

FILED
MAY 21, 2009
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By cn

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In the Matter of the Accusation of) No. H-35461 LA
ANGELINA VANESSA MICHELLE RODRIGUEZ,) L-2008120529
Respondent.)

DECISION

The Proposed Decision dated April 15, 2009, 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, the following correction is made to the Proposed Decision:

Factual Findings, Page 1, paragraph No. 1, line 1, "Maria Suarez" is corrected to read "Robin Trujillo".

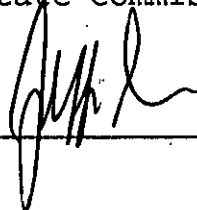
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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 JUNE 10, 2009.

IT IS SO ORDERED

5-15-09
JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ANGELINA VANESSA
MICHELLE RODRIGUEZ,

Respondent.

Case No.: H-35461 LA

OAH No.: L2008120529

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 March 25, 2009.

Lisette Garcia, 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, ^{Robin Trujillo} ~~Maria Suarez~~, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.

2. At all times herein mentioned, Respondent was and is presently licensed by the Department of Real Estate of the State of California as a real estate salesperson under the Real Estate Law, Par 1 of Division 4 of the Business and Professions Code.

3. The Department originally issued a real estate salesperson license to the Respondent on April 16, 2004.

Criminal Convictions

4. On or about March 10, 2004 Respondent while performing the duties of a Notary Public licensed by the Secretary of State permitted another to place their thumb prints in her Notarial Journal. The thumb prints so placed did not match the person who had purportedly signed the journal and related real estate documents. In pertinent sum, the person notarized was in fact someone else, subjecting Respondent – years later – to a criminal proceeding. Thereafter, on August 1, 2007, in the Superior Court of California, County of Los Angeles, in Case No. BA316716, as part of a plea agreement, Respondent was convicted of violating Penal Code section 470, subdivision (a) (forgery), a felony. The crime involves moral turpitude.

5. The elements of forgery¹ include the intent to defraud. Accordingly, the crime bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.²

6. In mitigation, no one suffered a financial loss as the result of Respondent's wrongful conduct and Respondent had no financial gain. These circumstances do not excuse Respondent's conduct but do mitigate same.

Rehabilitation

7. As a result of the conviction Respondent was placed on a three year formal probation and ordered to pay fines and assessments. Respondent timely paid all fines and assessments. The court declared the Respondent could move for a reduction of the felony to a misdemeanor after 12 months of successful probation. On March 10, 2009, the court, pursuant to Respondent's motion, reduced the felony to a misdemeanor pursuant to Penal Code section 17, subdivision (b); ordered termination of probation pursuant to Penal Code section 1203.3 and expunged (dismissed) the case pursuant to Penal Code section 1203.4. Respondent has suffered no other conviction.

8. Respondent participates in running events held to provide funds and comfort to those suffering with leukemia and lymphoma. She has participated in events held to raise funds in support of childhood literacy. She has participated in events to raise funds for Haitian Hope for Orphans whose goal is to develop an orphanage in Port Au Prince, Haiti. She therefore has conscientious involvement in community programs designed to provide social benefits.

¹ Penal Code section 470, subdivision (a): Every person who, with the intent to defraud, knowing that he or she has no authority to do so, signs the name of another person or of a fictitious person to any of the items listed in subdivision (d) is guilty of forgery. . . .

² California Code of Regulations, title 10, section 2910, subdivisions (a)(2), (a)(4) and (a)(8).

9. Respondent was employed at Washington 1st Financial from 1998 to 2008. She was also employed at Western Pacific Insurance Services. She is now employed for GW Enterprises. She is no longer a notary in that her commission has lapsed. She is also licensed by the State of California as a cosmetologist and as a real estate agent. To date she has suffered no discipline of any license.

10. In addition to her employment Respondent is a student in pursuit of an AA degree and then will pursue education at a four-year college. She lives with her boyfriend and has a close relationship with her immediate family. She has stability of family life and fulfills familial obligations.

11. A number of persons familiar with Respondent submitted character letters in her behalf. The persons included her older sister; a director for a medical group; an escrow agent; and president of her present employer. The letters credibly opined as to Respondent's character traits of honest, industry, caring, and trustworthiness.

12. In her testimony, Respondent downplayed the severity of the offense but was otherwise open and honest in her testimony. It can be reasonably inferred that her wrongful conduct was due, in part, to her haste in facilitating a real estate transaction. She did not proceed with the due diligence required of a Notary Public. She now – some five years after her wrongful act – has a change in attitude. That change – evidenced by the credible testimony of Respondent – was brought about by a number of factors.

- The support of her colleagues and her family.
- The shame and ordeal of the criminal proceeding.
- The continued maturation of Respondent from a relatively youthful offender into a mature, responsible adult.
- The realization that what she did was wrong and contrition for her past, wrongful conduct.

At present, Respondent is a socially and professionally responsible person.

LEGAL CONCLUSIONS

Violations

1. Findings 4 and 5 constitute cause under Business and Professions Code sections 490 and 10177, subdivision (b) for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

Licensing Considerations

2. 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 for licensee for the conviction of a crime. Respondent's conviction is less than two years remote but the wrongful conduct is five years remote. Respondent, by hard work and perseverance, as is reflected in Findings 7 through 12, has substantially complied with the criteria and the crime appears to be an aberration in an otherwise socially responsible life and professionally responsible career. Accordingly, licensure of Respondent, on a restricted status, is consistent with the public interest.

ORDER

All licenses and licensing rights of Respondent Angelina Vanessa Michelle Rodriguez 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 Real Estate Commissioner or conditions attaching to the restrictions 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: April 15, 2009


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

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FILED
NOV. 13, 2008
DEPARTMENT OF REAL ESTATE

By

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) NO. H-35461 LA
12 ANGELINA VANESSA MICHELLE) A C C U S A T I O N
13 RODRIGUEZ,)
14 Respondent.)

15 The Complainant, Robin Trujillo, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ANGELINA VANESSA MICHELLE RODRIGUEZ, aka Angelina
18 Vanessa Rodriguez ("Respondent"), is informed and alleges in her
19 official capacity as follows:

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21 At all times herein mentioned, Respondent was and is
22 presently licensed by the Department of Real Estate of the State
23 of California ("Department") as a real estate salesperson under
24 the Real Estate Law, Part 1 of Division 4 of the California
25 Business and Professions Code ("Code").

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II

Pursuant to the provisions of Code Section 10153.3, the Department originally issued a real estate salesperson license to the Respondent on April 16, 2004.

III

On or about August 1, 2007, in the Superior Court of California, County of Los Angeles, in Case No. BA316716, as part of a plea agreement, Respondent was convicted of violating Penal Code Section 470(a) (forgery), a felony. Said crime involves moral turpitude and bears a substantial relationship to the qualifications, functions or duties of a real estate licensee under Section 2910, Title 10, Chapter 6, California Code of Regulations.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III above, constitutes cause under Code Sections 490 and 10177(b) for the suspension or revocation of all licenses and license rights of Respondent under 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 licenses and/or license rights of Respondent,
5 ANGELINA VANESSA MICHELLE RODRIGUEZ, 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 Dated at Los Angeles, California

10 this 6 day of November, 2008.

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13 Deputy Real Estate Commissioner
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24 cc: Angelina Vanessa Michelle Rodriguez
25 GW Enterprises
26 Robin Trujillo
27 Sacto.