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FILED
FEB 21 2007
DEPARTMENT OF REAL ESTATE

By *R. Miller*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-29623 LA
)	
IRENE R. ESCALERA,)	
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 18, 2002, a Decision was rendered herein revoking Respondent IRENE R. ESCALERA aka Irene R. Romero's real estate salesperson license, 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 April 7, 2003, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On February 22, 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.

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.

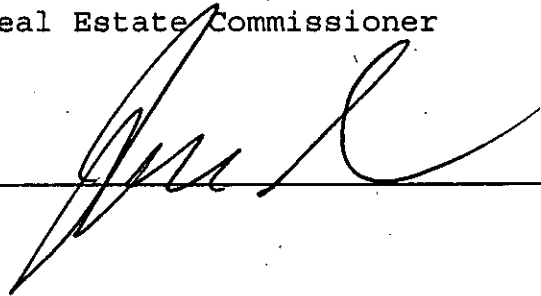
8
9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 salesperson license be issued to Respondent, if Respondent
12 satisfies the following conditions within nine (9) months
13 from the date of this Order:

- 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.

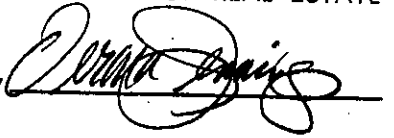
21 This Order shall be effective immediately.

22 Dated: 2-13-87

23 JEFF DAVI
24 Real Estate Commissioner

25
26 

27 cc: Irene R. Romero
2310 Elsinore Road
Riverside, CA 92506

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-29623 LA
IRENE R. ESCALERA,)	L-2002080828
Respondent.)	

DECISION

The Proposed Decision dated November 21, 2002, 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.

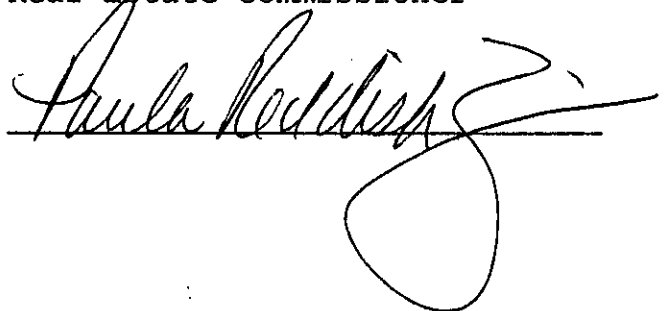
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on January 15, 2003.

IT IS SO ORDERED

December 18, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

IRENE R. ESCALERA,

Respondent.

Case No. H-29623 LA

OAH Case No. L2002080828

PROPOSED DECISION

This matter came on regularly for hearing before Mark T. Roohk, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California on November 4, 2002.

Chris Leong, Real Estate Counsel, represented Complainant Maria Suarez ("Complainant").

Respondent Irene R. Escalera ("Respondent") was present throughout the hearing and represented herself.

Oral and documentary evidence was received, the matter argued, the record was closed at the conclusion of the hearing and the case submitted for decision.

FACTUAL FINDINGS

1. Complainant Maria Suarez, Deputy Real Estate Commissioner of the State of California, made and filed the Accusation in this proceeding in her official capacity and not otherwise.

2. Respondent Irene R. Escalera was originally licensed as a real estate salesperson, license ID# 01156737, on or about March 23, 1993. Her license was, at all times relevant herein, and is currently in full force and effect and will expire on August 24, 2005 unless renewed.

3. The Accusation in this matter was filed on or about July 26, 2002, and was served on Respondent. Respondent timely filed a Notice of Defense contesting the charges set forth therein, and this hearing followed.

4. On July 10, 2000, Respondent was convicted in the Superior Court of the State of California, County of Riverside, on her plea of guilty to one count of violating Penal Code section 484(a) (petty theft), a crime involving moral turpitude and which is substantially related to the qualifications, functions, and duties of a real estate salesperson. As the result of the conviction, Respondent was placed on summary probation for two (2) years, ordered to pay a fine and assessment of \$250 as well as a restitution fine of \$100, required to submit to immediate searches by law enforcement for stolen property, and ordered to stay away from the location of arrest.

5. The facts and circumstances underlying the conviction are that on or about May 28, 2000, while Respondent was shopping at Wal-Mart with her four minor daughters, she and two of her daughters had taken merchandise and attempted to leave the store without paying. When stopped by store security, Respondent was in possession of a nightgown, one daughter was in possession of a pen, and another daughter was in possession of a hair ornament.

6. At the time of her arrest, Respondent was having both family and financial problems. She was in the process of divorcing her husband, and she was not making very much money from her real estate work.

7. Respondent has successfully completed her probation, and on or about July 25, 2002, had her conviction set aside and expunged pursuant to a motion under Penal Code section 1203.4.

8. Respondent has five daughters, and four of them currently live with her. Although Respondent receives child support from her ex-husband, her primary means of support is her work as a real estate salesperson. Except for the child support, Respondent's income is not much different now than it was at the time of her arrest.

9. As evidence of mitigation/rehabilitation, Respondent offered letters from her current employer as well as her employer at the time of the conviction. The letter from the current employer, Mark Sawyer, states that Respondent is an honest and hardworking real estate agent. The letter from the previous employer, Robert Rissi, states that Respondent did her best balancing her career with a large family, and that she always got things done and stay motivated.

LEGAL CONCLUSIONS

Cause exists to suspend or revoke Respondent's real estate salesperson's license pursuant to the provisions of Business and Professions Code sections 490 and 10177(b)

for conviction of a crime substantially related to the qualifications, functions or duties of a real estate license, as set forth in Findings 4 and 5.

As part of the regulations governing the practice of real estate in the State of California, the Department of Real Estate ("Department") has developed certain criteria, set forth at Title 10 of the California Code of Regulations, Section 2912, for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a conviction. As applied to this case, the criteria assist in the process of evaluating evidence of rehabilitation submitted by the Respondent.

A review of those criteria applicable to Respondent's circumstances reveals she has satisfied each of the following:

- A. The Guidelines recommend the passage of not less than two (2) years since the most recent criminal conviction. Respondent's conviction occurred in and 4 months ago. Further, this was Respondent's first and only conviction. July 2000, approximately 2 years
- B. Respondent has paid the restitution fine ordered by the Court.
- C. Respondent's conviction was expunged by order of the Court in July 2002.
- D. Respondent successfully completed her probation in a timely manner.
- E. Respondent has paid all fines ordered by the Court.

The Guidelines also recommend evaluating several factors relating to changes in the licensee's personal life since the time of the conviction. While certain changes have occurred in Respondent's personal life, it is not clear that these changes are sufficient to ensure that she would not again engage in similar illegal conduct. Specifically, while the divorce from her husband is now final, and she is receiving child support from him to assist in providing for their four minor daughters, Respondent concedes her financial condition now is not much better than it was at the time of her conviction. Although Respondent expressed dedication to "raising her girls", such is a difficult task for any single working parent, and it must be noted that at the time of Respondent's arrest, two of her daughters were also caught taking items from the store. No evidence was presented regarding what kind of personal support system, in the form of friends, church, or other social involvement, is available to Respondent to assist her in case of further personal or economic difficulties.

Respondent has met most of the applicable criteria for demonstrating rehabilitation. As such, revocation or suspension of Respondent's real estate license is not required to ensure sufficient protection of the public interest. However, Respondent has failed to present evidence that her personal life has changed enough to adequately ensure that she would, to borrow her own words, "never do something silly like that"

again. Accordingly, this appears to be an appropriate case for issuance of a restricted license.

ORDER

The licenses and licensing rights of Respondent Irene R. Escalera under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days of 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 two years have elapsed from the effective date of this Decision.

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 broker on a form approved by the Department of Real Estate which shall certify:


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

b) That the employing broker will exercise close supervision over the performance of the restricted license relating to activities for which a real estate license is required.

5. 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 renewed 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 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: 11/21/02



MARK T. ROOHK
Administrative Law Judge
Office of Administrative Hearings

SAC

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

In the Matter of the Accusation of)
)
 IRENE R. ESCALERA,)
)
 _____)
 Respondent (s)

Case No. **H-29623 LA**

OAH No. L-2002080828

FILED
SEP 12 2002
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent (s):

By Chris Leong

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, NOVEMBER 4, 2002**, at the hour of **2:30 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: September 12, 2002

By Chris Leong
CHRIS LEONG, Counsel

cc: Irene R. Escalera
W. T. Nash Realty, Inc.
Sacto.
OAH

1 CHRIS LEONG, Counsel (SBN 141079)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6910 (Direct)

FILED
JUL 29 2002
DEPARTMENT OF REAL ESTATE

By

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-29623 LA
12 IRENE R. ESCALERA,)	<u>A C C U S A T I O N</u>
13 Respondent.)	

14
15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of
17 Accusation against IRENE R. ESCALERA (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20
21 Respondent is presently licensed and/or has license
22 rights under the Real Estate Law, Part 1 of Division 4 of the
23 Business and Professions Code (hereinafter "Code"), as a real
24 estate salesperson.

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

1 II

2 The Complainant, Maria Suarez, a Deputy Real Estate
3 Commissioner of the State of California, makes this Accusation
4 against Respondent in her official capacity.

5 III

6 On or about July 10, 2000, in the Superior Court of
7 the State of California, County of Riverside, Case
8 No. RIM396483, Respondent aka Irene Ramirez Escalera was
9 convicted of violating one count of Section 484(a) of the
10 California Penal Code (Petty theft), a crime involving moral
11 turpitude which is substantially related to the qualifications,
12 functions and duties of a real estate licensee.

13 IV

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

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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, IRENE R. ESCALERA, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 26th day of July, 2002.


Deputy Real Estate Commissioner

cc: Irene R. Escalera
T.W. Nash Realty, Inc.
Maria Suarez
Sacto.
MA