

FILE

OCT 19 2015

BEFORE THE BUREAU OF REAL ESTATE

BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

By Shakara Cannon

In the Matter of the Accusation of
SHAKARA M CANNON,
Respondent.

) CalBRE No. H-39676 LA
)
) OAH No. 2015050101
)

DECISION

The Proposed Decision dated September 10, 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.

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 NOV 09 2015.

IT IS SO ORDERED 10/12/2015.

REAL ESTATE COMMISSIONER

Wayne Bell
WAYNE BELL

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

In the Matter of the Accusation of:

SHAKARA M. CANNON,

Respondent.

Case No. H-39⁶⁷⁶~~767~~ LA

OAH No. 2015050101

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on August 11, 2015.

Julie L. To, Staff Counsel, represented Complainant Maria Suarez, Deputy Real Estate Commissioner in the Bureau of Real Estate (Bureau).

Respondent Shakara Cannon represented herself.

Oral and documentary evidence was received at the hearing. The record was left open until August 14, 2015, to allow Respondent to submit a letter from her supervising broker. A letter from John P. Gould and Kenneth W. Davis was received and admitted without objection as Respondent's exhibit D, and the matter was submitted August 14, 2014.

Complainant brings this Accusation to revoke Respondent's real estate salesperson license. For the reasons set out below, the license is revoked.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Accusation in her official capacity.
2. Respondent became licensed as a real estate salesperson on February 16, 2007. The license was renewed in 2015 and expires February 15, 2019. On May 20, 2015, Complainant brought this Accusation to revoke her license, and Respondent timely requested a hearing.

Felony Accusation

3. On July 2, 2012, in the Superior Court of California, County of Los Angeles, case number LA070209, a felony complaint was filed charging Respondent with grand theft (Pen. Code, § 487, subd. (a)), a felony.¹

Criminal Conviction

4. On December 12, 2012, in the Superior Court of California, County of Los Angeles, case number LA070209, Respondent was convicted on her no contest plea of grand theft (Pen. Code, § 487, subd. (a)), a misdemeanor. The court found there was a factual basis for the plea. Respondent was fined \$310, sentenced to 1 day in jail with credit for one day served, ordered to complete 60 days of Probation Adult Alternative Work Service and placed on two years of summary probation.

Failure to Disclose Conviction

5. Respondent did not disclose either the July 2012 felony charge or the December 2012 conviction to the Bureau. Respondent knew about the reporting requirement, which went into effect January 1, 2012, because she remembers reading it. The Bureau learned of the conviction through its own means by April 17, 2013.

Mitigation, Aggravation and Rehabilitation

6. Respondent was convicted for a fraud on Wells Fargo Bank, where she had an account. Three checks, aggregating \$12,870.28, were written to a dormant business entity Respondent had set up in 2008. Respondent testified at hearing that an old friend, with whom she grew up and went to high school, and who was like a brother, borrowed her ATM card because she owed him money. Respondent did not explain why she did not simply pay him back. Respondent testified that she closed the account with the compromised ATM card and opened another one, but it was unclear from her testimony how or why borrowing her ATM card turned into writing checks for thousands of dollars. She testified that her "friend" had the idea of writing checks on the account and claiming that was not responsible, and that he was the instigator of the scheme, and got most of the money. Respondent went along with him, and has never disclosed his name, because she was afraid of him, and believed that when he told her, "We don't snitch," he was threatening her. On the one hand, she let him borrow her ATM card because "he came from Woodland Hills, not Compton," but on the other hand, she feared him because his father was connected with the "Black Mafia" in Detroit, and "some people from Detroit are crazy." Her story is inconsistent and not credible, and shows an unwillingness to take responsibility for her actions.

¹ It also charged her with identity theft (Pen. Code, § 530., subd. (a)), which the Accusation does not allege.

7. Respondent paid the fine and made full restitution to the bank as part of a plea bargain.² On her own motion, the 60 days of work service were converted to 60 days in jail on March 19, 2013. Respondent testified at hearing that she was unable to perform the work service because she worked "set hours;" there was no evidence about how she served the jail time. The conviction was dismissed under Penal Code section 1203.4 on April 30, 2015.

8. Respondent has no other convictions and no history of license discipline.

9. Although Respondent has been licensed more than eight years, she has not worked as a salesperson much of that time. She is now an executive assistant at Rodeo Realty in Beverly Hills. The person she assists is unaware of this proceeding and unaware of conviction, although she submitted letter from him that recommended her in general terms. Respondent does not mention her conviction unless it is necessary. After the hearing, she submitted a letter from the Rodeo Realty branch manager and broker of record, which said "We are aware of the conviction that Shakara Cannon received that has been expunged," without elaborating about what they knew about the nature of the conviction.

10. Respondent is 38 years old. She lives with her 17-year-old daughter, who is about to start college.

Costs

11. Complainant introduced evidence that it incurred \$337.10 in investigation costs, most of it consisting of about 5.05 hours of investigator's time at \$62 per hour. Complainant also introduced evidence that it incurred enforcement costs of \$338.20, consisting of 3.8 hours of attorney Julie To's time at \$89 per hour.³ All these costs are reasonable.

LEGAL CONCLUSIONS

1. There is cause to revoke or suspend Respondent's license under Business and Professions Code sections 490 and 10177, subdivision (b),⁴ as paragraph 5 of the Accusation

² Respondent testified at hearing that she paid about \$13,000 in restitution before entering her plea. The court minutes show a payment of \$9,000 on October 18, 2012, and a request on that date to grant her more time before the next pretrial conference to make full restitution. The minutes do not show another payment and do not mention that an additional payment was required, but the later expungement of the conviction indicates that Respondent paid whatever she was required to pay.

³ The Declaration, signed by Julie To, erroneously says the hours were spent by James A. Demus. The supporting printout of activity hours makes clear that the work was done by To.

⁴ Further references to section or "§" are to the Business and Professions Code, unless preceded by "CCR," which refers to the title 10 of the California Code of Regulations.

alleges. Section 490, subdivision (a) allows a board to revoke a license if 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." Section 10177, subdivision (b), which applies specifically to the Bureau, similarly allows it to revoke a license if the licensee has been convicted of "a crime substantially related to the qualifications, functions, or duties" of a real estate licensee. Theft (Factual Finding 4) is a substantially related crime under CCR section 2910, subdivision (a)(8), because it is an "unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator[.]"

2. As paragraph 9 of the Accusation alleges, there is cause to revoke or suspend Respondent's license under section 10186.2, which requires a licensee to report felony charges and "the conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor" to the Bureau in writing within 30 days of the conviction. Failure to report is cause for discipline. (§ 10186.2, subds. (a) and (b).) Respondent did not report her conviction, or the felony complaint to the Bureau. (Factual Finding 5.)

3. Respondent has the burden of showing rehabilitation. She meets some of the applicable criteria of rehabilitation set out in CCR section 2912:

a. Two years have passed since her conviction. (CCR §2912, subd. (a); Factual Finding 4.)

b. She has paid the fine (CCR §2912, subd. (g); Factual Finding 7) and paid restitution. (CCR §2912, subd. (b); Factual Finding 7.)

c. She has completed probation (CCR §2912, subd. (e); Factual Finding 7), and her conviction has been expunged. (CCR §2912, subd. (c); Factual Finding 7.)

4. Respondent does not meet other criteria of rehabilitation:

a. She has not shown significant involvement in programs designed to provide social benefits or to ameliorate social problems. (CCR §2912, subd. (l).)

b. She has not shown enrollment in "formal education or vocational training courses for economic self-improvement. (CCR §2912, subd. (k).)

c. She has not shown "[n]ew 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[.]" (CCR §2912, subd. (i).)

d. She has not shown a change in attitude from that which existed at the time of the crime. (CCR §2912, subd. (m).) She casts herself as a victim of an unscrupulous, and unnamed, person who took advantage of her because she feared him (Factual Finding 6), and is not forthcoming about her conviction with the people she works with. (Factual Finding 9.)

5. Respondent was convicted of a crime that is very substantially related to the duties and functions of licensees (who must be trusted with money and property), and did not disclose it as required. She was not forthcoming in telling her story. The evidence strongly suggests that her continued licensure would be a threat to the public.

ORDER

1. All licenses and licensing rights of Respondent Shakara M. Cannon under the Real Estate Law are revoked.

2. Before any new or reinstated is issued, Respondent shall pay Complainant its costs of \$675.30.

DATED: September 10, 2015



HOWARD POSNER

Administrative Law Judge

Office of Administrative Hearings