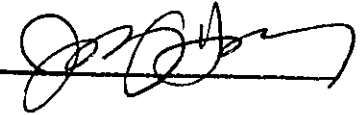


FILED  
NOV 29 2005

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

\* \* \* \* \*

In the Matter of the Accusation of )  
)  
)  
TERESA ZELAYA, )  
)  
)  
Respondent. )  
\_\_\_\_\_ )

No. H-32001 LA

L-2005060731

DECISION

The Proposed Decision dated October 17, 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 December 19, 2005.

IT IS SO ORDERED November 22, 2005

JEFF DAVI  
Real Estate Commissioner



BY: John R. Liberator  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

TERESA ZELAYA,

Respondent.

Case No.: H-32001 LA

OAH No.: L2005060731

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on September 20, 2005.

Martha Rosett, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Scott G. Lyon, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FINDINGS OF FACT

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

2. 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, as a real estate salesperson.

3. On January 12, 2005, Respondent's 17 year old son, in possession of a learner's permit only, drove Respondent's car without her permission. Shortly thereafter, he collided with another vehicle. Police were called and came to the scene. Respondent was called by her son and came to the scene. Respondent was interrogated by a police officer. She told the police officer that she was in her vehicle with her son. That assertion was a lie and known by

Respondent to be a lie. Thereafter, on February 24, 2005, in the Superior Court of California, County of Orange, in Case No. BP133012, Respondent was convicted of violating California Vehicle Code section 31 (False Information to a Peace Officer), a misdemeanor. The crime is a crime involving moral turpitude in that it involves the uttering of false information.

4. When Respondent arrived at the accident scene she was in combined states of fear, anxiety, and distress. She feared for the well-being of her son; was anxious as to his legal culpability and was distressed by a number of on-lookers yelling at her son. She felt a mother's need to protect her son. These circumstances do not excuse Respondent's wrongful conduct but do mitigate same.

5. As a result of the conviction Respondent was ordered to pay a fine and timely did so. She was not placed on probation. It is too soon to have the crime expunged but it is Respondent's intent to do so when the time comes. She has suffered no other conviction.

6. Respondent has an Associates of Arts Degree from Los Angeles City College and over the course of her professional life has developed an expertise in early childhood development. She possesses a valid certificate from the State Commission on Teacher Credentialing. She possesses a valid Notary Public Commission issued by the Secretary of State. She has suffered no discipline of either license.

7. From time to time Respondent has worked, since 1999, for the University of California at Davis as an instructor in the discipline of early childhood development. Previously, she had work experience as a teacher's aide, as a substitute teacher and then, for a period of 10 years, as a Child Development Director. Over the years, she has worked with industry, diligence and trustworthiness.

8. Respondent testified in her behalf and the testimony was honest and forthright. Respondent takes responsibility for her wrongful act and gave no excuse – except concern for her son – for the wrongful act. Respondent is contrite about her conduct. The act was a single dishonest act and not part of a history or pattern of dishonesty or deception.

9. Respondent is one of eight siblings. She has two children, her son now aged 18 and her daughter aged 26. According to the credible testimony of her sister, Respondent is "the main moral support for the whole family," consisting of her siblings, the children of her siblings, her mother and her son. Respondent has stability of family life and does fulfill parental responsibilities and is of good character.

10. In sum, Respondent committed a single dishonest act. The act was an aberration in an otherwise socially and professionally responsible life.

## LEGAL CONCLUSIONS

1. The crime set forth in Finding 3 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.

2. The substantially related crime of which Respondent was convicted, as described in Finding 3, constitutes cause under Business and Professions Code sections 490 and 10177, subdivision (b) for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law. However, by reason of Findings 5 through 10, a properly conditioned restricted license is consistent with the public interest.

## ORDER

All licenses and license rights of Respondent Teresa Zalaya 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 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.

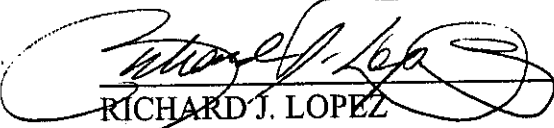
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

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 the 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.

Dated: October 17, 2005

  
RICHARD J. LOPEZ  
Administrative Law Judge  
Office of Administrative Hearings

RJL:rfm

1 ALVARO MEJIA, Counsel (SBN 216956)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6916

**FILED**  
JUN 14 2005  
DEPARTMENT OF REAL ESTATE

By 

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-32001 LA  
12 TERESA ZELAYA, ) A C C U S A T I O N  
13 Respondent. )  
14 \_\_\_\_\_ )

15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against TERESA ZELAYA, aka Teresa Medina Zelaya ("Respondent")  
18 alleges as follows:

19 1.

20 The Complainant, Maria Suarez, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Accusation  
22 in her official capacity.  
23

24 ///

25 ///

26 ///

27

2.

1 Respondent is presently licensed and/or has license  
2 rights under the Real Estate Law, Part 1 of Division 4 of the  
3 California Business and Professions Code ("Code"), as a real  
4 estate salesperson.  
5

6 3.

7 On or about February 24, 2005, in the Superior Court  
8 of California, County of Orange, in Case No. BP133012,  
9 Respondent was convicted of violating California Vehicle Code  
10 Section 31 (False Information to a Peace Officer), a  
11 misdemeanor. The underlying facts of this crime involve moral  
12 turpitude, which bears a substantial relationship under Section  
13 2910, Title 10, Chapter 6, California Code of Regulations to the  
14 qualifications, functions or duties of a real estate licensee.  
15

16 4.

17 The crime of which Respondent was convicted, as  
18 described in Paragraph 3 above, constitutes cause under Sections  
19 490 and 10177(b) of the Code for the suspension or revocation of  
20 the license and license rights of Respondent under the Real  
21 Estate Law.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

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, TERESA ZELAYA, under the Real Estate Law (Part 1 of  
6 Division 4 of the Business and Professions Code) and for such  
7 other and further relief as may be proper under other applicable  
8 provisions of law.

9 Dated at Los Angeles, California

10 this 14th day of June, 2005.

11   
12 Maria Suarez  
13 Deputy Real Estate Commissioner

14 cc: TERESA ZELAYA  
15 Maria Suarez  
16 Sacto.  
17 LF  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27