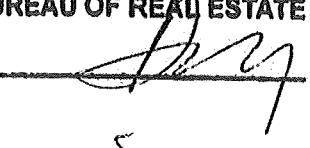


FILED

SEP 12 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

NO. H-38956 LA

PIYA TOLANI,

L-2013100418

Respondent.

ORDER DENYING RECONSIDERATION

On July 19, 2014, a Decision was rendered in the above-entitled matter. The Decision was to become effective on August 13, 2014, but was stayed by separate Order to September 12, 2014.

Respondent petitioned for reconsideration of the Decision of July 19, 2014.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of July 19, 2014, and reconsideration is hereby denied.

IT IS SO ORDERED 9/11/2014

Real Estate Commissioner


Wayne S. Bell

Part 2

FILED

AUG - 4 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of
PIYA TOLANI,
Respondent.

CalBRE NO. H-38956 LA
OAH NO. L-20130100418

ORDER STAYING EFFECTIVE DATE

On July 19, 2014, a Decision was rendered in the above-entitled matter to become effective August 13, 2014.

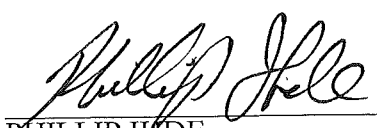
IT IS HEREBY ORDERED that the effective date of the Decision of July 19, 2014, is stayed for a period of thirty (30) days to allow Respondent PIYA TOLANI to file a petition for reconsideration.

The Decision of July 19, 2014, shall become effective at 12 o'clock noon on September 12, 2014.

DATED: AUGUST 4, 2014.

Real Estate Commissioner

By:


PHILLIP HILDE
Regional Manager

FILED

BEFORE THE BUREAU OF REAL ESTATE

JUL 23 2014

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

By

In the Matter of the Accusation of

PIYA TOLANI,

Respondent.

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CalBRE No. H-38956 LA

OAH No. 20130100418

DECISION

The Proposed Decision dated June 16, 2014 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.

AUG 13 2014 This Decision shall become effective at 12 o'clock noon on

IT IS SO ORDERED

7/19/2014

REAL ESTATE COMMISSIONER


WAYNE BELL

**BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation of:

PIYA TOLANI,

Real Estate Broker License No. B/01903802

Respondent.

Case No. H-38956 LA

OAH No. 2013100418

PROPOSED DECISION

This matter was heard on May 15, 2014, by Gary M. Bock, Administrative Law Judge with the Office of Administrative Hearings, in Los Angeles. Amelia V. Vetrone, counsel for the Bureau of Real Estate (Bureau),¹ represented Complainant. Frank M. Buda, Esq., represented Piya Tolani (Respondent), who was present.

Oral and documentary evidence was received, and argument was heard. The record was closed and the matter submitted for decision on May 15, 2014.

FACTUAL FINDINGS

1. Robin Trujillo, a Deputy Real Estate Commissioner (Complainant), filed the Accusation in her official capacity on July 12, 2013.

2. On September 6, 2011, the Bureau issued real estate broker license number B/01903802 to Respondent. The license will expire on September 5, 2015, unless renewed.

Respondent's Convictions

3. (A) On February 24, 2012, in the Superior Court, County of Los Angeles, case number SA079852, Respondent was convicted on her pleas of nolo contendere of violating Penal Code sections 459 (commercial burglary), 487, subdivision (a) (grand theft), each felonies, and 484, subdivision (a) (petty theft), a misdemeanor. On October 1, 2012, the court ordered the complaint deemed amended to reflect the counts of commercial burglary and grand theft as misdemeanors.

¹ The Bureau of Real Estate was formerly known as the Department of Real Estate.

(B) Respondent was placed on summary probation for a period of three years on terms and conditions including, but not limited to, that she pay various fines and fees totaling \$190, including a restitution fine in the amount of \$120, serve two days in jail (credit given for two days), stay away from the Bloomingdale's store where she committed the crimes, perform 60 days of community service, and continue psychological treatment with Dr. Jeffrey W. Whiting, Ph.D.

(C) The facts and circumstances underlying Respondent's convictions are that, on December 23, 2011, and January 9, 2012, she stole merchandise from a Bloomingdale's department store. No documentary evidence was presented to establish the merchandise Respondent stole on December 23, 2011. Respondent testified that she stole a tie and a wallet. On January 9, 2012, at about 8:00 p.m., Respondent returned to the same Bloomingdale's store to steal again. She brought items to exchange other than those she previously stole. Respondent concealed one pair of sunglasses, while she purchased another. She selected several items of clothing and, while in a fitting room, concealed all but one of the items in her shopping bags. She then left the store without paying for anything else. A loss prevention officer confronted her outside and escorted her to the loss prevention office. Respondent's bags were searched and found to contain unpaid Bloomingdale's merchandise, four dresses (\$365, \$345, \$597, \$550), one blouse (\$268), two wallets (\$995, 950) and one pair of sunglasses (\$139), totaling \$4,209. The police arrived and arrested Respondent. Respondent signed a written statement in which she complained of treatment by store security staff, but did not acknowledge stealing anything.

Rehabilitation

4. Respondent is 40 years old and married. She graduated from the University of Southern California with a bachelor's degree in Business Administration.

5. Respondent has been a licensed real estate broker since September 2011. She has completed 35 transactions, including approximately 20 real estate sales and listings and 15 loans. In February and March 2014, Respondent completed several continuing education courses.

6. Since January 2012, Respondent has been in a business partnership with Seung Hoon Kang, also a licensed real estate broker (No. 01904912). Respondent has known Mr. Kang since 2009. She works as a broker and CEO with Mr. Kang. Respondent has discussed her convictions with Mr. Kang. In a letter dated April 30, 2014, Mr. Kang expressed his high regard for Respondent as a trustworthy, reliable, and ethical partner and person, and that she is essential for their business to function. (Exh. H.)

7. Prior to her partnership with Mr. Kang, Respondent owned and operated two other businesses. From March 2009 to January 2012, she operated Amercan Default Management. From August 2004 to March 2009, she operated MRT Media. In addition, Respondent previously sold advertising airtime as an account executive for Clear Channel Corporation. Bob Park, president of Ameriserve, Inc., purchased advertising airtime from

Respondent. Respondent has known Mr. Park since 2002. In a letter not dated, Mr. Park expressed his belief that Respondent is sincerely very remorseful for her crimes, and that she has always conducted herself in business with him by the highest ethical standards.

8. Respondent fully satisfied the terms and conditions of her probation. The probation terminated in October 2013. On January 13, 2014, the court ordered Respondent's convictions expunged pursuant to Penal Code section 1203.4.

9. Respondent is very ashamed and remorseful for her crimes. According to Respondent, at the time of her crimes, she was experiencing stress in her life due to her failing marriage and her difficulty dealing with the illness and death of a dear friend who she considered to be a father figure in her life. In December 2011, her friend was hospitalized due to his illness. At the same time, Respondent and her husband were talking about divorce. Respondent felt depressed and alone and went to Bloomingdale's, where she committed the first theft. In January 2012, Respondent's friend passed away. Respondent returned to Bloomingdale's the day after attending her friend's funeral and committed the second theft. Respondent believes that she subconsciously wanted to get into trouble to let her husband know how depressed, lost and alone she felt.

10. Jeffrey W. Whiting, Ph.D., is a licensed clinical psychologist and forensic expert in matters related to criminal offending. He testified as an expert witness on Respondent's behalf. Dr. Whiting first interviewed Respondent in February 2012. Respondent began attending weekly psychotherapy sessions with Dr. Whiting in March 2012. Dr. Whiting is familiar with Respondent's convictions and the circumstances of her crimes. Dr. Whiting opined that Respondent did not fit the profile of a criminal motivated by greed or suffering from a personality disorder. Dr. Whiting's opinion is that Respondent shoplifted because of her limited ability to identify and deal with the stress in her life at the time of her crimes. Dr. Whiting further opined that Respondent's chances of reoffending is "nil or zero," given the great shame she experienced from her convictions and her present ability to effectively deal with stressful circumstances. Nevertheless, during his testimony, Dr. Whiting answered "yes" and "no," when he was asked whether Respondent understands why she committed the crimes. There is still a part of her that does not understand why she did it, although she now realizes she was very out of control and lacking in skills to find alternatives to deal with her stress. She is now much further along in this process, but it remains a work in progress.

11. Respondent continues in therapy with Dr. Whiting. Respondent can now identify the stress in her life and deal with it in more appropriate ways, such as telling other people how she feels. However, Respondent still has difficulty dealing with the prospect of losing those who are close to her.

12. Trevor M. Saliba is Respondent's husband. Trevor testified at the hearing on Respondent's behalf. They have jointly attended several counseling sessions with Dr. Whiting to work on their marriage. Both Respondent and Trevor feel that their marriage has improved and that it is much healthier. Respondent now feels free to talk to Trevor about

things which upset her, and Trevor listens. Trevor testified Respondent has an extremely high moral character and that he has never experienced a situation where she has been dishonest. Respondent expresses remorse for her crimes every time the subject comes up. Respondent approaches situations differently as result of her therapy but constantly worries about her elderly mother.

13. Respondent and her husband provide financial and other support to their elderly mothers. Respondent presented letters from both mothers expressing the high regard they hold for Respondent and how dependent they are on the support and assistance provided by Respondent and her husband.

14. Respondent attends the Good News Indonesian Church. She tries to attend once a week on Sundays. Respondent volunteers for two events at Christmas time for the Burbank Center for the Retarded. Respondent has participated in approximately 24 charity events through her church and Project Angel Food Charity, although the dates of those charity events were not specified by the evidence. Ajie Dinata has been Respondent's friend for 23 years. In a letter not dated, Ajie attested to Respondent's charitable activities, her integrity, and her character as a reliable, honest, gentle, and caring person.

15. Respondent presented several other character reference letters, which commend her integrity, honesty, and generosity. For example, Christina Baglin has been a colleague and friend of Respondent for 20 years. In her letter, Christina wrote that Respondent gave her a gift of 12 sessions of personal training to help her gain control of her life. Julie Chargualaf is another colleague who Respondent met in 2000. Respondent allowed Julie and her daughter to live in her home during the time Julie was a young mother and married to a husband addicted to methamphetamine.

Costs

16. No evidence was presented regarding the Bureau's costs of investigation and enforcement of this action.

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke Respondent's license, pursuant to Business and Professions Code² sections 490 and 10177, subdivision (b), in that she has been convicted of crimes substantially related to the qualifications, functions and duties of a real estate broker, based on the matters set forth in Factual Finding 3 and Legal Conclusion 2.

² All further statutory references are to the Business and Professions Code unless otherwise indicated.

2. Respondent's crimes of commercial burglary, grand theft and petty theft are substantially related to the qualifications, functions and duties of a real estate broker, as defined in California Code of Regulations, title 10, section 2910, subdivisions (a)(1) and (a)(8), because they involved fraudulently taking property belonging to another person and doing an unlawful act with the intent of conferring an economic benefit upon the perpetrator.

3. The objective of a disciplinary proceeding is to protect the public, the licensed profession or occupation, maintain integrity, high standards, and preserve public confidence in real estate professionals. (*Comacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Dept. of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031.) The purpose of proceedings of this type is not to punish Respondent. In particular, the statutes relating to real estate licenses are designed to protect the public from any potential risk of harm. (*Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.) To that end, Respondent bears the burden to establish her reformation. (See *Martin v. Alcoholic Bev. App. Bd.* (1950) 52 Cal.2d 259, 265.)

4. The Department has developed criteria for the purpose of evaluating the rehabilitation of a licensee against whom disciplinary proceedings have been initiated, which are set forth at California Code of Regulations, title 10, section 2912. Under the criteria, Respondent has not established she is fully rehabilitated from her criminal convictions at this time. Respondent completed the requirements of her probation and her convictions were expunged in January 2014. (§ 2912, subds. (c) & (e).) Respondent's marriage is more stable, and she is fulfilling family responsibilities by caring for her aging mother. (§ 2912, subd. (j).) She has been involved in community and church-sponsored activities designed to provide social benefits or ameliorate social problems. (§ 2912, subd. (l).) Respondent has expressed remorse for her crimes, and her attitude has changed since the commission of her crimes insofar as she is more aware of and able to deal appropriately with the stress in her life. (§ 2912, subd. (m).)

5. However, more time is needed for Respondent to establish that she is rehabilitated from her convictions. Respondent has not met the criteria of the passage of not less than two years since her conviction. (§ 2912, subd. (a).) Only 19 months have passed since Respondent's convictions in October 2012. Respondent's probation terminated in October 2013, and her convictions were expunged in January 2014. Thus, it has only been approximately five months since Respondent has not been under the supervision of the criminal justice system. Since people are expected to behave according to the law while under the supervision of the criminal justice system, good behavior during probation is generally given little weight as evidence of rehabilitation. (See *In re Gossage* (2000) 23 Cal.4th 1080, 1009.) Further, Respondent's charitable activities are entitled to little weight as evidence of rehabilitation as it was not established that those activities occurred subsequent to her convictions. Although her marriage has improved, Respondent's ability to deal with stress in her life remains a work in progress. Stress and circumstances similar to those existing at the time Respondent committed her crimes still remain, such as the stress from caring for her aging mother and her difficulty dealing with the prospect of losing someone close to her. Dr. Whiting's opinion that the chances of Respondent re-offending are "nil" or

"zero" is speculative and insufficient to establish that Respondent is rehabilitated from her convictions. Under these circumstances, the revocation of Respondent's real estate broker license is warranted.

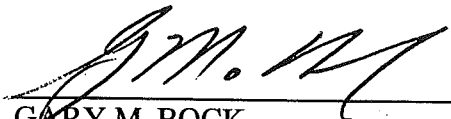
Cost Recovery

6. Cause does not exist, pursuant to section 10106, to direct Respondent to pay the Bureau for the reasonable costs of the investigation and enforcement of this case. No evidence was presented establishing the investigation and enforcement costs incurred by the Bureau in this case. (Factual Finding 16.)

ORDER

All real estate licenses and licensing rights of Respondent Piya Tolani under the Real Estate Law are revoked.

DATED: June 16, 2014.


GARY M. BOCK
Administrative Law Judge
Office of Administrative Hearings