMBER 9, 2000, 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: October 10, 2000

By


MARY E. WORK, Counsel

cc: Caroline Yaghmourian
Century 21 Paul & Associates Realty, Inc.
Frank M. Buda, Esq.

✓ Sacto.

OAH

JN

RE 501 (Rev. 8/97)

59510

MARY E. WORK, Counsel SBN 175887
Department of Real Estate
320 W. 4th Street, Suite 350
Los Angeles, CA 90013-1105
Telephone: (213) 576-6916

FILED
AUG 21 2000
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-28701 LA
CAROLINE YAGHMOURIAN,)	
Respondent.)	A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against CAROLINE YAGHMOURIAN, alleges in his official capacity as follows:

I

Respondent is presently licensed and/or has licensed rights as a real estate salesperson subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

II

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate salesperson on October 15, 1999, following Respondent's application therefor filed on September 29, 1999 and has



continuously thereafter been so licensed.

III

In response to question 25 of said license application, to wit: "Have you ever been convicted of any violation of law? (You may omit convictions for drunk driving, reckless driving, and minor traffic citations which do not constitute a misdemeanor or felony offense)." Respondent checked the box denoting "No."

IV

On or about November 4, 1998, in the Municipal Court of Los Angeles, Van Nuys Judicial District, County of Los Angeles, State of California, Respondent was convicted upon a nolo contendere plea to one count of violating Section 484(a) of the California Penal Code (theft), a misdemeanor crime that occurred on October 10, 1998, which by its facts and circumstances involves moral turpitude and is substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

The facts set forth in Paragraph IV constitute cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of all licenses and license rights of Respondents under the Real Estate Law.

VI

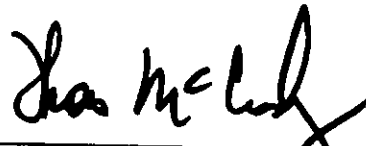
Respondent's failure to reveal the conviction set forth in Paragraph IV, above, in her application, constitutes the procurement of a real estate license by fraud, misrepresentation



1 or deceit or making a material misstatement of fact. This is
2 cause for suspension or revocation of Respondent's real estate
3 salesperson's license under Sections 498 and 10177(a) of the
4 Code.

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against all licenses and/or license rights of Respondent,
9 CAROLINE YAGHMOURIAN, under the Real Estate Law (Part 1 of
10 Division 4 of the Business and Professions Code) and for such
11 other and further relief as may be proper under other applicable
12 provision of law.

13 Dated at Los Angeles, California
14 this 21st day of August, 2000.



Deputy Real Estate Commissioner

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23 cc: Caroline Yaghmourian
24 Century 21 Paul & Associates Realty, inc.
25 Thomas McCrady
26 ✓ Sacto
27 JN

