

**FILED**

JAN - 8 2015

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of  
  
GISELLE PALUMBO,  
  
Respondent.

) CalBRE No. H-39537 LA  
)  
) OAH No. 2014080409

DECISION

The Proposed Decision dated December 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.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision:

Proposed Decision, Page 1, Paragraph 2, Line 1, "Dianne" is amended to read "Diane".

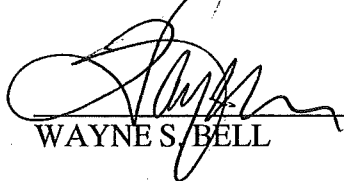
The Decision suspends or revokes one or more real estate licenses.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty 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 JAN 28 2015.

IT IS SO ORDERED 12/29/2014.

REAL ESTATE COMMISSIONER

  
WAYNE S. BELL

BEFORE THE  
BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation  
Against:

GISELLE PALUMBO,

Respondent.

Case No. H-39537 LA

OAH No. 2014080409

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on December 1, 2014, in Los Angeles. The record was closed and the matter submitted for decision at the conclusion of the hearing.

Judith Vasan and Dianne Lee, Real Estate Counsel, represented Veronica Kilpatrick, Deputy Real Estate Commissioner (Complainant), Bureau of Real Estate (Bureau), State of California.

No appearance was made by or on behalf of Giselle Palumbo (Respondent), despite timely and appropriate notice of the hearing.

**FACTUAL FINDINGS**

*Parties and Jurisdiction*

1. Complainant brought the initial and First Amended Accusations in her official capacity. Respondent previously submitted a Notice of Defense, which requested a hearing to contest the charges asserted in the initial Accusation. By operation of Government Code section 11507, Respondent was not required to submit a Notice of Defense in response to the subsequently filed First Amended Accusation.

2. On September 12, 2002, Respondent was issued a conditional real estate salesperson license by the Department of Real Estate (as the Bureau was formerly known before a reorganization of state government). The reason the license was issued on a conditional basis was not established.

3. At a time not established, Respondent's license became unconditional. It is scheduled to expire on June 6, 2015, unless renewed or disciplined.

*Respondent's Conviction & Failure to Report the Filing of the Criminal Case*

4. On August 9, 2013, in the Superior Court of California, County of Riverside, a Felony Complaint and Notice to Appear was filed against Respondent alleging that she violated Welfare and Institutions Code section 10980, subdivision (c)(2) [willfully and knowingly making a false statement or representation in order to obtain welfare aid] and Penal Code section 118 [perjury on quarterly eligibility/status report forms], both felonies.

5. A. On September 5, 2013, in the aforementioned criminal case, Respondent agreed to a plea bargain, in which she pled guilty to, and was convicted of, one misdemeanor count of violating Penal Code section 487, subdivision (a) [grand theft of money or property exceeding a value of \$950].

B. Imposition of sentence was suspended, and Respondent was placed on summary probation for three years, under terms including that she pay unspecified fines and fees, as well as restitution in the amount of \$2,732 to the victim of her crime, the Riverside County Department of Public Social Services (DPSS).

C. Respondent has fully paid the restitution. She remains on probation.

6. The circumstances underlying this crime were established by the Declaration of Investigator Adam Kirk in Support of an Arrest Warrant, as well as his Initial Report dated June 17, 2013. In 2010, Respondent applied for and received food stamp assistance from the DPSS. When applying for those benefits, Respondent was advised by DPSS, and acknowledged to them, that she was required to truthfully and accurately report any household income. In both August and November of 2011, Respondent submitted reports signed under penalty of perjury stating that she was not employed and received no income in those months. In fact, Respondent had been employed by and received income from Apple One from July 2011 through December 2011. When Investigator Kirk later interviewed Respondent, she ultimately admitted that she "messed up and has to face the consequences."

7. Respondent's 2013 grand theft conviction is substantially related to the qualifications, functions or duties of a real estate licensee, pursuant to California Code of Regulations, title 10, section (Regulation) 2910, subdivisions (a)(1) ["fraudulent taking, obtaining, appropriating or retaining of funds"], (a)(2) ["uttering of a false statement"], (a)(4) ["the employment of . . . fraud, deceit, falsehood or misrepresentation to achieve an end"], and (a)(8) ["doing of any unlawful act with the intent of conferring a financial or economic benefit"]. Respondent engaged in welfare fraud by knowingly stating under penalty of perjury that she was not employed or receiving income when, in fact, she was employed and had received income.

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8. As of October 13, 2014, when the First Amended Accusation was drafted, Respondent failed to report to the Bureau the filing of the aforementioned Felony Complaint and Notice to Appear, though she was required to pursuant to Business and Professions Code section 10186.2, subdivisions (a) and (b).

9. Respondent has provided no explanation for her failure to report the Felony Complaint and Notice to Appear.

*Other Relevant Facts*

10. In mitigation, Respondent has no prior record of discipline with the Department. In aggravation, Respondent failed to appear at the hearing and explain her actions. Her absence also meant that no evidence was presented indicating that she meets the criteria developed by the Bureau for evaluating the rehabilitation of a licensee following a criminal conviction, as set forth in Regulation 2912, except that the Bureau presented evidence establishing that she has fully paid the restitution imposed on her as part of her probation (criterion g).

*Costs*

11. The Bureau has incurred costs totaling \$968.45 investigating and prosecuting this matter.

LEGAL CONCLUSIONS

1. *Cause for Discipline.* The crime for which Respondent was convicted in 2013 is substantially related to the qualifications, functions, or duties of a licensed real estate salesperson, and therefore constitutes cause for the suspension or revocation of Respondent's licenses and licensing rights under Business and Professions Code sections 490 and 10177, subdivision (b). (Factual Findings 1-7.)

2. *Cause for Discipline.* Respondent's failure to report the bringing of the felony complaint against her, when she was required to do so, constitutes cause for the suspension or revocation of Respondent's licenses and licensing rights under Business and Professions Code section 10186.2, subdivisions (a)(1)(A), (a)(2), and (b). (Factual Findings 1-9.)

3. *Disposition.* Cause for serious discipline was established in this case. Respondent engaged in welfare fraud on two occasions, resulting in the loss of \$2,732 to the public welfare system. Compounding things, Respondent also failed to disclose the filing of the felony complaint in that case to the Bureau. Respondent failed to appear at the hearing of this matter and explain her actions or prove that she has rehabilitated herself after committing this serious misconduct. Respondent's welfare fraud and failure to disclose required

information to the Bureau undercut the core values of a licensed real estate salesperson. For these reasons, the interests of public protection warrant revocation of Respondent's license. (Factual Findings 1-10.)

4. *Costs.* Business and Professions Code section 10106 provides, in part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Real Estate Commissioner may request the administrative law judge to direct a licensee found to have violated the Real Estate Law to pay the reasonable costs of the investigation and enforcement of the action. In this case, it was established that Respondent has violated the Real Estate Law and that the Bureau has incurred reasonable costs in the investigation and enforcement of this matter in the amount of \$968.45. (Factual Finding 11.)

ORDER

All licenses and licensing rights of Respondent Giselle Palumbo under the Real Estate Law are revoked.

Within 30 days of the effective date of this Decision, Respondent Giselle Palumbo shall pay to the Bureau of Real Estate costs in the amount of \$968.45.

DATED: December 16, 2014



ERIC SAWYER,  
Administrative Law Judge  
Office of Administrative Hearings