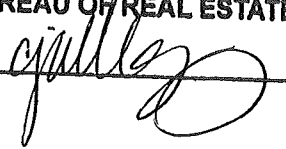


FILED

APR - 1 2015

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

YEO HYUNG YOON,

Respondent.

) CalBRE No. H-39568 LA

) OAH No. 2014100598

DECISION

The Proposed Decision dated February 27, 2015 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:

Page 8, Order, paragraph 7, "Post Office Box 187000, Sacramento, CA 95818-7000" shall read: "Post Office Box 137013, Sacramento, CA 95813-7013".

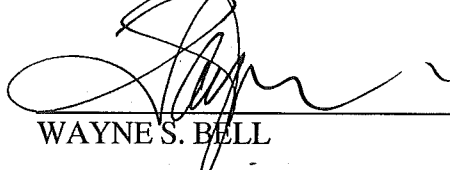
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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 APR 21 2015.

IT IS SO ORDERED 3/27/2015

REAL ESTATE COMMISSIONER


WAYNE S. BELL

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

In the Matter of the Accusation of

YEO HYUNG YOON,

Respondent.

Case No. H-39568 LA

OAH No. 2014100598

PROPOSED DECISION

This matter came on regularly for hearing on February 5, 2015, at Los Angeles, California, before Caroline A. Zuk, Administrative Law Judge, Office of Administrative Hearings, State of California.

Robin Trujillo (Complainant) was represented by Amelia V. Vetrone, Counsel, Bureau of Real Estate (Bureau).

Yeo Hyung Yoon (Respondent) was present and was represented by Frank M. Buda, Attorney at Law.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant, a Deputy Real Estate Commissioner of the State of California, made the Accusation while acting in her official capacity.
2. On June 18, 2008, the Bureau's predecessor, the Department of Real Estate, issued real estate salesperson license number 01847524 to Respondent, which will expire on June 18, 2016, unless renewed. (Exh. 2.)
3. On April 19, 2013, in the Superior Court of California, County of San Bernardino, in Case Number MWV1201060, Respondent was convicted, on his plea of nolo contendere, of violating Penal Code section 484, subdivision (a) (petty theft), a misdemeanor. (Exh. 3.)

4. On April 19, 2013, pursuant to the plea bargain agreement, the court withheld judgment and granted a conditional release for two years, subject to payment of fines in the total amount of \$745.00, due in installment payments to the court by August 1, 2014, and Respondent's agreement to violate no law.

5. The facts and circumstances underlying the conviction are that on November 23, 2011, Respondent, then 50 years old, entered a Costco with a real estate agent who was a co-worker. Respondent stole a camera valued at \$300.00, and was arrested at the store. Respondent admitted to the arresting officer that he had stolen the camera but denied having any personal identification on him. The officer discovered that Respondent did, in fact, possess his driver's license.

6. The date of the theft, November 23, 2011, occurred on Respondent's twentieth wedding anniversary. At that time, Respondent was under stress, because his wife had recently undergone surgery for removal of her uterus related to cancer, and he was also experiencing financial difficulties. Respondent wanted to give his wife the camera as an anniversary gift.

7. Respondent's theft is substantially related to the qualifications, functions and duties of a real estate salesperson.

8. Respondent failed to report the conviction to the Bureau within 30 days pursuant to Business and Professions Code section 10186.2, subdivision (a)(1). He did not know he was required to do so.

9. On June 24, 2013, he completed a Conviction Detail Report for the Bureau. Prior to completing the report, Respondent had tried to contact the Bureau several times by telephone but was unable to speak directly with a representative, because he was disconnected, placed on hold or routed to voicemail.

10. Respondent has complied with the terms of his probation, which will expire on April 16, 2015. On May 10, 2013, Respondent made an initial fine payment of \$710.00, and on September 4, 2014 (one month late), he made a final payment of \$35.00, for a total of \$745.00. (Exhs. 3, F.)

11. The petty theft was an isolated incident. Respondent has not been convicted of any other crimes. Respondent's conviction has not yet been expunged. On January 30, 2015, he filed a motion to terminate his probation and expunge the conviction and is waiting for a hearing date. (Exh. E.)

12. Respondent has been married to the same spouse for 24 years. He does not have any children. Respondent has a good relationship with his wife and is committed toward her needs, including being solely responsible for paying all household expenses and her on-going medical expenses without the benefit of medical insurance.

13. Respondent is active in two community groups. He has been an Executive Member of the Korean American Real Estate Professional Association for five years where he assists with the planning of charitable activities, such as educational grants for the association's children. Approximately six months ago, he joined the Southern California Chamber of Commerce as an Executive Vice President/COO, which is still in the process of being organized. (Exhs. B, C and 5 at p. 2.)

14. Respondent has regularly attended Sunday service at Calvary Chapel in Chino Hills for the past four years.

15. Respondent participates in continuing education classes each year through his broker Edward Sohn of Team Spirit Realty, Inc. On December 1, 2014, he earned a Certificate of Completion from Team Spirit for successfully completing a "Top Producer Course," which provided training on contracts, new rules and regulations, and ways to serve clients.

16. During the past five years, Respondent has completed 60 real estate transactions under the same broker, Mr. Sohn, without any complaints.

17. Respondent was deeply remorseful for his criminal conduct. Respondent credibly expressed shame and contrition for his misconduct. His demeanor was consistent with his testimony. He displayed minimized body posture, halting speech, a flushed face, and tears. He admitted several times that there was no excuse for his conduct, that he was fully responsible for the crime and that he was very ashamed, especially considering that he had taught children at church not to steal. Respondent was adamant that he will never re-offend. He will never be able to forgive himself for the crime; it will always be a "red letter on his heart."

18. Respondent submitted a letter of support from his current employing broker, Mr. Sohn, who knows him well, and also knows about Respondent's conviction and failure to report the conviction to the Bureau. Mr. Sohn fully trusts Respondent, finds him to be honest, ethical and professional, and believes that Respondent would never harm a real estate client. Mr. Sohn has observed a change in attitude in Respondent's attitude as reflected in Respondent's shame, acknowledgement of wrongdoing, and efforts to change his life. Mr. Sohn is willing to permit Respondent to continue to work in his office under his close supervision.

19. Respondent submitted a letter of support from his wife, Christianne Yoon, who has known Respondent for over 30 years. She praised her husband for his generosity, honesty and good character. She believes that Respondent has learned a very hard lesson, and that he is very sorry and ashamed and will never re-offend.

LEGAL CONCLUSIONS

1. Jurisdiction was established to proceed in this matter pursuant to section 10175 of the Business and Professions Code,¹ based on Factual Findings 1 and 2.
2. Respondent has been convicted of a crime of moral turpitude per se, based on Factual Findings 3 through 6, and *In Re Rothrock* (1944) 25 Cal.2d. 588. A crime of dishonesty is substantially related to the duties, functions and qualifications of a real estate licensee. Respondent's conviction is substantially related to the duties, qualifications, and functions of a real estate licensee, pursuant to California Code of Regulations (CCR), title 10, section 2910, subdivisions (a)(1) and (a)(8), and (a)(10), based on Factual Findings 3 through 6.
3. Based on Factual Findings 1 through 6 and Legal Conclusions 1 and 2, cause has been established to discipline the real estate salesperson's license held by Respondent, pursuant to sections 490 and 10177, subdivision (b), for conviction of a crime.
4. Under Business and Professions Code section 482, subdivision (b), and California Code of Regulations, title 10, section 2912, the Bureau has adopted criteria for the purpose of evaluating the rehabilitation of a licensee who has been convicted of a crime. The relevant criteria are quoted as follows:
 - 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 of the Bureau. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the Bureau.)
 - b. Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
 - c. Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
 - d. ...
 - e. Successful completion or early discharge from probation or parole.
 - f. ...
 - g. Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

¹ All further statutory references shall be to the Business and Professions Code unless otherwise noted.

h. . . .

i. 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 or convictions in question.

j. Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

k. Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.

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

m. Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

1. Testimony of applicant.

2. Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.

3. . . .

4. . . .

5. Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

5. Rehabilitation is a state of mind and the law looks with favor upon one who has achieved reformation and regeneration with the reward of the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent bears the particular burden of establishing rehabilitation sufficient to compel his licensure. (*In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.)

6. The purpose of proceedings of this type is to protect the public, and not to punish an errant licensee. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786.)

7. Respondent sincerely accepted responsibility for his crime, and fully acknowledged his wrongdoing without hesitation or qualification. Respondent has substantially completed his probation, which expires on April 19, 2015, and has paid all fines. Since the stolen camera was recovered at the time of arrest, Respondent was not required to make restitution. The criminal conviction was an isolated incident in an otherwise unblemished real estate career. During the past five years, Respondent has completed 60 real estate transactions under the same broker, Edward Sohn, without any complaints. Mr. Sohn found Respondent to be honest, ethical and professional, and believes that Respondent would never harm a real estate client. Respondent's change in attitude is reflected in his deep shame, his sincere and full acknowledgement of his wrongdoing, his engagement with community and professional developmental activities, an unblemished record of real estate transactions, and his emotional and financial commitment to his ill wife. Taken together, Respondent has met sufficient guidelines as detailed above to demonstrate rehabilitation and justify the issuance of a restricted salesperson license.

8. Under Business and Professions Code section 10186.2, subdivision (a)(1), a Bureau licensee is required to report, within 30 days, the "conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor." The failure by a licensee to make the required report "shall constitute a cause for discipline" under Business and Professions Code section 10186.2, subdivision (b).

9. Honesty and integrity are characteristics of paramount importance in a real estate licensee because the licensee has access to the homes and financial information of members of the public. In *Golde v. Fox* (1979) 98 Cal.App.3d 167, 176-178, the court stated:

[T]here is more to being a licensed professional than mere knowledge and ability. Honesty and integrity are deeply and daily involved in various aspects of the practice. . . . The real estate profession has, over a period of years, excluded unfit persons and as a result thereof an appreciable amount of public trust and confidence has been built up. The public exposing themselves to a real estate licensee has reason to believe that the licensee must have demonstrated a degree of honesty and integrity in order to have obtained such a license.

10. Cause exists to discipline Respondent's license and license rights pursuant to Business and Professions Code section 10186.2, subdivisions (a) and (b), for failure to report the conviction, for the reasons set forth in Factual Findings 3, 4, 5, and 8 and Legal Conclusion 8.

11. Considering that during the past 5 years Respondent has completed 60 real estate transactions under the same broker, Mr. Sohn without any complaints, and that Mr. Sohn fully trusts Respondent, finds him to be honest, ethical and professional, and believes

that Respondent would never harm a real estate client, a properly-conditioned restricted license should accomplish the purpose of protecting the public regarding Respondent's honesty and integrity as a real estate professional.

ORDER

1. All licenses and licensing rights of Respondent Yeo Hyung Yoon 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:

2. 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.

3. 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.

4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for 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.

5. 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 Department 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 to activities for which a real estate license is required.

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6. 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 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

7. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

Dated: February 27, 2015


CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings