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MAR 30 2011
DEPARTMENT OF REAL ESTATE
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	No. H-32375 LA
)	
WENDY ESPINOZA,)	
)	
Respondent.)	
)	

ORDER GRANTING UNRESTRICTED LICENSE

On December 14, 2006, a Decision was rendered herein denying the real estate salesperson license of Respondent, 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 February 9, 2007 and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On or about May 10, 2009, Respondent petitioned for removal of restrictions of said real estate salesperson license.

I have considered Respondent's petition and the evidence and arguments submitted 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

1 salesperson license and that it would not be against the public interest to issue said license to
2 Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal
4 of restrictions is granted and that a real estate salesperson license be issued to Respondent
5 subject to the following understanding and conditions:

6 1. The license issued pursuant to this order shall be deemed to be the first renewal
7
8 of Respondent's real estate salesperson license for the purpose of applying the provisions of
9 Section 10153.4.

10 2. Within twelve (12) months from the date of this order Respondent shall:

11 (a) Submit a completed application and pay the appropriate fee for a real estate
12 salesperson license, and

13 (b) Submit evidence of having taken and successfully completed the courses
14 specified in subdivisions (a)(1), (2), (3), (4) and (5) of Section 10170.5 of the Real Estate Law
15 for renewal of a real estate license.

16 3. Upon renewal of the license issued pursuant to this order, Respondent shall
17 submit evidence of having taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
19 license.
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21

22 This Order shall be effective immediately.

23 Dated: _____

2/1/2011

24 JEFF DAVI
25 Real Estate Commissioner

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FILED
DEC 19 2008
DEPARTMENT OF REAL ESTATE

By *K. M. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)	No. H-32375 LA
WENDY ESPINOZA,)	L-2006050188
Respondent.)	

DECISION AFTER REJECTION

This matter was heard on June 12, 2006, by Administrative Law Judge David B. Rosenman at the Office of Administrative Hearings in Los Angeles, California.

The Respondent, WENDY ESPINOZA ("Respondent") appeared in person and represented herself.

James Peel, Staff Counsel for the Department of Real Estate, represented the Complainant.

Evidence was received, the hearing was closed, and the matter was submitted.

On June 27, 2006, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein.

1 Pursuant to Section 11517(c) of the Government Code of
2 the State of California, Respondent was served with notice of my
3 determination not to adopt the Proposed Decision of the
4 Administrative Law Judge along with a copy of said Proposed
5 Decision. On August 21, 2006, Respondent was notified that the
6 case would be decided by me upon the record, the transcript of
7 proceedings held on June 12, 2006, and upon any written argument
8 offered by Respondent and Complainant.

9 On December 6, 2006, Complainant submitted argument.
10 No argument was received from Respondent.

11 I have given careful consideration to the record in
12 this case including the transcript of the proceedings of
13 June 12, 2006. I have also considered the Argument submitted by
14 Complainant.

15 The following shall constitute the Decision of the
16 Real Estate Commissioner in this proceeding:

17 The Proposed Decision of the Administrative Law Judge,
18 dated June 27, 2006, is hereby adopted as the Decision of the
19 Real Estate Commissioner in the above-entitled matter.

20 There is no statutory restriction on when a new
21 application may be made for an unrestricted license. Petition
22 for removal of restrictions is controlled by Section 11522 of
23 the Government Code. A copy of Section 11522 is attached hereto
24 for the information of Respondent.

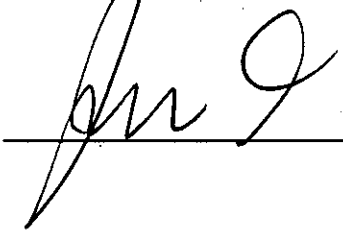
25 If and when an application is made for a real estate
26 salesperson license through a new application or through a
27 petition for removal of restrictions, all competent evidence of

1 rehabilitation presented by the respondent will be considered by
2 the Real Estate Commissioner. A copy of the Commissioner's
3 Criteria of Rehabilitation is attached hereto.

4 This Decision shall become effective at 12 o'clock noon
5 on JAN - 8 2007

6 IT IS SO ORDERED 12-17-06

7 JEFF DAVI
8 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

WENDY ESPINOZA,

Respondent.

DRE Case No. H-32375 LA

OAH No. L2006050188

PROPOSED DECISION

This matter was heard on June 12, 2006, at Los Angeles, California, by David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Wendy Espinosa (Respondent) represented herself. Maria Suarez (Complainant), Deputy Real Estate Commissioner, was represented by James Peel, Counsel for the Department of Real Estate (Department).

Oral and documentary evidence was received, and the matter was submitted for decision.

FACTUAL FINDINGS

Jurisdiction and Application

1. Complainant brought the Statement of Issues in her official capacity.
2. On February 10, 2005, Respondent submitted an application for a real estate salesperson license. Any license issued would be subject to the conditions of Business and Professions Code section 10153.4 (coursework requirements).
3. Respondent answered "No" to the question on the application inquiring whether she had ever been convicted of a crime. Respondent failed to reveal the conviction described in Finding 4, below.

Conviction

4. On May 9, 2002, Respondent was convicted, after her plea of nolo contendere, of violating Penal Code section 415 (disturbing the peace), a misdemeanor. (Superior Court of California, County of Los Angeles, case no. 2DW01485.) Respondent was sentenced to perform 40 hours of community service. By July 3, 2002, Respondent had completed the community service and the proceedings were terminated.

5. The Statement of Issues does not allege that Respondent's application should be denied due to the conviction. In fact, under the applicable regulation, a single conviction of this type might not be a sufficient basis to deny an application.¹ Rather, the denial of the application and the Statement of Issues are based upon Respondent's failure to disclose the conviction on her application.

6. Respondent explained that her conviction for disturbing the peace was the result of a party for her 18th birthday that was quite loud. Other evidence established that a neighbor complained and the police warned Respondent, twice, before a third call resulted in her arrest. Respondent added that she asked guests to leave after the second warning. Apparently, those remaining were still loud enough for the neighbor to hear and complain.

7. Respondent appeared in court twice – for arraignment, and for plea and sentencing. She was not placed on probation. Respondent referred to this matter as receiving "a ticket," thought it was like a traffic ticket, and did not consider it to be a conviction of a misdemeanor. Respondent testified that when she saw the question on the application, she called the police department and was told she did not have to reveal this information. Only later, after submitting the application and being contacted by the Department, did she go to the courthouse and discover the record of a misdemeanor conviction. Respondent accepts responsibility for not understanding the nature of her conviction and for improperly completing her application.

8. Respondent recently opened a flooring business, which she owns. She was married in September 2005 and has one child. Respondent likes to work with people and has been interested in being licensed for a long time. Respondent worked as an assistant to a broker for about eight months. Her husband has a real estate license.

LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to deny Respondent's application for a real estate salesperson license pursuant to Business and Professions Code section 480, because Respondent made a false statement in her application, as set forth in Findings 2, 3 and 4.

2. The conviction is not of the type that would cause Respondent's application to be denied (see footnote 1). The circumstances whereby Respondent failed to reveal it, including that it was more like a ticket, there was no probation, and her community service was completed quickly, establish sufficient extenuation or mitigation to justify granting a restricted license.

¹ Under California Code of Regulations, title 10, section 2910, this crime may not be substantially related to the qualifications, functions and duties of a licensee.

ORDER

The application of Respondent Wendy Espinosa for an unrestricted real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to the 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 said Code:

1. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

2. Pursuant to Section 10154 of the Business and Professions Code, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

3. The restricted license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may, by appropriate order, suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.


4. 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 attaching to the restricted license, until two (2) years have elapsed from the date of issuance of the restricted license to Respondent.

5. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

DATED: June 27, 2006.


DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

FILED
AUG 21 2006
DEPARTMENT OF REAL ESTATE

By K. M. Leibel

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-32375 LA
WENDY ESPINOZA,)	L-2006050188
Respondent.)	

NOTICE

TO: WENDY ESPINOZA, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 27, 2006, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 27, 2006, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 12, 2006, and any written argument hereafter submitted on behalf of Respondent and Complainant.

1 Written argument of Respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of June 12, 2006, at the Los Angeles office of
4 the Department of Real Estate unless an extension of the time is
5 granted for good cause shown.

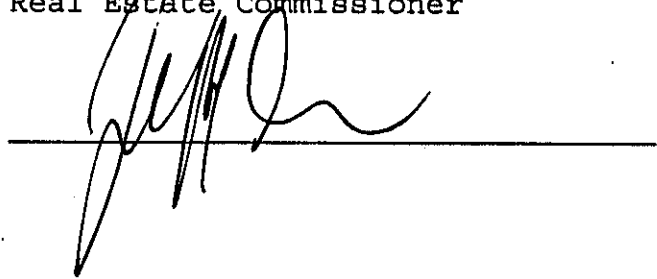
6 Written argument of Complainant to be considered by me
7 must be submitted within 15 days after receipt of the argument of
8 Respondent at the Los Angeles office of the Department of Real
9 Estate unless an extension of the time is granted for good cause
10 shown.

11 DATED: _____

8-15-06

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13 JEFF DAVI
14 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

WENDY ESPINOZA,

Respondent.

DRE Case No. H-32375 LA

OAH No. L2006050188

PROPOSED DECISION

This matter was heard on June 12, 2006, at Los Angeles, California, by David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Wendy Espinosa (Respondent) represented herself. Maria Suarez (Complainant), Deputy Real Estate Commissioner, was represented by James Peel, Counsel for the Department of Real Estate (Department).

Oral and documentary evidence was received, and the matter was submitted for decision.

FACTUAL FINDINGS

Jurisdiction and Application

1. Complainant brought the Statement of Issues in her official capacity.
2. On February 10, 2005, Respondent submitted an application for a real estate salesperson license. Any license issued would be subject to the conditions of Business and Professions Code section 10153.4 (coursework requirements).
3. Respondent answered "No" to the question on the application inquiring whether she had ever been convicted of a crime. Respondent failed to reveal the conviction described in Finding 4, below.

Conviction

4. On May 9, 2002, Respondent was convicted, after her plea of nolo contendere, of violating Penal Code section 415 (disturbing the peace), a misdemeanor. (Superior Court of California, County of Los Angeles, case no. 2DW01485.) Respondent was sentenced to perform 40 hours of community service. By July 3, 2002, Respondent had completed the community service and the proceedings were terminated.

5. The Statement of Issues does not allege that Respondent's application should be denied due to the conviction. In fact, under the applicable regulation, a single conviction of this type might not be a sufficient basis to deny an application.¹ Rather, the denial of the application and the Statement of Issues are based upon Respondent's failure to disclose the conviction on her application.

6. Respondent explained that her conviction for disturbing the peace was the result of a party for her 18th birthday that was quite loud. Other evidence established that a neighbor complained and the police warned Respondent, twice, before a third call resulted in her arrest. Respondent added that she asked guests to leave after the second warning. Apparently, those remaining were still loud enough for the neighbor to hear and complain.

7. Respondent appeared in court twice – for arraignment, and for plea and sentencing. She was not placed on probation. Respondent referred to this matter as receiving "a ticket," thought it was like a traffic ticket, and did not consider it to be a conviction of a misdemeanor. Respondent testified that when she saw the question on the application, she called the police department and was told she did not have to reveal this information. Only later, after submitting the application and being contacted by the Department, did she go to the courthouse and discover the record of a misdemeanor conviction. Respondent accepts responsibility for not understanding the nature of her conviction and for improperly completing her application.

8. Respondent recently opened a flooring business, which she owns. She was married in September 2005 and has one child. Respondent likes to work with people and has been interested in being licensed for a long time. Respondent worked as an assistant to a broker for about eight months. Her husband has a real estate license.

LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to deny Respondent's application for a real estate salesperson license pursuant to Business and Professions Code section 480, because Respondent made a false statement in her application, as set forth in Findings 2, 3 and 4.

2. The conviction is not of the type that would cause Respondent's application to be denied (see footnote 1). The circumstances whereby Respondent failed to reveal it, including that it was more like a ticket, there was no probation, and her community service was completed quickly, establish sufficient extenuation or mitigation to justify granting a restricted license.

¹ Under California Code of Regulations, title 10, section 2910, this crime may not be substantially related to the qualifications, functions and duties of a licensee.

ORDER

The application of Respondent Wendy Espinosa for an unrestricted real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to the 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 said Code:

1. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

2. Pursuant to Section 10154 of the Business and Professions Code, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

3. The restricted license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may, by appropriate order, suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.

4. 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 attaching to the restricted license, until two (2) years have elapsed from the date of issuance of the restricted license to Respondent.

5. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

DATED: June 27, 2006.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

Handwritten signature

FILED
JAN 5 2006
DEPARTMENT OF REAL ESTATE

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

By *R. Mederholt*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-32375 LA
WENDY ESPINOZA,)	<u>STATEMENT OF ISSUES</u>
Respondent.)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against WENDY ESPINOZA (respondent) is informed and alleges in her official capacity as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 10, 2005, subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code) 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.

2.

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2 In response to Question 25 of said license application,
3 to wit: "Have you ever been convicted of any violation of law?
4 Convictions expunged under Penal Code Section 1203.4 must be
5 disclosed. However, you may omit minor traffic citations which
6 do not constitute a misdemeanor or felony offense." Respondent
7 checked the box denoting "No". Respondent failed to disclose the
8 conviction set forth in Paragraphs 3 below.

9
3.

10 On May 9, 2002, in the Superior Court of California,
11 County of Los Angeles, respondent was convicted upon a plea of
12 nolo contendere to one count of Penal Code Section 415 (disturb
13 the peace), a misdemeanor.

14
4.

15 Respondent's failure to reveal the conviction above,
16 constitutes an attempt to procure a real estate license by fraud,
17 misrepresentation or deceit or by knowingly making a false
18 statement of fact or knowingly omitting to state a material fact
19 on her application required to be revealed in the application for
20 such license, which is cause for denial of respondent's
21 application for a real estate salesperson's license under
22 Business and Professions Code Sections 475(a)(1) and 480(c).

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1 These proceedings are brought under the provisions of
2 Section 10100, Division 4 of the Business and Professions Code of
3 the State of California and Sections 11500 through 11528 of the
4 Government Code of the State of California.

5 WHEREFORE, Complainant prays that the above-entitled
6 matter be set for hearing and, that upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of, a real estate salesperson
9 license to Respondent WENDY ESPINOZA and for such other and
10 further relief as may be proper under other applicable provisions
11 of law.

12 Dated at Los Angeles, California

13 this

Ray B. Hernandez
[Signature]
Deputy Real Estate Commissioner

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24 cc: Wendy Espinoza
25 Downey Online Brokers/Filiberto Limon
26 Maria Suarez
27 Sacto
AN