

FILED

JUN - 2 2008

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY: [Signature]

* * * * *

In the Matter of the Application of)	No. H-34503 LA
)	
)	L-2008010596
ANGELA LYNN ROBERTS,	
)	
)	
Respondent.	
)	
)	

DECISION

The Proposed Decision dated May 7, 2008, 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 June 23, 2008.

IT IS SO ORDERED 5-29-08

JEFF DAVI
Real Estate Commissioner
[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

ANGELA LYNN ROBERTS,

Respondent.

Case No. H-34503 LA

OAH No. L2008010596

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on April 9, 2008.

Cheryl D. Keily, Staff Counsel, represented Maria Suarez (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Frank M. Buda, Attorney at Law, represented Angela Lynn Roberts (Respondent) who was present throughout the hearing.

At the commencement of the hearing, Respondent's counsel made a motion to strike Paragraphs 4 and 6 of the Statement of Issues on the grounds that Respondent had not failed to disclose her criminal conviction on the application which is the subject of this proceeding. The motion was taken under submission.

Oral and documentary evidence was received, and the matter was argued. The case was submitted for decision on April 9, 2008.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in this proceeding in her official capacity.

Prior Application

2. On February 24, 2006, Respondent applied to the Department for a real estate salesperson license, with knowledge and understanding that any license issued as a result of that application would be subject to the conditions of Business and Professions Code section 10153.4. In response to Question 25 on this application, Respondent answered "No" to having been convicted of any violation of law and failed to reveal any criminal conviction.

3. Following the filing of her application, Respondent filed a Conviction Detail Report with the Department in which she admitted that she had a 1994 criminal conviction and provided the details. Respondent also filed a Confidential – Interview Information Statement in which she acknowledged that no disclosure of her criminal conviction was made in her license application.

4. On July 7, 2006, the Department filed a Statement of Issues against Respondent alleging her failure to disclose her criminal conviction in her application. (Department Case No. H-33039 LA; OAH L2006080943).

5. On September 15, 2006, Respondent notified the Department that she was withdrawing her application for a real estate salesperson license. On October 5, 2006, the Department ordered the dismissal of the Statement of Issues.

Present Application

6. On November 13, 2006, Respondent applied to the Department for a real estate salesperson license with 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. Said application is pending, and no license has been issued.

7. In the present application, Respondent disclosed that she had a criminal conviction and provided information regarding the circumstances.

8. On September 27, 1994, in the Municipal Court of Bellflower Courthouse Judicial District, County of Los Angeles, State of California, Respondent, upon her nolo contendere plea, was convicted of violating Penal Code section 487, subdivision (a), grand theft – property over \$400, a misdemeanor. The court placed Respondent on summary probation for a period of thirty-six months upon certain terms and conditions including paying fines and assessments of \$2,745.00, and performing 300 hours of community service. Respondent complied with all the terms and conditions imposed by the court. On October 21, 2002, the court expunged her conviction, pursuant to Penal Code section 1203.4.

9. The facts and circumstances resulting in Respondent's criminal conviction are as follows: In 1994, Respondent had recently moved to California. She was employed

by a large department store where she met another sales person who showed Respondent how to credit her credit card for merchandise previously purchased but not returned. Respondent followed this procedure on a number of items she had initially purchased at the department store. This activity was discovered and the two women were criminally charged. This was Respondent's first job. Respondent was so embarrassed by what had happened that she wrote apology letters to the managers of the department store and personally delivered them.

10. Respondent has no other criminal convictions.

11. Respondent takes full responsibility for the actions resulting in her criminal conviction. Respondent went into therapy for nearly a year, following her conviction. She learned a lot about herself during that time. She asserts that the conviction and subsequent counseling changed her life. She will never again engage in such conduct.

12. In 2002, and following the expungement of her conviction, Respondent applied to be a volunteer at Children's Hospital. She had to complete a form and indicate on it whether she had been convicted of a crime. She called the attorney who handled her expungement and asked what she should do. He told her that she did not have to disclose her conviction to the hospital. Based on that advice, she did not disclose the conviction and went on to work as a volunteer at the hospital.

13. Respondent also volunteered her time at the Love on 4 Paws program for children in the Shrine's Hospital.

14. Respondent is currently employed at a children's clothing store. She has held this position for more than a year. She handles money. Prior to this, Respondent owned her own children's clothing business.

15. Respondent lives with her boyfriend of nine years.

16. Respondent's boyfriend testified as a character witness for Respondent. He has been a licensed real estate salesperson for the past fifteen years. He stated that Respondent is very honest and truthful. Sometimes, she is too truthful for her own good. He does not believe that Respondent would mislead any one and that she is not a threat to the public. He would recommend Respondent to others.

17. A letter of recommendation was introduced from Respondent's parents indicating that over the past fifteen years Respondent has evolved into a person of character with high moral standards. They indicated that Respondent is sorry and ashamed of her criminal conviction and that Respondent has worked hard to change herself since that time.

18. It was agreed among counsel in this case that Respondent has demonstrated her rehabilitation from her criminal conviction and, if her conviction was the only issue presented in this case, Respondent would have received a license from the Department.

Respondent's Defense

19. Respondent asserts that her failure to disclose her criminal conviction on her prior application was a mistake. Her reason for withdrawing that application was to be able to correct the mistake that she had made. She stated that, because of the advice of her counsel regarding not having to disclose her conviction on her application to work as a volunteer for Children's Hospital, she had mistakenly assumed that that advice carried over to her license application. She stated that she was not trying to mislead the Department and had freely discussed her conviction with the Department in the prior and present proceedings. She also asserted that it was her own decision to withdraw the prior application.

20. Respondent's failure to disclose her criminal conviction in her prior license application was an attempt to procure a real estate license by making a material misstatement of fact in her prior license application.

21. Respondent has not successfully completed all of the courses required pursuant to Business and Professions Code section 10153.4.

LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. Respondent's criminal conviction involves moral turpitude and is substantially related to the qualifications, functions or duties of a licensee of the Department as more fully described in California Code of Regulations, title 10, section 2910, subdivision (a) (8) in that it involved doing an unlawful act with the intent of conferring a financial benefit upon Respondent.

4. Pursuant to Business and Professions Code sections 475, subdivision (a) (2); 480, subdivision (a) (1); and 10177, subdivision (b), cause exists to deny Respondent's application for a real estate license, in that Respondent has been convicted of a crime involving moral turpitude that is substantially related to the qualifications, functions or duties of a licensee of the Department.

5. Pursuant to Business and Professions Code section 10177, subdivision (a), cause exists to deny Respondent's application for a real estate license, in that Respondent attempted to procure a real estate license by making a material misstatement of fact in her prior application.

6. Respondent's motion to strike Paragraphs 4 and 6 of the Present Application is denied.

7. The Department's Criteria of Rehabilitation, set forth in California Code of Regulations, title 10, section 2911, provide the factors to be considered in evaluating the rehabilitation of an applicant for a license issued by the Department. As noted previously, counsel in this case have agreed to Respondent's rehabilitation regarding her criminal conviction. The conviction is remote in time. There are no other criminal convictions. However, giving complete and correct information on an application is an essential part of the licensing process. Respondent failed to do so on her prior application. Under these circumstances, a restricted license is appropriate in this case.

ORDER

Respondent Angela Lynn Robert'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 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. 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 the 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 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 10153.4, 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.

DATED: May 7, 2008.

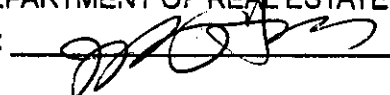

N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

11/16/07

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

FILED

NOV 16 2007

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-34503 LA
)	
ANGELA LYNN ROBERTS,)	
)	<u>STATEMENT OF ISSUES</u>
)	
Respondent)	
)	

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Statement
19 of Issues against ANGELA LYNN ROBERTS, aka Angela Roberts,
20 ("Respondent"), is informed and alleges as follows:

21 1.

22 The Complainant, Maria Suarez, a Deputy Real Estate
23 Commissioner of the State of California, makes this Statement of
24 Issues against Respondent in her official capacity.

25 ///

26 ///

2.

1
2 Respondent made application to the Department of Real
3 Estate of the State of California (the "Department") for a real
4 estate salesperson license on or about November 13, 2006, with
5 the knowledge and understanding that any license issued as a
6 result of said application would be subject to the conditions of
7 Business and Professions Code ("Code") Section 10153.4.

8 (CRIMINAL CONVICTION)

9 3.

10 On or about September 27, 1994, in the Municipal Court
11 for the State of California, County of Los Angeles, Bellflower
12 Municipal Court, in Case No. 94M03819, Respondent was convicted
13 of violating California Penal Code Section 487(A) (Grand Theft
14 by Embezzlement), a misdemeanor. The underlying facts of this
15 criminal conviction involve moral turpitude, which bear a
16 substantial relationship under Title 10, Chapter 6, Section
17 2910, California Code of Regulations, to the qualifications,
18 functions or duties of a real estate licensee.

19
20 FAILURE TO DISCLOSE CONVICTION

21 (PRIOR APPLICATION)

22 4.

23 On or about February 24, 2006, Respondent made
24 application to the Department for a real estate salesperson
25 license ("Prior Application"). In response to Question 25 of
26 her Prior Application, to wit: "HAVE YOU EVER BEEN CONVICTED OF
27 ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE

1 SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR
2 TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR
3 FELONY OFFENSE," Respondent answered "No," and failed to reveal
4 the conviction described in Paragraph 3, above. On or about
5 July 7, 2006, the Department filed a Statement of Issues. After
6 filing a Notice of Defense to the Statement of Issues,
7 Respondent withdrew her Notice of Defense and request for
8 hearing, and the Statement of Issues was dismissed.

9 5.

10 The crime of which Respondent was convicted, as
11 alleged herein above in Paragraph 3, constitutes cause for
12 denial of Respondent's application for a real estate license
13 under Business and Professions Code Sections 475(a)(2);
14 480(a)(1); and/or 10177(b).

15 6.

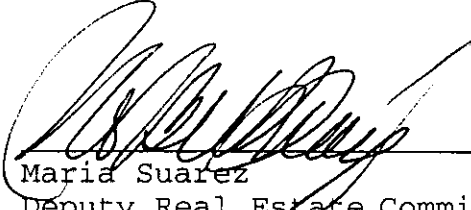
16 Respondent's failure to reveal the conviction set
17 forth herein in Paragraph 3, above, in her Prior Application
18 constitutes knowingly making a false statement of material fact
19 required to be revealed in said application, which is grounds
20 for denial of the issuance of a license under Business and
21 Professions Code Sections 480(c) and 10177(a).

22 The Statement of Issues is brought under the
23 provisions of Section 10100, Division 4 of the Business and
24 Professions Code of the State of California and Sections 11500
25 through 11528 of the Government Code.

26 ///
27

1 WHEREFORE, Complainant prays that the above entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, ANGELA LYNN ROBERTS, and for such other
6 and further relief as may be proper under other provisions of
7 law.

8 Dated at Los Angeles, California
9 this 14th day of December, 2007.

10
11
12
13
14 
15 Maria Suarez
16 Deputy Real Estate Commissioner
17
18
19
20
21
22
23

24 Cc: ANGELA LYNN ROBERTS
25 Maria Suarez
26 Sacto.
27