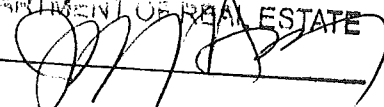


FILED

MAY 08 2013

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY: 

* * * * *

In the Matter of the Accusation of) No. H-37867 LA
)
MARIYAN KHOSRAVIZADEH,) OAH No.2012031293
)
Respondent.)
_____)

DECISION

The Proposed Decision dated April 8, 2013, 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.

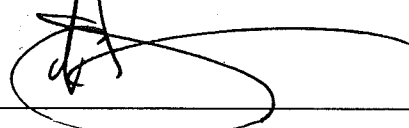
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 MAY 28 2013.

IT IS SO ORDERED MAY 6, 2013

Real Estate Commissioner



By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARIYAN KHOSRAVIZADEH,

Respondent.

Case No. H-37867 LA

OAH No. 2012031293

PROPOSED DECISION

Administrative Law Judge Amy C. Yerkey, State of California, Office of Administrative Hearings, heard this matter on January 15, 2013, in Los Angeles, California.

Julie To, Real Estate Counsel, represented Howard Alston (Complainant), a Deputy Real Estate Commissioner for the Department of Real Estate (Department), State of California.

Stephen J. Fisch represented Respondent. Respondent was not present at the hearing.

The record was held open for submission of additional evidence and argument. Respondent's Statement of Mitigation and Memorandum of Points and Authorities was collectively marked as Exhibit E, for identification only. Exhibit A, contained within Exhibit E, contains Respondent's statement. The statement was unsigned and otherwise not authenticated, and thus is not received as evidence. Complainant's Closing Argument and Reply was marked as Exhibit 7, for identification only. Respondent's Response to Complainant's Closing Argument was received on March 8, 2013, and marked for identification as Exhibit F. Complainant objected to Respondent's reply as untimely; however, this objection is overruled because Respondent's reply was filed within the timelines as established by the Administrative Law Judge and the parties at the hearing. Complainant lodged no other objections, and thus Respondent's Exhibit F is admitted into evidence, with the following proviso: four of the character letters (1. Dated March 7, 2013, purportedly from Stuart and Regina Schonwetter; 2. Dated March 2, 2013, purportedly from Mohammad Ali Dehbozorgi; 3. Dated March 6, 2013, purportedly from Amir Dehbozorgi; and 4. Dated March 3, 2013, purportedly from Ahmed Dehbozorgi); attached as "Exhibit A" within Exhibit F, were unsigned, and thus not properly authenticated. Accordingly, those letters are not received as evidence.

The matter was deemed submitted for decision on March 8, 2013.

FACTUAL FINDINGS

1. Complainant brought the First Amended Accusation in his official capacity.
2. Respondent has been licensed as a real estate salesperson since May 11, 2006. Complainant seeks to revoke Respondent's license.
3. On September 27, 2010, the Los Angeles Superior Court in case number PA068602, convicted Respondent on her nolo contendere plea, of violating Health and Safety Code section 11359 (possession of marijuana for sale), a felony. The court suspended imposition of sentence, and placed Respondent on three years formal probation, ordered Respondent to serve 270 days in jail, and to pay fines, fees, and restitution, among other conditions. Respondent was also ordered to register as a convicted narcotics offender and ordered to carry proof of registration at all times.
4. The facts underlying this conviction are that Respondent owned a medical marijuana dispensary, Medi Mar Inc., in Northridge. A police search uncovered that Respondent possessed marijuana buds valued at \$117,000, among other items.
5. By possessing marijuana for sale, Respondent engaged in unlawful acts with the intent to economically benefit herself.
6. On January 3, 2013, the Los Angeles Superior Court in case number PA073435, convicted Respondent on her nolo contendere plea, of violating Penal Code section 451, subdivision (b) (arson), a felony. The court ordered Respondent to serve five years in jail, suspended sentence, and placed Respondent on formal probation for five years on various conditions, including one year of electronic home monitoring. The court also ordered Respondent to pay \$257,249.25 in restitution to Farmer's Insurance.
7. The evidence did not establish the facts underlying this conviction.
8. Respondent's arson conviction demonstrates that she engaged in unlawful acts with the intent to economically benefit herself. It also shows that Respondent employed fraud, deceit or misrepresentation to achieve an end. In addition, Respondent's conduct demonstrates a pattern of repeated and willful disregard of law.
9. Respondent did not testify at the hearing. She submitted a one-page statement, which was unsigned and not otherwise authenticated, and thus not received as evidence. Even if the statement was evidence, it provided little support to show that Respondent is rehabilitated. She blamed a former client, Max Astan (Astan), for her conduct. Respondent claimed she acted out of fear of Astan. In her reply (Exh. F), Respondent included 15 letters in support of her application. As explained above, four letters were not received as evidence. All of the letters were submitted without the ability for Complainant to cross-examine the

author. Of the 11 letters that were received as evidence, not one mentions that the author was aware of Respondent's convictions. They discuss generally Respondent's abilities as a real estate agent, with no awareness that she has suffered two serious convictions. Thus, the letters are given little weight.

10. Respondent's counsel argued that Respondent complied with the laws that existed at the time, and submitted permits and other information demonstrating Respondent's compliance. Respondent's conviction is evidence that she violated state law. In addition, an administrative hearing is not the proper forum to re-litigate her criminal conviction. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

11. Except as set forth in this decision, all other allegations or contentions raised by the parties lack merit or constitute surplusage.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (b), in conjunction with Business and Professions Code section 490, provide the Real Estate Commissioner with authority to suspend or revoke a real estate salesperson's license when the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of real estate salesperson.

2. California Code of Regulations, title 10, section 2910, subdivisions (a)(4), (a)(8), and (a)(10) provide that a crime is substantially related to the qualifications, functions, or duties of a real estate salesperson's license if it involves "[t]he employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end," "[d]oing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator," or "[c]onduct which demonstrates a pattern of repeated and willful disregard of law."

3. Respondent was convicted of possession of marijuana for sale and arson. Respondent's conduct establishes that she committed crimes that are substantially related to the qualifications, functions, and duties of a real estate salesperson.

4. Cause exists to suspend or revoke Respondent's real estate salesperson license pursuant to Business and Professions Code section 10177, subdivision (b), in conjunction with Business and Professions Code section 490, in that she committed arson and possession of marijuana for sale, by reason of Factual Findings 3 through 8.

5. California Code of Regulations, title 10, section 2912, provides criteria to evaluate a licensee's rehabilitation, including: (a) the passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions, or duties of a licensee; with a longer period required if there is a history of criminal convictions or acts substantially related to the licensee's qualifications, functions, or duties; (b) restitution to any person who has suffered monetary losses through the licensee's

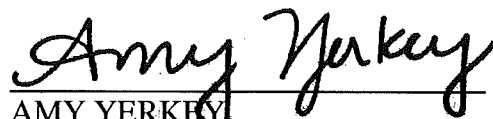
substantially related act; (c) expungement of the conviction which culminated in the administrative proceeding to take disciplinary action; (d) successful completion or early discharge from probation; (e) payment of any fine imposed in connection with the criminal conviction that is the basis for discipline; (f) new and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction in question; (g) stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction; (h) significant and conscientious involvement in community, church, or privately-sponsored programs designed to provide social benefits or to ameliorate social problems; and, (i) a change in attitude from that which existed at the time of the commission of the criminal acts, as demonstrated by the licensee's testimony or other applicable evidence.

6. Respondent presented very little rehabilitation evidence. There was no evidence that Respondent has made her restitution payments. Her convictions have not been expunged. She has not demonstrated a sufficient change in attitude from that which existed at the time of the conduct in question. Respondent's explanation for her conduct, that she was coerced and threatened, show that she is unwilling to accept full responsibility for her actions. A real estate salesperson is entrusted with keys to private homes and has access to personal information, and thus a salesperson must be trustworthy and honest. (See, *Golde v. Fox* (1979) 98 Cal.App.3d 167.) Respondent's conduct, and her attitude about its wrongfulness, shows that she does not currently possess the requisite integrity to retain her license. In addition, her crimes are serious and recent. She remains on probation until 2018, and is under house arrest for the entire year. Given the foregoing, public protection warrants revocation of Respondent's license.

ORDER

All licenses and licensing rights of Respondent Mariyan Khosravizadeh under the Real Estate Law are revoked.

Dated: April 8, 2013


AMY YERKEY
Administrative Law Judge
Office of Administrative Hearings