

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

*Sara B. Crow*

\* \* \* \* \*

In the Matter of the Application of)	No. H-33623 LA
	)
SOMI MUN;	) L-2007030197
	)
Respondent,	)
	)

DECISION

The Proposed Decision dated July 6, 2007, 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 application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on AUG 28 2007.

IT IS SO ORDERED 8-7-07

JEFF DAVI  
Real Estate Commissioner

*Jeff Davi*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

SOMI MUN,

Respondent.

Case No.: H-33623 LA

OAH No.: L2007030197

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 April 19, 2007.

James Demus, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Mary Work, Attorney at Law.

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

At the request of the Respondent the record was held open to allow the filing of certain documents as follows:

On June 7, 2007, Respondent filed the curriculum vitae of Joyce Parker, Ph.D., and the same was marked and received as Exhibit E, in evidence. On June 7, 2007, Respondent filed expungement papers and the same were marked and received as Exhibit F, in evidence.

The matter was deemed submitted on June 7, 2007 and all evidence was considered.

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

FACTUAL FINDINGS

*Jurisdiction*

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

2. Respondent Somi Mun, made application to the Department of Real Estate of the State of California for a real estate salesperson license on March 25, 2005, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code section 10153.4.

#### *Criminal Convictions*

3. On March 15, 1998, while an eighteen year old freshman at the University of Riverside (UCR), Respondent, a then "rushee" of a sorority of UCR, entered a Macy's Department store in Torrance. She concealed a number of items of retail merchandise in her shopping bag and exited Macy's making no attempt to pay for the merchandise. The concealment and failure to pay was observed by Macy's security manager who confronted Respondent outside of the store. Respondent was thereafter arrested and subjected to criminal proceedings. Subsequently, on April 21, 1998, in the Municipal Court of Torrance, County of Los Angeles, State of California, Case No. 8SB02816, Respondent was convicted of violating California Penal Code section 484(A) (theft of property), a misdemeanor.

4. On December 27, 2003, shortly after the death of her grandmother, Respondent entered a Costco membership store. While in Costco, Respondent was observed by Costco Security placing five DVD cases in her shopping cart, and observed shortly thereafter placing a comforter in the cart along with a box of eye cream. Respondent concealed the DVDs in her purse and concealed the eye cream in the comforter. She then proceeded to the front cash register. She purchased the comforter but made no attempt to pay for the DVDs or the eye cream. Upon completion of the transaction at the cash register, Respondent was detained by Costco loss prevention personnel and placed under private person's arrest. The police were then alerted. Respondent was booked by the police and thereafter subjected to criminal proceedings. Subsequently, on March 24, 2004, in the Superior Court of California, County of Los Angeles, Torrance Courthouse, Case No. 4SB00605, Respondent was convicted of violating California Penal Code section 484(A) (theft of property), a misdemeanor.

5. The crimes set forth in Findings 3 and 4, by the facts and circumstances, are crimes of moral turpitude.

6. Respondent's conduct set forth in Findings 3 and 4, separately and severally, constitutes the appropriating of property belonging to another person; the employment of fraud and deceit to achieve an end; the doing of an unlawful act of conferring a financial benefit upon Respondent.

7. Finding 4, in light of Finding 3, constitutes a pattern of repeated and willful disregard of the law.

## *Rehabilitation*

8. Respondent has timely completed all court imposed sanctions in each case and has completed probation in each case. She has suffered no other conviction since her last conviction and has been in conformity with societal rules since her last conviction. As a result of such compliance Respondent's petition for expungement of the convictions was granted by the Court and both misdemeanors have been, therefore, dismissed.

9. Respondent spent a number of hours studying for the licensing examination. Thereafter, she took and passed the Real Estate Salesperson examination. Respondent, therefore, has completion of formal training courses for economic self-improvement.

10. Respondent, in years past, relied on her grandmother to provide for her emotional support. Since the death of her grandmother she has become closer to her parents, who own and operate a restaurant, the Teriyaki Factory, in the Carson-Torrance area. Subsequent to the 2003 misdemeanor, Respondent – a UCR graduate with a degree in Business Administration – assisted her parents in the operation of the restaurant. Since the 2003 misdemeanor, Respondent has become closer to her first cousin, a graduate of Columbia University, who has provided emotional support and assisted in Respondent's emotional maturation. Since the 2003 misdemeanor, Respondent has become engaged to be married and has formed a strong emotional bond to her fiancé and her fiancé's mother. Her fiancé, a licensed real estate salesperson, and her fiancé's mother, have become part of a strong support group of strong social relationships which did not exist at the time of her wrongful conduct. With the encouragement of her fiancé, who regularly attends church services at the Family Chapel in Los Angeles, Respondent, too, attends church services and participates in church activities.

11. By reason of the 2003 misdemeanor, Respondent was ordered by the Court to attend and complete sessions of psychotherapy. Respondent did complete all sessions, as ordered, and did timely file proof of completion with the court on March 29, 2005. In the credible opinion of the psychotherapist, licensed by the Board of Behavioral Sciences with a Doctorate from the University of Southern California: "(Respondent) cooperated fully in these sessions and developed insight into herself and why she had committed this crime. When she terminated therapy, she was stable and her prognosis for full recovery was excellent. I would recommend her without qualification."

12. At present Respondent is employed by Pacific Coast Funding, a financial consulting firm consisting of licensed personnel and other personnel dealing with real estate investment and finance. Respondent has been there employed for two years as a financial analyst. She has worked for her employer with honesty, diligence, industry and trustworthiness. In the credible opinion of Andy Shin, the owner and primary broker for Pacific Coast Funding, Respondent is a valued asset of Pacific Coast Funding.

13. Respondent was open and honest in the application process in disclosing the convictions and setting forth the facts and circumstances thereof. Respondent was open and honest in her testimony and did demonstrate a change in attitude from that which existed at the time of the crimes. That change was brought about by a number of factors: by the impact of Respondent's court ordered community service performed for CalTrans which challenged Respondent to change her ways; by Respondent's growth and maturity; by Respondent's recent engagement to be married and the desire to be a good wife; by the Court ordered therapy. The change was evidenced by the credible testimony of Respondent; the credible testimony of her fiancé, by the credible testimony of her first cousin and by the absence of subsequent convictions and by present conformity to societal rules.

## LEGAL CONCLUSIONS

### *Applicable Authority*

1. These proceedings are brought under the provisions of section 10100, Division 4 of the Business and Professions Code of the State of California and sections 1500 through 11528 of the Government Code of the State of California.

2. Business and Professions Code section 480 provides in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction maybe taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of section 1203.4 of the Penal Code.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or professions for which application is made.

3. Business and Professions Code section 10177, subdivision (b) provides in pertinent part:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following. . . .

- (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

3. Business and Professions Code section 475, subdivision (a)(2) provides:

- (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

. - - -

- (2) Conviction of a crime.

4. California Code of Regulations, title 10, section 2910 provides in part:

- (a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of sections 480 and 490 of the Code if it involves:

- - -
- (1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

- - -

(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

- - -

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

- - -

(10) Conduct which demonstrates a pattern of repeated and willful disregard of the law.

#### *Violations*

5. Respondent's convictions, as set forth in Findings 3 and 4, constitute cause for denial of Respondent's application pursuant to Business and Professions Code section 10177, subdivision (b), by reason of Finding 5.

6. The crimes set forth in Findings 3 and 4 are substantially related to the qualifications, functions and duties of a licensee of the Department under California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (a)(4) and (a)(8) by reason of Finding 6 and, therefore, cause exists for denial of Respondent's application under Business and Professions Code section 480, subdivision (a).

7. The crime set forth in Finding 4 is substantially related under said section 2910, subdivision (a)(10) by reason of Finding 7, and therefore separate cause exists for denial of Respondent's application under said section 480, subdivision (a).

8. Cause exists for denial of Respondent's application pursuant to Business and Professions Code section 475, subdivision (a)(2) for convictions of crimes, by reason of Findings 3 and 4.

#### *Licensing Considerations*

9. California Code of Regulations, title 10, section 2911 sets forth criteria of rehabilitation that have been developed by the Department, pursuant to Business and Professions Code section 482, subdivision (a), to evaluate the rehabilitation of an applicant for issuance of a license in considering whether or not to deny the issuance on account of a crime or act committed by the applicant. At the age of eighteen, and again at age twenty-four, Respondent engaged in anti-social behavior resulting in two convictions. Thereafter,

beginning with court ordered community service and psychotherapy, she began the process of re-orienting her moral compass, and continued along the road of rehabilitation, as is demonstrated in Findings 8 through 13. By such rehabilitation Respondent has substantially complied with the Criteria of Rehabilitation set forth in section 2911. Accordingly, licensure of Respondent on a restricted status is consistent with the public interest.

### ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to section 10153.5 of the Business and Professions Code. The restricted license issued to the Respondent shall be subjected 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. The 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 California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

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

3. 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.

4. Respondent's restricted real estate salesperson's 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.

5. Pursuant to section 10154, if Respondent has not satisfied the requirements for an  
unqualified license under section 10153.5, 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.

Dated: July 6, 2007

  
RICHARD J. LOPEZ

Administrative Law Judge  
Office of Administrative Hearings

RJL:rfm



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2 On or about March 24, 2004, in the Superior Court of  
3 California, County of Los Angeles, Torrance Courthouse, Case No.  
4 4SB00605, Respondent was convicted of violating California Penal  
5 Code Section 484(A) (theft of property), a misdemeanor. Said  
6 crime involves moral turpitude and bears a substantial  
7 relationship under Section 2910, Title 10, Chapter 6, California  
8 Code of Regulations, to the qualifications, functions or duties  
9 of a real estate licensee.

10 III

11 On or about April 21, 1998, in the Municipal Court of  
12 Torrance, County of Los Angeles, State of California, Case No.  
13 8SB02816, Respondent was convicted of violating California Penal  
14 Code Section 484(A) (theft of property), a misdemeanor. Said  
15 crime involves moral turpitude and bears a substantial  
16 relationship under Section 2910, Title 10, Chapter 6, California  
17 Code of Regulations, to the qualifications, functions or duties  
18 of a real estate licensee.

19 The crimes of which Respondent was convicted, as  
20 alleged in Paragraphs II and III above, constitute cause for  
21 denial of Respondent's application for a real estate license  
22 under Business and Professions Code Sections 475(a)(2), 480(a),  
23 and 10177(b).

24 These proceedings are brought under the provisions of  
25 Section 10100, Division 4 of the Business and Professions Code  
26 of the State of California and Sections 11500 through 11528 of  
27 the California Government Code.

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WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, SOMI MUN, and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California

this 10th day of January, 2007.

  
\_\_\_\_\_  
Maria Suarez  
Deputy Real Estate Commissioner

cc: Somi Mun  
Sacto.  
Maria Suarez