

**FILED**

JUN 21 2012

DEPARTMENT OF REAL ESTATE  
BY: CA

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	DRE No. H-37115 LA
	)	
HELEN R. HILLO,	)	OAH No. 2011061234
	)	
Respondent.	)	
_____	)	

DECISION

The Proposed Decision dated May 16, 2012, 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.

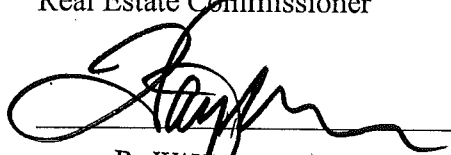
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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  
July 11, 2012.

IT IS SO ORDERED June 13, 2012.

Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel

**BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

In the Matter of the Accusation of Against:

HELEN R. HILLO,

Respondent.

Case No. H-37115 LA

OAH No. 2011061234

**PROPOSED DECISION**

This matter was heard by Mark Harman, Administrative Law Judge of the Office of Administrative Hearings, on March 8, 2012, in Los Angeles, California.

Maria Suarez (Complainant) was represented by Lissete Garcia, Staff Counsel, California Department of Real Estate (Department).

Helen R. Hillo (Respondent) was represented by Frank M. Buda, Attorney at Law.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on March 8, 2012.

**FACTUAL FINDINGS**

1. Complainant made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Complainant has alleged Respondent's convictions of three felonies in September 2009, and Respondent's failure to disclose these felony convictions on an application to renew her real estate salesperson license in 2010, as separate grounds for the suspension or revocation of Respondent's real estate salesperson license.

3. Respondent contends her convictions arose out of a single regrettable incidence of bad judgment, for which she takes full responsibility. She further contends she did not knowingly fail to disclose her felony convictions in her renewal application. She contends she poses no danger to the public; rather, she has demonstrated her rehabilitation under criteria set forth in California Code of Regulations, title 10, section 2912, and thus, she argues it is appropriate to allow her to continue to work as a licensed real estate salesperson.

4. Respondent has been a licensed real estate salesperson since July 22, 1994. The Department has taken no prior disciplinary action against Respondent's license.

*Respondent's Felony Convictions*

5. On September 17, 2009, in the Superior Court of California, County of Los Angeles, case no. BA357554, Respondent was convicted, following her nolo contendere plea, of violating Health and Safety Code section 11359 (possession of marijuana for sale), and Revenue and Taxation Code sections 19705, subdivision (a) (filing a false tax return), and 7153.5 (intentional tax evasion). All are felonies. These crimes are substantially related to the qualifications, functions, and duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (a)(3) and (8).

6. Imposition of sentence was suspended and Respondent was placed on formal probation for three years under certain terms and conditions, including incarceration for 20 days, with credit for 20 days (14 days actual time, six days good time) served; performance of 200 hours of community service; payment of fines, fees, and the costs of probation totaling \$3,808; and restitution of \$27,743 to the State Franchise Tax Board. Respondent has completed all terms and conditions of her probation except full payment of restitution. Per agreement with the probation office, Respondent pays \$100 per month toward the restitution amount and is current on her payments.

7. The facts and circumstances underlying the convictions are as follows: After passage of Proposition 215, Respondent was approached by Louis Godman, another real estate salesperson, to open a medical marijuana dispensary. Respondent consulted her husband, friends, and an attorney before investing approximately \$30,000 to set up a licensed dispensary with Godman. She relied upon the advice and assistance of Godman, an attorney, and an accountant for licensing, legal, and accounting matters. The law required them to operate as a not-for-profit organization. Godman and a co-manager were responsible for buying and selling marijuana, and for supervising the dispensary's four employees and its security guards. Respondent's duties were mostly clerical and included advertising, website maintenance, some billing, and providing financial information to the accountant.

8. In July 2008, a regular licensed supplier called the dispensary and reported that he could not bring his marijuana to the dispensary to sell that day. Godman went to the supplier, purchased the marijuana, and was arrested at the supplier's location. According to Respondent, Godman's actions violated the protocol authorized under Proposition 215, which required all purchases and sales to be on-site. Respondent later learned that Godman's actions caused the dispensary to become "out-of-compliance" and to lose its nonprofit status, so that, when the business claimed non-profit status on its tax returns and tax-related documents, the government deemed these claims to be false.

9. Respondent was arrested July 1, 2009. Before this, she had never been arrested or cited for any violations of the law. According to Respondent, her convictions for possession of marijuana for sale, asserting an unlawful business deduction on a tax return,

and tax evasion, all stemmed from Godman's actions and its consequences for the business, which Respondent did not completely grasp at that time. At hearing, Respondent accepted full responsibility and admitted she should have known more about the law applicable to a medical marijuana dispensary. Her testimony is deemed credible, and was supported by the character testimony provided by her husband, and through letters from her children, sister, clients, and other real estate professionals, including colleagues, lenders, and her broker.

#### *Respondent's Application to Renew Her License*

10. In May 2010, Respondent completed 45 hours of continuing education. On June 2, 2010, Respondent applied to renew her real estate salesperson license. The application contains the question, "Within the past four year period, have you been convicted of any violation of law? Convictions expunged under Penal Code section 1203.4 must be disclosed. However, you may omit minor traffic citations which do not constitute a misdemeanor or felony offense." The box was marked "No."

11. Respondent did not personally fill out the application. Instead, she had a telephone conversation with someone who was associated with either the continuing education school or the Department. This person asked Respondent if she wanted to submit her application online, which this person could do while speaking with Respondent over the telephone. Respondent agreed. This person asked Respondent whether there were "any changes" to her renewal application, and Respondent replied, "No." She did not read or sign the application before this person sent it to the Department through the internet.

12. Respondent acknowledged it was her personal responsibility to prepare the application herself and, if she had done so, or even if she had been asked the specific question about any convictions, she would have disclosed her felony convictions. This explanation is deemed credible, as it is reasonable under the circumstances and is consistent with Respondent's other testimony.

#### *Evidence of Rehabilitation and Mitigation*

13. Respondent has had no contact with Godman since her arrest and no contact with anyone from the dispensary since September 2009. She has never used marijuana.

14. Respondent has been married to Wadi Hillo for 23 years. They have three children, ages 21, 18 and 14. Respondent has a stable and supportive family life. Her husband supported her decision to invest in the dispensary. Respondent feels great remorse for the pain she has caused her family. Her family continues to help her face the challenges that have been brought about by her criminal convictions. She has used her experience to help teach her children about right and wrong choices, to be careful, and to learn from their mistakes and the mistakes of others.

15. Respondent attends Saint Anne's Church about three times a month and supports the church through fundraising efforts such as bake sales and carnivals.

16. Respondent's appeared sincere during her testimony. Her license means a great deal to her. She has disclosed her convictions to colleagues, other professionals with whom she works, and friends. Respondent has learned to be more careful in her business dealings, always to work with the right people, and to know the laws that apply to her business. Respondent has the support of her broker, and she submitted 15 letters of support from family, friends, clients, and business associates.

17. Respondent has handled approximately 300 matters during her 18-year career, closing almost 160 transactions, mostly for first-time homebuyers, and she has never had a complaint. Her broker is willing to personally supervise her transactions should she be issued a restricted license. The letter from her broker describes her as "an excellent Realtor," gives examples of her professionalism, and states: "She takes time to ensure that the buyer and/or seller always come first and are satisfied. She works hard in an industry where many do not." (Exhibit A.)

### LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke Respondent's real estate salesperson license under Business and Professions Code sections 490, and 10177, subdivision (b), and California Code of Regulations, title 10, section 2910, for felony convictions of crimes that are substantially related to the duties, functions, and qualifications of a real estate licensee, as set forth in factual finding numbers 5 through 8.

2. Cause exists to suspend or revoke Respondent's real estate salesperson license under Business and Professions Code section 492 and 10177, subdivision (a), for failure to disclose a material fact in an application for renewal of her real estate salesperson license, as set forth in factual finding numbers 10 through 12.

3. Respondent asserts she did not participate directly in the wrongdoing that led to these convictions. An administrative proceeding cannot be used as a forum for impeaching a conviction (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449), and the effect of her convictions is unchanged by her explanation; however, the law authorizes a Respondent to offer evidence of extenuating circumstances and of rehabilitation. The Department has established criteria for the purpose of evaluating the rehabilitation of a licensee. Respondent has established that she has satisfied many, if not all, of the applicable criteria. It has been more than two years since her convictions (Cal. Code Regs., tit 10, § 2912, subd. (a)). She has paid the criminal fine and probation costs. (Cal. Code Regs., tit 10, § 2912, subd. (g).) Respondent has had no contact with Godman or anyone else from the dispensary. (Cal. Code Regs., tit 10, § 2912, subd. (i).) She is a dedicated and devoted wife and mother and fulfills her parental and familial obligations. (Cal. Code Regs., tit 10, § 2912, subd. (j).) She has completed 45 hours of continuing education. (Cal. Code Regs., tit 10, § 2912, subd. (k).) She is involved with the community through her church. (Cal. Code Regs., tit 10, § 2912, subd. (l).)

4. Through Respondent's testimony, the testimony of her husband, and from letters provided by her family members, friends, and business associates who are aware of her convictions, Respondent has demonstrated her remorse, her intention to be more careful in her business dealings, and her strong belief and determination that she has learned from her mistakes. (Cal. Code Regs., tit 10, § 2912, subd. (m).) She has had no other felony or misdemeanor convictions. (Cal. Code Regs., tit 10, § 2912, subd. (m)(c).) However, her record has not been expunged (Cal. Code Regs., tit 10, § 2912, subd. (c)), and although she has completed all other conditions of her probation, she has not completed restitution payments (Cal. Code Regs., tit 10, § 2912, subd. (b)).

5. Remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. Rehabilitation is a "state of mind," and "the law looks with favor upon rewarding with the opportunity to serve, one who has achieved 'reformation and regeneration.'" (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Respondent's testimony and demeanor demonstrated true remorse and a sincere acknowledgment of responsibility for her conduct.

6. The purpose of this disciplinary action is the protection of the public against unethical and dishonest conduct on the part of those engaged in the real estate business. While Respondent's convictions are serious, the convictions arise out of a unique incidence of bad judgment in an otherwise law-abiding life, and Respondent has learned from this experience to take more care in her professional responsibilities. Respondent has an unblemished 18-year career in real estate. She has taken significant steps to rehabilitate herself and is supported in these efforts by family, friends, business associates, and her broker. Revocation of her license is unnecessary in order to protect the public interest in maintaining high standards of service and competency; rather, the public's safety and interest will be protected by the issuance of a restricted license.

### ORDER

All licenses and licensing rights of Respondent, Helen R. Hillo, under the Real Estate Law are revoked; 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 therefor 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 the 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 or for the removal of any of the conditions, limitations or restrictions of a restricted license until three 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 to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that she 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 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until she passes the examination.

DATED: May 16, 2012

  
MARK HARMAN  
Administrative Law Judge  
Office of Administrative Hearings