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NOV - 7 2014

BUREAU OF REAL ESTATE

By Angus Nanner

Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013
(213) 576-6913

BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-39169 LA
) L-2013 120 867
EDWIN TSATURYAN,)
) STIPULATION AND AGREEMENT
Respondent.) and DECISION AFTER
) REJECTION

It is hereby stipulated by and between EDWIN TSATURYAN (sometimes referred to as Respondent), and his attorney, Ashot Manukyan, and the Complainant, acting by and through James R. Peel, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on November 22, 2013, in this matter.

1. The Real Estate Commissioner held a hearing on this Accusation on August 7, 2014, before the Office of Administrative Hearings for the purpose of proving the allegations therein. Respondent was present at the hearing, was represented by counsel, and participated therein. Further, Respondent has had an opportunity to read and review the Proposed Decision of the Administrative Law Judge.

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1 2. Respondent understands that pursuant to Government
2 Code Section 11517(c), the Real Estate Commissioner has rejected
3 the Proposed Decision of the Administrative Law Judge.
4 Respondent further understands that pursuant to the same
5 Section 11517(c), the Real Estate Commissioner may decide this case
6 upon the record, including the transcript, without taking any
7 additional evidence, after affording Respondent the opportunity to
8 present written argument to the Real Estate Commissioner.

9 3. Respondent further understands that by signing
10 this Stipulation and Waiver, Respondent is waiving his right to
11 obtain a dismissal of the Accusation through proceedings under
12 Government Code Section 11517(c) if this Stipulation and Waiver
13 is accepted by the Real Estate Commissioner.

14 4. Respondent, pursuant to the limitations set forth
15 below, hereby admits that the factual allegations in the
16 Accusation filed in this proceeding are true and correct and the
17 Real Estate Commissioner shall not be required to provide
18 further evidence of such allegations.

19 5. It is understood by the parties that the Real
20 Estate Commissioner may adopt the Stipulation and Agreement and
21 Decision After Rejection ("Stipulation") as his Decision in this
22 matter, thereby imposing the penalty and sanctions on
23 Respondent's real estate license and license rights as set forth
24 in the below "Order". In the event that the Commissioner in his
25 discretion does not adopt the Stipulation, it shall be void and
26 of no effect, and Respondent shall retain the right to proceed
27 under all the provisions of the APA and shall not be bound by

any admission or waiver made herein.

6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

7. This Stipulation and Respondent's decision not to contest the Accusation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Bureau of Real Estate ("Bureau"), the state or federal government, or an agency of this state, another state or the federal government is involved.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

The conduct of Respondent, as described in Paragraph 4, is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provisions of Sections 490 and 10177(b) of the Business and Professions Code.

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ORDER

The license and licensing rights of Respondent EDWIN TSATURYAN 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 therefor and pays to the Bureau 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 the Real Estate Commissioner or conditions attaching to the restricted license.

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1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations, or restrictions
4 of a restricted license until two years have elapsed from the
5 effective date of this Decision.

6 4. Respondent shall submit with any application for
7 license under an employing broker, or any application for
8 transfer to a new employing real estate broker, a statement
9 signed by the prospective employing real estate broker on a form
10 approved by the Bureau of Real Estate which shall certify:

11 (a) That the employing broker has read the
12 Accusation, and this Stipulation and Waiver which is the basis
13 for the issuance of the restricted license; and

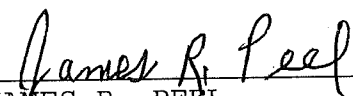
14 (b) That the employing broker will carefully
15 review all transaction documents prepared by the restricted
16 licensee and otherwise exercise close supervision over the
17 licensee's performance of acts for which a license is required.

18 5. Respondent shall, within nine months from the
19 effective date of this Decision, present evidence satisfactory
20 to the Real Estate Commissioner that Respondent has, since the
21 most recent issuance of an original or renewal real estate
22 license, taken and successfully completed the continuing
23 education requirements of Article 2.5 of Chapter 3 of the Real
24 Estate Law for renewal of a real estate license. If Respondent
25 fails to satisfy this condition, the Commissioner may order the
26 suspension of the restricted license until the Respondent
27 presents such evidence. The Commissioner shall afford

1 Respondent the opportunity for a hearing pursuant to the
2 Administrative Procedure Act to present such evidence.

3 6. Respondent shall notify the Commissioner in writing
4 within 72 hours of any arrest by sending a certified letter to
5 the Commissioner at the Bureau of Real Estate, Post Office Box
6 137000, Sacramento, CA 95813-7000. The letter shall set forth
7 the date of Respondent's arrest, the crime for which Respondent
8 was arrested and the name and address of the arresting law
9 enforcement agency. Respondent's failure to timely file written
10 notice shall constitute an independent violation of the terms of
11 the restricted license and shall be grounds for the suspension
12 or revocation of that license.

13 DATED: 10-13-14

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16 JAMES R. PEEL
17 Counsel for Complainant

18 * * *

19 I have read the Stipulation, have discussed it with my
20 attorney, and its terms are understood by me and are agreeable
21 and acceptable to me. I understand that I am waiving rights
22 given to me by the California Administrative Procedure Act
23 (including but not limited to Sections 11506, 11508, 11509 and
24 11513 of the Government Code), and I willingly, intelligently
25 and voluntarily waive those rights, including the right of
26 requiring the Commissioner to prove the allegations in the
27 Accusation at a hearing at which I would have the right to

09/17/2014 WED 6:37 FAX

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1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

3 Respondent can signify acceptance and approval of the
4 terms and conditions of this Stipulation by faxing a copy of the
5 signature page, as actually signed by Respondent, to the Bureau
6 at the following telephone/fax number: (213) 576-6917.

7 Respondent agrees, acknowledges, and understands that by
8 electronically sending to the Bureau a fax copy of his/her
9 actual signature as it appears on the Stipulation that receipt
10 of the faxed copy by the Bureau shall be as binding on
11 Respondent as if the Bureau had received the original signed
12 Stipulation.

13 Further, if the Respondent is represented in these
14 proceedings, the Respondent's counsel can signify his/her
15 agreement to the terms and conditions of the Stipulation by
16 submitting that signature via fax.

17 DATED: Sep. 17, 2014


EDWIN TSATURYAN
Respondent

20 DATED: Oct 08, 2014


ASHOT MANUKYAN
Counsel for Respondent

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2 defense and mitigation of the charges.

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11 Respondent as if the Bureau had received the original signed
12 Stipulation.

13 Further, if the Respondent is represented in these
14 proceedings, the Respondent's counsel can signify his/her
15 agreement to the terms and conditions of the Stipulation by
16 submitting that signature via fax.

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18 DATED: _____

EDWIN TSATURYAN
Respondent

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20 DATED: _____

ASHOT MANUKYAN
Counsel for Respondent

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3 The foregoing Stipulation and Agreement and Decision
4 After Rejection is hereby adopted as my Decision in this matter
5 and shall become effective at 12 o'clock noon on
6 NOV 27 2014, 2014.

7 IT IS SO ORDERED OCTOBER 29, 2014.

8 Real Estate Commissioner

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11 By: JEFFREY MASON
12 Chief Deputy Commissioner
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SEP 08 2014

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

EDWIN TSATURYAN,

Respondent.

) CalBRE No. H-39169 LA

) OAH No. 2013120867

NOTICE

TO: EDWIN TSATURYAN, Respondent, and Ashot Manukyan, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 18, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 18, 2014, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on August 7, 2014, any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of August 7, 2014, at the

1 Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Los Angeles office of the
5 Bureau of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED:

9/4/2017

7 REAL ESTATE COMMISSIONER

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WAYNE S. BELL

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

EDWIN TSATURYAN,

Respondent.

Case No.: H-39169 LA

OAH No.: 2013120867

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 August 7, 2014.

James R. Peel, Real Estate Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Ashot Manukyan, Attorney at Law.

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. The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.

2. Edwin Tsaturyan, Respondent herein, is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code. Respondent was licensed by the Bureau of Real Estate of the State of California as a real estate salesperson effective June 17, 2002.

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Misdemeanor Conviction

3. On January 21, 2010, Respondent entered the Lancaster Department of Motor Vehicles (DMV) to register a 2007 Mercedes in his name. Respondent produced a document that stated he had purchased the vehicle from Universal Roadside & Tow for \$4,000.00. The document and information given by the Respondent to DMV was false in that there was and is no such company as that stated in the document. Respondent admitted that he entered the Lancaster Department of Motor Vehicles and that he submitted documents that he had signed. As a result of such conduct Respondent was subjected to criminal proceedings resulting in the misdemeanor set forth in Finding 4.

4. On January 17, 2012, in the County of Los Angeles, Superior Court of California, Respondent was convicted of violating Vehicle Code section 20 (false document), a misdemeanor, on his plea of *nolo contendere*. The court found a factual basis for the plea and accepted the plea.¹

Mitigation

5. Respondent's conduct set forth in Finding 3 was the result of inadvertence and not intent. The false document regarding the sale of the 2007 Mercedes were completed by the seller. Respondent – as buyer – failed to exercise due diligence in carefully reviewing all documents before presented them to the DMV.

Rehabilitation and Character

6. As a result of the conviction Respondent was, on January 17, 2012, placed on three years summary probation and fined, sanctions consistent with a "minor" misdemeanor. He has paid fines and is in full compliance with probation. Upon proper petition the probation is subject to early termination and thereafter the misdemeanor is subject to expungement (dismissal).

7. Respondent has suffered no other conviction prior to or subsequent to the misdemeanor. He is presently in compliance with society's norms and rules of civil behavior.

8. Respondent is married and he and his wife are parents of a four year old daughter, Liana. Respondent has stability of family life and does fulfill all familial parental responsibilities and duties.

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¹ The conviction stands as conclusive evidence of Respondent's guilt of the offense. Collateral attack of that conviction in this proceeding is prohibited. *Arneson v. Fox* (1980) 28 Cal. 3rd 440, 449; *Matanky v. Board of Medical Examiners* (1978) 70 Cal. App. 3rd 293, 302.

9. Respondent is presently employed by Century National Insurance as a claims adjuster. He has 10 years work experience as a claims adjuster: six with Century National and four with Explorer Insurance. While so employed he has been honest and trustworthy.

10. Respondent has been a licensee of the Department since 2002 with no record of discipline. He is currently with Pinnacle Estate Properties and employs his license on a part-time basis.

11. Respondent's testimony on his own behalf was open, candid and honest.

LEGAL CONCLUSIONS

Applicable Statutes

1. Business and Professions Code section 490 provides in pertinent part:

(a) . . . a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions or duties of the business or profession for which the license was issued.

(c) . . . a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . .

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2. Business and Professions Code section 10177, subdivision (b) provides:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following. . . .

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(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime substantially related to the qualifications, functions or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under section 1203.4

of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

3. Vehicle Code section 20 provides:

It is unlawful to use a false or fictitious name, or to knowingly make any false statement or knowingly conceal any material fact in any document filed with the Department of Motor Vehicles or the Department of the California Highway Patrol.

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Substantial Relationship

4. California Code of Regulations, title 10, section 2910, provides in part:

- (a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in section 480, (a) (2) or 480, (a) (3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of sections 480 and 490 of the Code if it involves:

- - -

- (4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

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5. The necessary elements of a crime under Vehicle Code section 20, includes any act of misrepresentation to achieve an end. Accordingly, the crime set forth in Finding 4 bears a substantial relationship under California Code of Regulations, title 10, section 2910, subdivision (a)(4), to the qualifications, functions or duties of a real estate licensee.

Application of Law to Facts

6. Respondent's conviction for the substantially related crime set forth in Finding 4 constitutes grounds to discipline her real estate salesperson license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b).

Costs

7. Business and Professions Code section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8. Complainant prays for costs as part of the concluding paragraph (prayer) of the Accusation. However, no evidence was proffered in support of costs. Accordingly, no cause exists for an Order of Costs.

Penalty Considerations

9. The objective of an administrative proceeding relating to licensing is to protect the public and not to punish. *Fahmy v. MBC* (1995) 38 Cal.App. 4th 8107, 817; *Ex Parte Brounsall* (1778) 2 Cowp. 829, 98 Eng.Rep. 1385. In furtherance of the public interest the Bureau has promulgated California Code of Regulations, title 10, section 2912, (Regulation 2012) which sets forth criteria of rehabilitation that have been developed by the Bureau, pursuant to Business and Professions Code section 482, subdivision (a), to evaluate the rehabilitation of a licensee who is subject to disciplinary action on account of a crime or act committed by the Respondent.

10. Respondent remains on probation and the conviction is not yet expunged. However, the sole conviction in his life is more than two years remote. Additionally, by reason of Findings 6 through 11 Respondent has complied with much of the remaining applicable criteria. Respondent has suffered no subsequent conviction and has no history or pattern of wrongdoing. At present, Respondent is a person of good character. Accordingly, by reason of Respondent's positive record of rehabilitation to date, in combination with mitigation (Finding 13), licensure of Respondent, on a restricted status for a two year period is consistent with the public interest.

ORDER

Not Adopted

All licenses and licensing rights of Respondent Edwin Tsaturyan 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 Bureau of Real Estate the appropriate fee for the restricted license within 90 days of 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:

Not Adopted

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 restricted 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 Bureau 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: August 18, 2014


RICHARD J. LOPEZ

Administrative Law Judge
Office of Administrative Hearings

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