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NOV 23 2009
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	No. H-33913 LA
CASSANDRA ROSE EMOND,	)	
Respondent.	)	

ORDER DENYING RECONSIDERATION

On October 14, 2009, an Order Denying Reinstatement of License But Granting Right To Restricted License was rendered to become effective November 13, 2009, and stayed by separate order to November 23, 2009.

On October 29, 2009, Respondent petitioned for reconsideration of the Order of October 14, 2009.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Order of October 14, 2009 and reconsideration is hereby denied.

IT IS SO ORDERED 11-19-09

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

By C. J. [Signature]

* * *

ORDER STAYING EFFECTIVE DATE

By: Phillip Ihde
PHILLIP IHDE
Regional Manager

FLAG

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OCT 24 2009

DEPARTMENT OF REAL ESTATE

By L. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
CASSANDRA ROSE EMOND,
Respondent.

No. H-33913 LA

ORDER DENYING REINSTATEMENT OF LICENSE
BUT GRANTING RIGHT TO RESTRICTED LICENSE

On October 17, 2007, in Case No. H-33913 LA, a Decision was entered revoking the real estate salesperson license of Respondent Cassandra Rose Emond, but granting the right to a restricted real estate salesperson license. The Decision became effective November 7, 2007. Respondent failed to apply for a restricted license.

On September 24, 2008, 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.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real estate salesperson license.

1 ///

2 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
3 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
4 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
5 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

6 The Decision in this matter found cause to revoke Respondent's license pursuant
7 to the provisions of Sections 490 and 10177(b) of the California Business and Professions Code.
8 On March 23, 2005, in Orange County Superior Court, Respondent was convicted of Theft in
9 violation of Penal Code Section 487(a), a misdemeanor. Respondent attempted to steal
10 merchandise worth \$2,700.00 from a Neiman Marcus store. Respondent was placed on three
11 years summary probation, fined and required to perform community service.

12 The Department has developed criteria in Section 2911 of Title 10, California
13 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
14 reinstatement of a license. Among the criteria relevant in this proceeding are:

15 Regulation 2911(a) The passage of not less than two years since the most recent
16 criminal conviction or act of the applicant that is a basis to deny the departmental action sought.
17 (A longer period will be required if there is a history of acts or conduct substantially related to
18 the qualifications, functions or duties of a licensee of the department.)

19 Time as a restricted licensee is needed to support a reliable evaluation of
20 Respondent's rehabilitation. Under the terms of the decision revoking Respondent's license,
21 Respondent was made ineligible to petition for reinstatement until two years after the effective
22 date of the Decision, November 7, 2007. Respondent's petition was received prematurely on
23 September 24, 2008.

24 Consequently, I am not satisfied that Respondent is sufficiently rehabilitated to
25 receive an unrestricted real estate salesperson license. Additional time and evidence of correction
26 as a restricted real estate salesperson is necessary to establish that Respondent is rehabilitated.

27 I am satisfied, however, that it will not be against the public interest to issue a

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement of Respondent's real estate salesperson license is denied.

3 A restricted real estate salesperson license shall be issued to Respondent pursuant
4 to Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following
5 conditions prior to and as a condition of obtaining a restricted real estate salesperson license
6 within twelve (12) months from the date of this Order:

7 1. Respondent shall qualify for, take and pass the real estate salesperson
8 license examination.

9 2. Respondent shall submit a completed application and pay the fee for a real
10 estate salesperson license.

11 The restricted license issued to Respondent shall be subject to all of the provisions
12 of Section 10156.7 of the Business and Professions Code and to the following limitations,
13 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

14 A. The restricted license issued to Respondent may be suspended prior to
15 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
16 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
17 capacity as a real estate licensee.

18 B. The restricted license issued to Respondent may be suspended prior to
19 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
20 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
21 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
22 license.

23 C. Respondent shall not be eligible to apply for the issuance of an
24 unrestricted real estate license nor the removal of any of the limitations, conditions or restrictions
25 of a restricted license until two (2) years have elapsed from the date of the issuance of the
26 restricted license to Respondent.

27 ///

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

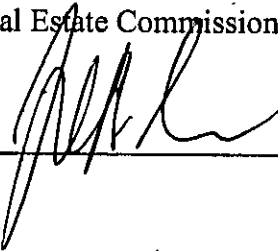
5 1. That the employing broker has read the Decision of the Commissioner
6 which granted the right to a restricted license; and

7 2. That the employing broker will exercise close supervision over the
8 performance by the restricted licensee relating to activities for which a real estate license is
9 required.

10 This Order shall become effective at 12 o'clock noon on NOV 13 2009

11 DATED: 10-14-09

12 JEFF DAVI
13 Real Estate Commissioner

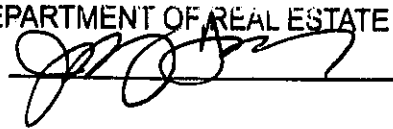
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FILED

OCT 18 2007

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

BY: 

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

No. H-33913 LA

CASSANDRA ROSE EMOND,)

L-2007060192

Respondent.)

DECISION

The Proposed Decision dated September 14, 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.

Pursuant to Section 11517(c)(2) of the Government Code, Factual Findings, page 2, paragraph No. 5, line 7, is amended to read as following:

"Penal Code Section 487, subdivision(a) (Grand Theft), a misdemeanor."

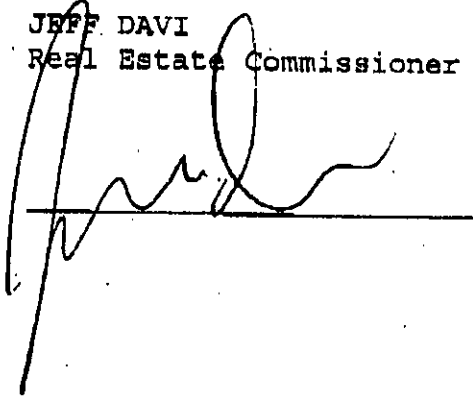
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 November 7, 2007.

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized with a large loop and a long vertical stroke extending downwards.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

CASSANDRA ROSE EMOND,

Respondent.

Case No.: H-33913 LA

OAH No.: L2007060192

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 August 16, 2007.

Cheryl D. Keily, Staff Counsel, represented the Complainant.

Respondent appeared in person and represented herself.

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

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

FACTUAL FINDINGS

Parties

1. 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 Business and Professions Code, as a real estate salesperson. Respondent's first date of licensure is August 12, 2004.

Criminal Convictions

3. Prior to her licensure, at age nineteen, on December 29, 2003, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (Driving with Blood Alcohol of 0.08% or Higher), a misdemeanor, DUI.

4. The DUI crime is not a crime of moral turpitude and is not, *per se*, substantially related to the qualifications, functions or duties of a real estate licensee. However, in light of Finding 5, the conviction is a factor in aggravation.

5. On January 4, 2005, Respondent entered a Neiman-Marcus store located at Fashion Island in Newport Beach. While in the store, she took from Neiman Marcus, without its consent and without payment, merchandise valued, for retail sale, at approximately \$2,700. Respondent was caught, detained and subsequently criminally prosecuted. Thereafter, on March 23, 2005, in the California Superior Court, County of Orange, Harbor Justice Center, in Case NO. 05HF0109, Respondent was convicted of violating Penal Code section 487, subdivision (a), a misdemeanor. The crime is a crime of moral turpitude.

(Grand Theft)

6. Respondent's crime set forth in Finding 3 constitutes the employment of deceit to achieve an end; the doing of an unlawful act with the intent of conferring an economic benefit upon Respondent; the fraudulent taking of property belonging to another.

Rehabilitation

7. As a result of the DUI conviction Respondent did complete all court ordered requirements and did successfully and timely complete probation. She did reveal the conviction in her application for licensure and was open and honest about the circumstances of the conviction.

8. As a result of the theft conviction Respondent was placed on three years summary probation on terms and conditions including the payment of fines and assessments and 44 days of community service for CalTrans. She did timely pay all fines and assessments, did timely serve 44 days of house arrest in lieu of community service (because of a bad knee) and did met all other terms and conditions of probation. Thereafter, on July 25, 2007, pursuant to her petition under Penal Code section 1203.4, the plea, verdict, or finding of guilty was set aside and vacated and a plea of not guilty was entered, and that the conviction was expunged pursuant to Penal Code section 1203.4.

9. Respondent participates in the support of the Dana Point Theatre Companies by helping to advertise the activities of the theatre and by "Christmas-caroling" on behalf of the theatre. She therefore has conscientious involvement in community programs designed to provide social benefits.

10. Respondent lives in proximity to her parents and to an older sister, aged 32 and a younger brother, aged 21. She remains close to her mother and father, and to her sister and brother. She does have stability of family life and does fulfill familial obligations.

11. Respondent is a member in good standing of the Pacific West Association of Realtors located in Orange and is a member in good standing of the San Diego Association of Realtors. During the course of her licensure she has fulfilled the functions and duties of a licensee with integrity and honesty.

12. Respondent achieved licensure at a young age and has been a diligent and trustworthy licensee. Respondent was open and honest in revealing the theft conviction to her employing broker, Jorge Ricardo Cruz of Your Realtors, Inc. Mr. Cruz did submit a character letter in support of Respondent. In the credible opinion of Mr. Cruz: "Since her employ she has been a vital cog to our Real Estate department. She has handled all of her transactions ethically, respectfully, and professionally."

13. Respondent has a change in attitude from that which existed at the time of the criminal conduct. That change – evidence by the credible testimony of Respondent – was brought about by a number of factors.

- the support of her colleagues and her broker;
- the shame of the criminal proceeding and the credible pledge "I will never do anything like that again."
- the continued maturation of Respondent from youthful offender into a mature, responsible adult.
- the realization that what she did was wrong and dishonest, and contrition for her past, wrongful conduct.

14. Respondent was open and honest during the Department's investigation of the theft conviction. Respondent was open and honest in her testimony and has worked with integrity since the theft conviction. Respondent's broker, Mr. Cruz, will undertake the necessary supervision over Respondent's real estate activities should she receive a restricted license. At present, Respondent is a socially and professionally responsible person.

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 11500 through 11528 of the Government Code.

2. Business and Professions Code section 490 provides in pertinent part:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. 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 may be 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.

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3. Business and Professions Code section 10177 provides in 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, or may suspend or revoke the license of a corporation, deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock 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 plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

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.

Violations

5. Respondent's conviction, as set forth in Finding 5, constitutes cause for discipline of Respondent's license pursuant to Business and Professions Code section 10177, subdivision (b) in the crime is a crime of moral turpitude.

6. The crime set forth in Finding 5 is 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 discipline of Respondent's license under Business and Professions Code section 490.

Licensing Considerations

7. California Code of Regulations, title 10, section 2912, sets forth criteria of rehabilitation that have been developed by the Department, pursuant to Business and Professions Code section 482, subdivision (b), to evaluate the rehabilitation of licensee for the conviction of a crime. Respondent's conviction is more than two years remote and Respondent, by hard work and perseverance, as is reflected in Findings 7 through 14, has substantially complied with the criteria. Accordingly, by reason of Respondent's record of rehabilitation to date, licensure of Respondent, on a restricted status, is consistent with the public interest.

ORDER

All licenses and licensing rights of Respondent Cassandra Rose Emond 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 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 activities for which a real estate license is granted.

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: September 14, 2007


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

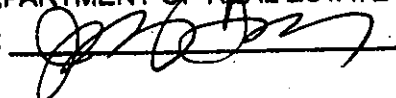
1 CHERYL D. KEILY, Counsel (SBN 94008)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-5770

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DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) No. H-33913 LA
12 CASSANDRA ROSE EMOND,) A C C U S A T I O N
13 Respondent.)
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15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against CASSANDRA ROSE EMOND, aka Cassandra R. Emond, aka Cassie
18 Emond, ("Respondent") alleges as follows:
19

20 1.

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

24 2.

25 Respondent is presently licensed and/or has license
26 rights under the Real Estate Law, Part 1 of Division 4 of the
27

1 California Business and Professions Code ("Code"), as a real
2 estate salesperson.

3 . 3.

4 (CRIMINAL CONVICTIONS)

5 On or about March 23, 2005, in the California Superior
6 Court, County of Orange, Harbor Justice Center, in Case No.
7 05HF0109, Respondent was convicted of violating California Penal
8 Code section 487(a) (Grand Theft), a misdemeanor. The underlying
9 facts of this crime involve moral turpitude, and bear a
10 substantial relationship under Section 2910, Title 10, Chapter
11 6, California Code of Regulations to the qualifications,
12 functions or duties of a real estate licensee.

13 . 4.

14 In aggravation, on or about December 29, 2003,
15 Respondent was convicted of violating California Vehicle Code
16 section 23152(b) (Driving with Blood Alcohol of 0.08% or
17 Higher), a misdemeanor.

18 . 5.

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

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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, CASSANDRA ROSE EMOND, under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code) and
7 for such other and further relief as may be proper under other
8 applicable provisions of law.
9

10 Dated at Los Angeles, California
11 this 17th day of April, 2007.
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16 Maria Suarez
17 Deputy Real Estate Commissioner
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25 cc: CASSANDRA ROSE EMOND
26 Your Realtors Inc.
27 Maria Suarez
Sacto.