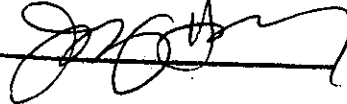


FILED
MAR 17 2005

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

* * * * *

In the Matter of the Accusation of)
)
YOLANDA EVETTE KORN,)
)
Respondent.)

No. H-30977 LA

L-2004080003

DECISION

The Proposed Decision dated February 14, 2005, 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.

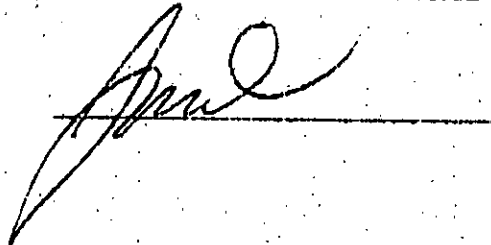
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 April 6, 2005

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H-30977 LA

OAH No.: 2004080003

YOLANDA EVETTE HORN,
Respondent

PROPOSED DECISION

On November 18, 2004, in Los Angeles, California, Deborah Myers-Young, Administrative Law Judge, Office of Administrative Hearings, heard this matter.

Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, was represented by Kelvin K. Lee, Staff Counsel.

Respondent, Yolanda Evette Horn (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 18, 2005, to allow Respondent to obtain an Order under Penal Code section 1203.4. On January 17, 2005, Respondent's counsel filed a Petition and Order pursuant to Penal Code section 1203.4, Request to Augment the Record, which included the 1203.4 Order and a letter from the Secretary of State's office. The motion is marked for identification as Respondent's Exhibit J. The 1203.4 Order is marked for identification and admitted as Respondent's Exhibit K. The additional document from the Secretary of State's Office was not marked for identification as it exceeds the scope of the documents permitted at the administrative hearing. The Motion to Augment the Record is denied. The record was deemed closed on January 18, 2005 and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following factual findings:

1. The Accusation was filed by Maria Suarez, a Deputy Real Estate Commissioner of the State of California, acting in her official capacity.

2. Respondent has been licensed as a real estate salesperson since January 15, 1997. It will expire on December 27, 2005.

3. On September 19, 2002, in the Superior Court of Los Angeles, Central Judicial District, State of California, in Case No. BA240248, Respondent was convicted, on her plea of nolo contendere, of violating Penal Code section 470, subdivision (A) (Forgery), a misdemeanor and crime of moral turpitude substantially related to the qualifications, functions and duties of a real estate salesperson under California Code of Regulations, title 10, section 2910, subdivisions (2) and (4).

4. Respondent was placed on summary probation for two years and ordered to perform 300 hours of community service. She was further ordered to pay a restitution fine of \$100.00. Respondent completed the community service by November 18, 2003. On December 9, 2004, Respondent's plea was set aside and her conviction was dismissed pursuant to Penal Code section 1203.4.

5. The facts and circumstances underlying the conviction are that Respondent was licensed as a notary public in or around 1998. She performed a notarial act at a Century 21 office for a two real estate salespeople in her office. They asked her to notarize a grant deed based upon a third party's driver's license, when the third party was not present. They informed her that the property was in foreclosure, and they had to work quickly to save it. They led her to believe they had permission from that third party to have the grant deed notarized. The third party never came in to sign Respondent's notarial journal. Respondent relinquished her notarial journal and stamp in 1999 when she was contacted by a detective regarding the incident. She was not disciplined by the Secretary of State. The relinquishment of the journal and stamp is evidence of Respondent's feelings of guilt and remorse for her conduct.

6. Respondent has never falsely notarized another grant deed since that time. She does not want to be in the same position again. She has not seen the offending **real estate agents since she saw them in criminal court in connection with the criminal** charges filed against them. She has never had any problems with her real estate transactions, and has never had the desire to steal anything from her clients.

7. She has no previous or subsequent criminal convictions. She has not had any complaints made about her concerning any of her real estate transactions.

8. Respondent also holds a cosmetologist license. She lives with her son, and is a single parent. She works at his junior high school on occasion. She is close with her mother, and helps her with the foster children in her care by driving them to outings, appointments, and grocery shopping. At a time not established by the record, Respondent received a criminal clearance exemption from the Department of Social Services to help her mother with the children.¹ Respondent has raised her nephew since he was in elementary school, and he is now 23 years old. Respondent's mother and a number of her friends believe she is honest, trustworthy, responsible, helpful to the community, and a good mother. Respondent attends Bible study at her mother's house up to six times a month. She volunteers for LA Partners, a neighborhood block club, and has arranged for members of her community to receive gas shut off valves.

9. Respondent has completed 53 hours of continuing education courses. She currently works for Namon Wimberly, a broker with RE/MAX. Namon Wimberly provided a letter of support, knows of Respondent's conviction and is willing to closely supervise Respondent in her transactions should she be granted a restricted license.

LEGAL CONCLUSIONS

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

1. Cause exists to suspend or revoke Respondent's real estate salesperson's license pursuant to Business and Professions Code section 490, and 10177 subdivision (b) for conviction of a crime, as set forth in Findings 3, 4, and 5.

Respondent's criminal conviction is fairly recent. Respondent was convicted of a crime of moral turpitude. In *Golde v. Fox* (1979) 98 Cal. App. 3d 167, the court stated: "Honesty and integrity are deeply and daily involved in various aspects of the practice." *Id.* at 176. The integrity of documents and the truthfulness of the licensees involved in real estate transactions is of paramount importance in the industry.

Respondent has made significant steps in her rehabilitation. She has met many of the Department's criteria of rehabilitation set forth at California Code of Regulations, title 10, section 2912. Two years have passed since her conviction, and the acts themselves occurred over six years ago. (Subd. (a).) She has paid restitution and fines, expunged the conviction, and successfully completed her probation. (Subd. (b), (c), (e), and (g).) She has corrected her business practices by turning in her

¹ Department of Social Services has very strict criteria for rehabilitation in their guidelines and does not issue criminal record exemptions lightly. (Government Code § 11425.50, subd. (c).)

Notarial Journal. (Subd. (h).) She has new and different business relations. (Subd. (i).) She has a stable family life, and has fulfilled her parental and familial responsibilities. (Subd. (j).) She has completed vocational training courses for economic self-improvement. (Subd. (k).) She has significant and conscientious involvement in her community and church. (Subd. (l).)

Therefore, the public interest should be protected with the following order.

ORDER

WHEREBY THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Yolanda Evette Horn 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 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 two years have elapsed from the effective date of this Decision.

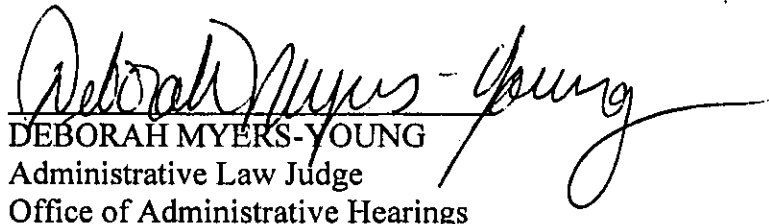
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(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 by the restricted licensee 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 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.

Dated: February 14, 2005


DEBORAH MYERS-YOUNG
Administrative Law Judge
Office of Administrative Hearings

50210

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
YOLANDA EVETTE HORN,)
_____)
Respondent(s)

Case No. H-30977 LA

OAH No. L-2004080003

FILED
OCT 18 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED 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 18, 2004, 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 18, 2004

By


KELVIN K. LEE, Counsel

cc: Yolanda E. Horn
Frank M. Buda, Esq.
NBW Investments Inc.
✓ Sacto.
OAH

RE 501 (Rev. 8/97)

5070

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
YOLANDA EVETTE HORN,)
)
)
_____)
Respondent.

Case No. H-30977 LA
OAH No. L-2004080003

FILED
AUG 25 2004

DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By [Signature]

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, OCTOBER 14, 2004, 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.

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DEPARTMENT OF REAL ESTATE

Dated: August 25, 2004

By [Signature]
KELVIN K. LEE, Counsel

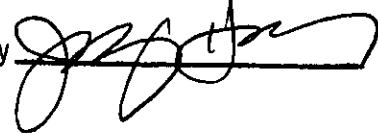
cc: Yolanda Evette Horn
N B W Investments Inc.
Sacto.
OAH

5070
KELVIN K. LEE, Counsel (SBN 152867)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6905

FILED
JUN 10 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-30977 LA
YOLANDA EVETTE HORN,) A C C U S A T I O N
Respondent.)

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against YOLANDA EVETTE HORN ("Respondent") alleges as follows:

I

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

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 ("Code"), as a real
estate salesperson.

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III

Respondent was originally licensed by the Department as a real estate salesperson on January 15, 1997.

IV

On or about October 28, 2002, in the Superior Court of California, County of Los Angeles, Respondent YOLANDA EVETTE HORN, was convicted of one (1) count of violating Section 470, Subdivision (A) of the California Penal Code, Forgery. This crime involves moral turpitude, and bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

V

The crime of which Respondent was convicted, as described in Paragraph IV above, constitutes cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

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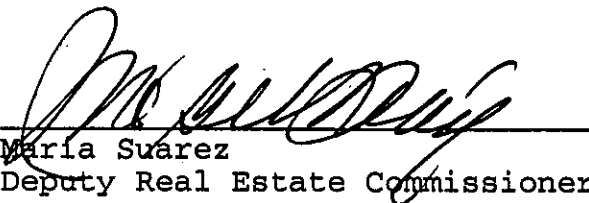
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent, YOLANDA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

9 Dated at Los Angeles, California
10 this 20th day of May, 2004.

11 
12 Maria Suarez
Deputy Real Estate Commissioner

13 cc: YOLANDA EVETTE HORN
14 Maria Suarez
15 Sacto.
16 EE
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