

FILED

AUG 28 2014

BUREAU OF REAL ESTATE

By *C. Miller*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Application of

HILDA STEPHANIE VOSKANIAN,

Respondent.

No. H-39275 LA

OAH No. 2014010725

NOTICE

TO: HILDA STEPHANIE VOSKANIAN, Respondent and MARY WORK, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 30, 2014, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 30, 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 July 9, 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 July 9, 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: 8/21/2014

7 REAL ESTATE COMMISSIONER

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BEFORE THE
BUREAU OF REAL ESTATE
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In the Matter of the Application of:

HILDA STEPHANIE VOSKANIAN,

Respondent.

Case No.: H-39275 LA

OAH No.: 2014010725

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 July 9, 2014.

Diane Lee, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Mary Work, Attorney at Law.

Evidence was presented and the matter thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

Parties

1. Complainant Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Statement of Issues in her official capacity.

2. On September 24, 2012, Respondent made application to the Bureau of Real Estate of the State of California for a real estate salesperson license.

Procedure

3. The Department denied the application. Respondent timely requested a hearing. These proceedings are brought under the provisions of section 10100, Division 4 of the Business and Professions Code of the State of California and Government Code sections 11500 through 11528. All jurisdictional pre-hearing requirements have been met by the parties.

Criminal Conviction

4. On June 30, 2006, Respondent and her husband parked their vehicle in a parking lot adjacent to a mobile-phone store in Glendale and entered the store. When they returned to their vehicle a parking attendant (victim) requested a payment of \$5.00. Respondent and her husband engaged in a verbal dispute with the victim and the victim attempted to prevent the couple from leaving in their vehicle by placing a traffic cone in front of the vehicle. Respondent came out of the vehicle and pushed the victim – a vulnerable person aged 75 – to the ground. After a cursory inquiry with the victim about his well-being Respondent and her husband drove away. As a result of Respondent's physical contact the victim died some weeks later. In pertinent sum Respondent pushed the victim, the victim fell to the ground triggering his eventual death. As a result of that conduct, after a jury trial commencing on November 16, 2007 with jury verdict on November 30, 2007, Respondent suffered the conviction set forth in Finding 5.

5. On January 16, 2008, in the Superior Court of California, County of Los Angeles, in Case No. GA066401, Respondent was convicted of violating California Penal Code section 192, subdivision (b) (involuntary manslaughter), a felony.

Aggravation/Mitigation

6. On January 16, 2008, the matter was called for probation and sentence hearing and the Court then found, on the evidence at trial, as follows:

The Court finds the following aggravating circumstances exists in regards to sentencing:

The Defendant (Respondent) left the scene of the crime.

The Defendant did not make appropriate inquiries in regard to the events of the date in question nor did the Defendant report to authorities;

The Defendant did not approach matters in a forthright manner prior to the filing of charges and prior to trial;

And the Defendant did not show remorse.

The Court finds the following mitigating circumstances exists in regards to sentencing:

The Defendant did testify in her defense;

The Defendant is currently pregnant and has a small child under her care;

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Rehabilitation, Character and Fitness

7. As a result of the conviction Respondent was placed on five years formal probation, ordered to serve four months house arrest, ordered to complete 52 weeks of anger management, ordered to perform 2000 hours of community service, and fined in various amounts.

8. Respondent timely and fully complied with all Court ordered sanctions. Accordingly, on June 25, 2011, the Court ordered as follows:

Probation is ordered terminated pursuant to section 1203.3 Penal Code. Plea of guilty or conviction is set aside. A plea of not guilty is entered. Case is dismissed pursuant to section 1203.4 Penal Code.

9. Respondent is well-educated having a BA degree in Psychology from UCLA (1999) and an MBA from Pepperdine (2004). She seeks employment as a Real estate Licensee in order to contribute to the family while she fulfills parenting duties.

10. Respondent is in a stable marriage of eleven years. She and her husband Oshin Grigorian are parents of two children Erik, a second-grader aged 8 and Liana, in kindergarten, aged 6. Respondent has stability of family life and fulfills all familial and parental duties. Both of Respondent's parents and Mr. Grigorian accompanied Respondent to the hearing for familial support.

11. Since the time of her conviction Respondent has been active as a valued volunteer in schools attended by her children as demonstrated to by credible attestations, one of which follows:

Hilda Voskanian, the mother of one of my students, has over the 2013/2014 school year, volunteered in my first -grade classroom on a once-a-week basic. During her visits to my classroom her duties have included testing students on math facts, listening to students read stories in preparation for their online comprehension assessments, and preparation of materials for lessons and homework assignments. I have found her to be prompt and professional in her volunteer duties, which has helped me and all students in my classroom.

Respondent also has been a volunteer coordinator in a U6 Girls soccer program for the American Youth Soccer Organization (AYSO)'s Regional 88 program in the Glendale/La Crescenta area for a girls team under 6 years old. By virtue of her volunteer work

Respondent has significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

12. Two persons, Keith Fraser and Atina Martiros, both attorneys with knowledge of Respondent's present character proffered credible character testimony on Respondent's behalf. Both, aware of the conviction, credibly opined that Respondent is honest, ethical and trustworthy.

13. A number of family members and friends familiar with Respondent's conviction and with her subsequent productive present proffered character letters on Respondent's behalf. The following from Talim Halabi, dated May 28, 2014, is a credible exemplar of the letters.

I am a government attorney and have been practicing law since 2002.

I have known Hilda Voskanian for over 30 years. We were close friends in elementary school and have continued to keep in touch since then. Now, we often meet periodically with other friends who attended elementary school with us. Hilda and I also have "play dates" for our kids as we each have 2 children who are close in age and enjoy playing with each other.

I have always admired Hilda because she is extremely bright, intelligent and hard-working. She is also a caring and nurturing mother to her two children.

Having known Hilda for over thirty years, I find it extremely hard to believe that the incident, which occurred in 2006 and resulted in her conviction, ever took place. She is not now, or at any time during the 30 years that I've known her, been a type of person who would intentionally hurt another person. Apparently, the Court which convicted her also understood the circumstances of that occurrence as one of involuntary, without any malice and entirely accidental.

Nevertheless, I know that the 2006 incident has had a profound impact on Hilda. I know she is very remorseful for what occurred and accepts that she can not change the past. She is determined, however, to improve herself and be a positive influence on her family and friends.

Since the incident, she has become a much more careful person, in terms of her dealings and communication with people. She is also a much more gentle and calmer person.

Hilda has excellent communication skills, is motivated, responsive and a hard-working person. She greatly enjoys working with and meeting new people. She is very passionate about real estate, and the prospect of being able to help others find homes.

Based upon my review of the Statement of Issues, I understand that Hilda's request for issuance of a real estate license has been challenged. For the reasons set forth above, I respectfully request that the Commissioner issue Hilda her license and allow her to continue to improve her life and become a better and more productive individual.

14. Respondent did complete the necessary pre-examination RE Courses and did take and pass the RE licensing examination. She also has completed at least 29 Training/Seminar Courses offered by a number of entities including her prospective employer Prudential California Realty – Glendale (Prudential). Accordingly, Respondent has completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.

15. Respondent's sponsoring Real Estate Broker, Vazrik Bonyadi of Prudential who is aware of Respondent's conviction proffered the following credible testimony:

I am the Broker/Owner of Prudential California Realty, with over 20 years of history in the real estate industry serving in the capacity of Sales, Brokerage and Director/Volunteer with Local and State Realtor organizations, such as C.A.R., Glendale Association of Realtors, and more. I first met Hilda over three years ago, and I was very impressed by her desire to work in the real estate field, and more importantly with her determination to provide a good life for her family. Around the time of our introduction, Hilda began attending Real Estate Licensing classes held in our office.

Hilda has discussed her application to become licensed as a real estate salesperson with me. I am aware of the conviction that she has on her record. I also understand that the Bureau of Real Estate requires proof of rehabilitation when someone applies for a real estate license and has any criminal conviction

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in their background. Hilda has completed her probation, she is a regular volunteer where her children attend school and she volunteers with their sports teams.

I am satisfied that the situation leading to her conviction was an isolated event. I hope that you will agree to grant Hilda a license, even if it is initially a probation license, so that she may become employed and help to support her family. I am happy to become Hilda's broker of record once she is granted the right to work as a real estate salesperson.

Mr. Bonyadi further testified that he would provide supervision over Respondent should she be granted a restricted license and that he has management teams in place to provide competent mentoring to Respondent during the period of probation.

16. During the course of her counseling at Glendale Counseling Center to fulfill the 52 week Court mandate Respondent has, upon reflection, accepted responsibility for her wrongful conduct leading to the death of another and has voluntarily continued counseling. At the time of the hearing, by testimony and demeanor, she did demonstrate remorse and contrition for her conduct. She has a change in attitude as demonstrated by her own testimony, the testimony of her husband, and the testimony of Mr. Fraser and Ms. Martiros. Respondent is, presently a socially and professionally responsible person of good character.

Supplemental Finding

17. Approximately three and one-half years ago on December 2, 2009, the California Department of Insurance issued an Order of Summary Denial denying Respondent's application for a license to act as a life-only agent and as an accident and health agent. The denial, without hearing, was based upon Respondent's felony conviction set forth in Finding 5.

LEGAL CONCLUSIONS

1. Penal Code section 192 provides:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

- (a) Voluntary - - upon a sudden quarrel or heat of passion.
- (b) Involuntary - - in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an

unlawful manner, or without due caution and
circumspection. This subdivision shall not apply
to acts committed in the driving of a vehicle.

2. A necessary element of a conviction under Penal Code section 192, subdivision (b) includes the threat of doing substantial injury to the person or property of another. Accordingly, the crime bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee.¹

Application of Law to Facts

3. Cause exists for denial of Respondent's application for a real estate license pursuant to Business and Professions Code section 475, subdivision (a)(2), 480, subdivision (a) and 10177, subdivision (b) by reason of Finding 5 in combination with Legal Conclusion 2.

Disposition

4. The objective of license application proceedings is to protect the public, the licensed profession, maintain integrity, high standards, and preserve public confidence in licensees of the Department.² The purpose of proceedings of this type is not to punish Respondent. In particular, the statutes relating to Board licensees are designed to protect the public from any potential risk of harm. The law looks with favor upon those who have been properly rehabilitated.

5. Respondent's conduct leading to the felony is severe. However, Respondent's conduct occurred 8 years ago and Respondent is now a socially and professionally responsible person. She has fully met or has substantially met all criteria of rehabilitation as set forth in the Bureau's criteria of Rehabilitation³ by reason of Findings 7 through 16. Accordingly, a restricted license under the supervision of her sponsoring broker is consistent with the public interest.

ORDER

Respondent's application for a real estate salesperson license is denied; provided, however; a restricted real estate salesperson license shall be issued to Respondent pursuant to section 10153.5 of the Business and Professions Code. The restricted license issued to the

¹ California Code of Regulations, Title 10, section 2910, subdivision (a)(8).

² *Camacho v. Youde* (1975) 95 Cal.App3rd, 165; *Clerical v. Department of Motor Vehicles* (1990) 224 Cal.App.3rd 1016, 1030-1031; *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 816.

³ CCR, Title 10, section 2911.

Respondent shall be subjected 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 said Code:

1. The license shall not confer any property right in the privileges to be exercised and the Real Estate Commissioner may be appropriate Order suspend the right to exercise any privileges granted under this restricted license in the event of:

- (a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or
- (b) The receipt of evidence that Respondent has violated provisions of California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

2. 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 attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to Respondent.

3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

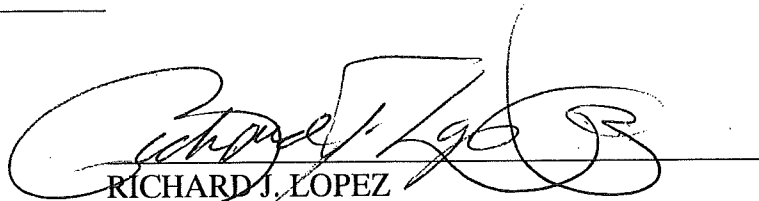
- (a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and
- (b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent's restricted real estate salesperson's license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in section 10153.5, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

Not adopted

5. Pursuant to section 10154, if Respondent has not satisfied the requirements for an unqualified license under section 10153.5, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to section 10153.5 until four years after the date of the issuance of the preceding restricted license.

Dated: July 30, 2014


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

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