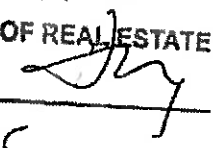


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DEC 14 2017
BUREAU OF REAL ESTATE
By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

TINA LEE,

Respondent.

NO. H-40066 LA

ORDER MODIFYING DISCIPLINARY ACTION
PURSUANT TO JUDGMENT ON WRIT OF MANDATE AND REMAND

On or about October 21, 2016, A Decision After Rejection ("Decision") was rendered revoking all licenses and licensing rights of Respondent TINA LEE (hereinafter referred to as "Respondent"). Said Decision became effective on November 15, 2016.

In connection with the rendering of said Decision, on November 15, 2016, Respondent petitioned the Superior Court of the State of California for the County of Sacramento, in Case No. 34-2016-80002483, for a Writ of Administrative Mandamus to compel the Real Estate Commissioner to vacate and set aside his Decision. On September 18, 2017, a Judgment Granting Petition for Writ of Mandate was issued by the Honorable Christopher

1 Krueger. This Judgment stated that, "The court thus remands this case to the Commissioner to
2 reconsider the penalty in light of this decision."

3 NOW, THEREFORE, IT IS ORDERED that a restricted real estate broker license
4 shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code
5 if Respondent makes application therefor and pays to the Bureau of Real Estate the appropriate
6 fee for the restricted license within 90 days from the effective date of this Order. The restricted
7 license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations, conditions and restrictions
9 imposed under authority of Section 10156.6 of that Code:

10 1. The restricted license issued to Respondent may be suspended prior to
11 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
12 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
13 capacity as a real estate licensee.

14 2. The restricted license issued to Respondent may be suspended prior to
15 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
16 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
17 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
18 license.

19 3. Respondent shall not be eligible to apply for the issuance of an
20 unrestricted real estate license nor for the removal of any of the conditions, limitations or
21 restrictions of a restricted license until two (2) years have elapsed from the effective date of this
22 Order.

23 4. Respondent shall, within nine (9) months from the effective date of this
24 Order, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since
25 the most recent issuance of an original or renewal real estate license, taken and successfully
26 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
27 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the

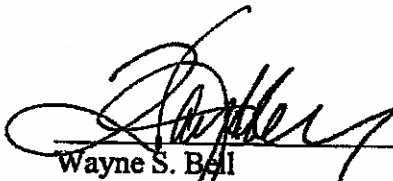
1 Commissioner may order the suspension of the restricted license until Respondent presents such
2 evidence.

3 5. Respondent shall within six (6) months from the effective date of the
4 Decision herein, take and pass the Professional Responsibility Examination administered by the
5 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy
6 this condition, the Commissioner may order suspension of Respondent license until Respondent
7 passes the examination.

8 6. Respondent shall notify the Commissioner in writing within 72 hours of
9 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Flag
10 Section at P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
11 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
12 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
13 constitute an independent violation of the terms of the restricted license and shall be grounds for
14 the suspension or revocation of that license.

15 This Order shall be effective immediately.

16 Dated: 12/11/2017
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Wayne S. Bell
Real Estate Commissioner

FILED

OCT 26 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	Case No. H-40066 LA
	)	OAH No. 2016020842
TINA LEE,	)	
	)	
Respondent.	)	
	)	

DECISION AFTER REJECTION

This matter came on for hearing before Administrative Law Judge Humberto Flores ("ALJ Flores") of the Office of Administrative Hearings, in Los Angeles, California, on May 26, 2016. Steve Chu, Counsel, represented the Complainant, Maria Suarez, Supervising Special Investigator for the State of California Bureau of Real Estate ("Bureau"). Respondent Tina Lee ("Respondent") appeared in person, and was represented by Fredrick Ray, Esq. Oral and documentary evidence were received. The matter was submitted on May 26, 2016.

On or about June 22, 2016, ALJ Flores issued a Proposed Decision.

On or about June 27, 2016, Respondent was served with notice of my determination not to adopt the Proposed Decision of ALJ Flores along with a copy of said Proposed Decision pursuant to California Government Code section 11517(c). Respondent was notified that the case would be decided by me upon the record, the transcript of proceedings held

1 on May 26, 2016, and upon any written argument offered by Respondent and Complainant. On
2 or about September 8, 2016, Respondent filed Respondent's Written Argument After Non-
3 Adoption with the Bureau. On or about September 15, 2016, Complainant filed Complainant's
4 Argument After Rejection of Proposed Decision, and served a copy on Respondent.

5 I have given careful consideration to the record in this case, including, but not
6 limited to, the transcript of the proceedings of May 26, 2016. I have also considered the written
7 arguments submitted by Respondent and Complainant.

8 The following shall constitute the Decision of the Real Estate Commissioner in
9 this proceeding.

10 11 FACTUAL FINDINGS

12 *Background*

13 1. On June 8, 2001, the Bureau issued a real estate broker license (license
14 no. 01311950) to Respondent. Aside from the instant case, there is no history of discipline
15 against Respondent's real estate license.

16 2. On December 10, 2015, Complainant, in her official capacity, signed the
17 Accusation seeking disciplinary action against Respondent's real estate broker license. The
18 Accusation alleged that Respondent was convicted of violating California Penal Code section
19 487(a) (grand theft), a misdemeanor, and this conviction was substantially related to the
20 qualifications, functions, or duties of a real estate licensee.

21 22 *Conviction*

23 3. On August 5, 2015, in the Superior Court of California, County of
24 Orange, Respondent pled guilty to violating California Penal Code section 487(a) (grand theft),
25 a misdemeanor. Imposition of sentence was suspended, and Respondent was sentenced to three
26 (3) years of informal probation on certain terms and conditions, including, but not limited to,

1 paying fines and fees totaling \$1,200, complete 15 days of Cal Trans/physical labor as directed
2 by OneOC by February 1, 2016, pay restitution to the victim with 10 percent interest from date
3 of loss, pay \$500 to the Victim Witness Emergency Fund by September 4, 2015, and stay 100
4 yards away from all Saks Fifth Avenue in California.

5 4. On November 20, 2015, probation was revoked based to Respondent's
6 failure to pay restitution.

7 5. According to court documents (Exhibit 3), on December 11, 2015, the
8 court reinstated informal probation, and ordered Respondent to set up a payment plan with the
9 Victim Witness Emergency Fund, and the amount owed was \$7,750.62 plus a \$149.80
10 administration fee.

11 6. On February 16, 2016, the court found Respondent paid the Victim
12 Witness Emergency Fund in full.

13 7. On April 13, 2016, probation was revoked based on Respondent's failure
14 to complete Cal Trans. The court ordered 15 days in jail, stayed pending completion of 15 days
15 of Cal Trans, and that Cal Trans is to be completed by December 30, 2016.

16
17 *Circumstances of the Offense*

18 8. The facts and circumstances underlying the conviction were that on
19 March 1, 2014, Respondent took three (3) items of clothing from Saks Fifth Avenue department
20 store, took them to the fitting room, removed and concealed the tags into her handbag, and
21 walked out of the store without paying for them. The value of the stolen clothing was
22 \$1,993.00.

23
24 *Respondent's Testimony*

25 9. Respondent immigrated to the United States when she was approximately
26 28 or 29 years old.

1 10. Respondent was an anesthesiologist in China for four (4) years, but she is
2 not licensed to practice medicine in the United States. For income in the United States,
3 Respondent runs an elderly care facility, which is her family business. She also works at a real
4 estate brokerage, United Realty Corporation, and sells residential real estate. She currently has
5 five or six listings.

6 11. In approximately 2009, Respondent's mother was diagnosed with stage
7 four ovarian cancer, so Respondent gave up her studies to take the medical board so she could
8 practice medicine in the United States, and became the caregiver for her mother. Respondent
9 was very close to her mother. During this time, Respondent cancelled her engagement to her
10 fiancé, and had an abortion. At the end of 2013, Respondent's mother passed away.

11 12. Respondent stole from Saks Fifth Avenue because she was depressed and
12 angry about her own life trajectory as well as her mother's passing.

13 13. Respondent has not yet completed community service. She requested it
14 be extended because she had to care for her father, who suffers from depression and kidney
15 failure. She is his caregiver.

16 14. Respondent sponsors a teenager church group at New Life Church, which
17 has locations in Monterey Park, California, and the Orange County area.

18
19 *Letters in Support*

20 15. Respondent submitted six (6) letters of support. Four (4) out of these six
21 (6) letters were dated a date in March 2014, and were used by Respondent for her criminal case
22 described in Paragraph 3, above. The other two (2) letters were dated a date in May 2016. The
23 writers described Respondent as generous, devoted to her family, kind, and intelligent.

24 ///

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1 *Cost Recovery*

2 16. Pursuant to California Business and Professions Code section 10106,
3 Complainant requested costs of investigation in this matter in the amount of \$628.05 and costs
4 of enforcement in the amount of \$631.90. These costs are reasonable under California Business
5 and Professions Code section 10601.

6
7 LEGAL CONCLUSIONS

8 *Burden and Standard of Proof*

9 1. Complainant bears the burden of proving that the charges in the
10 accusation are true. (California Evidence Code section 115.) The standard of proof in an
11 administrative action seeking to suspend or revoke a professional license is “clear and
12 convincing evidence.” (*Ettinger v. Board of Medical Quality Assurance*, 135 Cal. App. 3d 853,
13 856 (1982).) Clear and convincing evidence requires a finding of high probability, or evidence
14 so clear as to leave no substantial doubt; it requires sufficiently strong evidence to command the
15 unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court*, 130 Cal.App.4th
16 586, 594 (2005).)

17
18 *Relevant Statutory Authority*

19 2. California Business and Professions Code section 490 provides in
20 relevant part:

21 (a) In addition to any other action that a board is permitted to take
22 against a licensee, a board may suspend or revoke a license on the ground
23 that the licensee has been convicted of a crime, if the crime is substantially
24 related to the qualifications, functions, or duties of the business or
25 profession for which the license was issued.

26 (b) Notwithstanding any other provision of law, a board may exercise
27 any authority to discipline a licensee for conviction of a crime that is
independent of the authority granted under subdivision (a) only if the
crime is substantially related to the qualifications, functions, or duties of
the business or profession for which the licensee's license was issued.

1
2 3. Pursuant to California Business and Professions Code section 10177(b),
3 the Commissioner may suspend or revoke a license if the licensee has been convicted of a
4 felony, or a crime substantially related to the qualifications, functions, or duties of a real estate
5 license.

6
7 *Substantial Relationship*

8 4. California Business and Professions Code section 481 provides:

9 Each board under the provisions of this code shall develop criteria to aid it, when
10 considering the denial, suspension or revocation of a license, to determine
11 whether a crime or act is substantially related to the qualifications, functions, or
12 duties of the business or profession it regulates.

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

14 (a) When considering whether a license should be . . . suspended or
15 revoked on the basis of the conviction of a crime . . . the crime . . . shall be
16 deemed to be substantially related to the qualifications, functions[,] or
17 duties of a licensee of the Department within the meaning of Sections 480
18 and 490 of the [California Business and Professions] Code if it involves:

19 [¶] . . . [¶]

20 (8) Doing of any unlawful act with the intent of conferring a
21 financial or economic benefit upon the perpetrator or with the
22 intent or threat of doing substantial injury to the person or property
23 of another.

24 *Cause Exists to Impose Discipline*

25 6. Cause exists to revoke or suspend Respondent's license pursuant to
26 California Business and Professions Code sections 490(a) and 10177(b). Clear and convincing
27 evidence established Respondent's conviction for grand theft was a crime substantially related
to the qualifications, functions, or duty of a licensee. Respondent took \$1,993.00 worth of
clothing from a department store without paying for it. (Cal. Code Regs., tit. 10, § 2910, subd.
(a)(8).)

1 *Measure of Discipline*

2 7. The purpose of an administrative proceeding seeking the revocation or
3 suspension of a professional license is not to punish the individual; the purpose is to protect the
4 public from dishonest, immoral, disreputable, or incompetent practitioners. (*Ettinger v. Board*
5 *of Medical Quality Assurance*, 135 Cal.App.3d 853, 856 (1982).)

6 8. California Code of Regulations, title 10, section 2912 sets forth the
7 Bureau's criteria of rehabilitation required by California Business and Professions Code section
8 482. Respondent suffered a single conviction for grand theft. Less than two years have passed
9 since Respondent's conviction. Respondent's probation was revoked twice due to probation
10 violations. Probation was most recently revoked on April 13, 2016 for her failure to complete
11 Cal Trans. Thereafter, the deadline was extended to December 30, 2016, and Respondent has
12 still not completed Cal Trans. Respondent sponsors a teenager church group. Respondent is her
13 father's caregiver.

14 9. Rehabilitation is a state of mind. The law looks with favor on one who
15 has achieved reformation and regeneration. (*Hightower v. State Bar*, 34 Ca1.3d 150, 157
16 (1983).) The absence of a prior disciplinary record is a mitigating factor. (*Chefsky v. State Bar*,
17 36 Ca1. 3d 116, 132, fn. 10 (1984).) Remorse and cooperation are mitigating factors. (*In re*
18 *Demergian*, 48 Ca1.3d 284, 296 (1989).) While a candid admission of misconduct and full
19 acknowledgment of wrongdoing may be a necessary step in the rehabilitation process, it is only
20 a first step. A truer indication of rehabilitation is presented if an individual demonstrates by
21 sustained conduct over an extended period of time that he is once again fit to practice. (*In re*
22 *Trebilcock*, 30 Ca1.3d 312, 315-316 (1981).) Since persons under the direct supervision of
23 correctional authorities are required to behave in exemplary fashion, little weight is generally
24 placed on the fact that such an individual did not commit additional crimes or continue addictive
25 behavior while on probation or parole. (*In re Gossage*, 23 Ca1.4th 1080, 1099 (2000).)

1 10. Respondent was convicted of grand theft. Although Respondent's life
2 circumstances these past few years were unfortunate, Respondent did not provide sufficient
3 evidence to show she would not commit such a crime again. She continues to have the same
4 stressors that she attributes as the reasons she committed grand theft. In fact, she testified she
5 still bears the burden of caring for an ill parent. Also, just earlier this year, she failed to meet a
6 term of probation because of that responsibility. Respondent did not provide any evidence she
7 has learned to handle the stresses in her life in a way that does not violate the law or a term of
8 probation. Respondent has failed to demonstrate she has been sufficiently rehabilitated. It
9 would not be in the public interest for her to hold a real estate license.

10 *Government Code § 11517(c)*

11 11. Contrary to Respondent's assertions, the Bureau complied with the
12 provisions of Government Code § 11517(c)(2)(E)(i). This code section states "A copy of the
13 record shall be made available to the parties. The agency may require payment of fees covering
14 direct costs of making the copy." The Bureau made the file for Case No. H-40066 LA available
15 to Respondent for discovery prior to hearing. Respondent reviewed and copied the file on May
16 11, 2016. On the hearing date, the Bureau provided Respondent with copies of its exhibits.
17 Therefore, Respondent received copies of all documents entered into the record on at least two
18 occasions. At the conclusion of the administrative hearing, the court reporter provided
19 Respondent with paperwork for ordering a copy of the transcript. On September 1, 2016, the
20 Bureau offered Respondent another opportunity to perform discovery on its file, which included
21 the transcript. Therefore, Respondent was not "denied a copy of the transcript".

22 12. Respondent was also not denied the opportunity to submit written argument
23 regarding this Decision After Rejection. The Bureau sent a letter on August 24, 2016 which
24 stated "you will have fifteen days from the date of this letter within which to submit any written
25 argument." This timeframe was set forth to ensure the Commissioner has sufficient time to
26 review all arguments prior to issuing a Decision After Rejection. Respondent's argument was
27

1 received and has been reviewed prior to issuance of this Decision. There has been no ex-parte
2 communication between Bureau counsel and the Commissioner in this matter.

3 *Costs of Investigation and Enforcement*

4 13. Complainant is seeking recovery of the reasonable costs of prosecution.
5 *Zuckerman v. State Board of Chiropractic Examiners*, 29 Cal.4th 32 (2002) held that a
6 regulation imposing costs for investigation and enforcement under California Code of
7 Regulations, title 16, section 317.5, which is similar to California Business and Professions
8 Code section 10106, did not violate due process. However, it was incumbent on the board in
9 that case to exercise discretion to reduce or eliminate cost awards in a manner such that costs
10 imposed did not “deter [licensees] with potentially meritorious claims or defenses from
11 exercising their right to a hearing.” Here, the Bureau incurred reasonable investigation and
12 enforcement costs of \$628.05 and \$631.90, respectively, for a total of \$1,259.95 for this matter.

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2. Six (6) months from the effective date of this Decision, Respondent shall
pay \$1,259.95 in investigation and enforcement costs to the Bureau by mailing a cashier's check
to the following address: Bureau of Real Estate, Flag Section, P.O. Box 137013, Sacramento,
CA 95813-7013. If Respondent makes an application or petition to the Bureau, Respondent
shall not be issued a license prior to paying these investigation and enforcement costs in full.

IT IS SO ORDERED



COMMISSIONER

FLAG

FILED

JUL 27 2016

BUREAU OF REAL ESTATE

By AL Deloia

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	CalBRE No. H-40066 LA
	)	
TINA LEE,	)	OAH No. 2016020842
	)	
Respondent.	)	

NOTICE

TO: TINA LEE, Respondent, and FREDRICK M. RAY , her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 22, 2016, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 22, 2016, is attached hereto for your information.

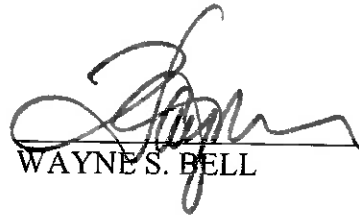
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on May 26, 2016, and any written argument hereafter submitted on behalf 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 May 26, 2016, at the Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

1 Written argument of complainant to be considered by me must be submitted within
2 15 days after receipt of the argument of respondent at the Los Angeles Office of the Bureau of Real
3 Estate unless an extension of the time is granted for good cause shown.

4 DATED: July 24, 2016.

5 REAL ESTATE COMMISSIONER

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WAYNE S. BELL

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

TINA LEE,

Respondent.

Case No. H-40066 LA

OAH No. 2016020842

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on May 26, 2016, in Los Angeles, California.

Complainant was represented by Steve Chu, Counsel for the Bureau of Real Estate (Bureau). Tina Lee (respondent) appeared personally and was represented by Fredrick Ray, Attorney at Law.

Evidence was received and the matter was submitted for decision on May 26, 2016. The Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. Maria Suarez (complainant) made the Accusation in her official capacity as Supervising Special Investigator for the Bureau of Real Estate.
2. Respondent is presently licensed and/or has licensing rights as a real estate broker under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code. Respondent has been licensed since 2001 with no prior discipline.
3. On August 5, 2015, in the Superior Court of California, County of Orange, Case No. 14WM03462, respondent entered a plea of guilty and was convicted of violating Penal Code section 487, subdivision (a), grand theft, a misdemeanor that is substantially related to the duties, functions and qualifications of a real estate salesperson. Imposition of sentence was suspended and respondent was placed on informal probation for three years on certain conditions including, inter alia, that respondent pay fines and fees totaling \$1,200, complete 15 days of Cal Trans work, and pay restitution to the victim. Respondent has paid the court imposed fines, paid restitution to the victim, and completed the Cal Trans work.

4. The facts and circumstances underlying the conviction were that respondent took clothing from a department store, removed the price tags, and left the store without paying for the items. She was detained, arrested, and was released upon signing a promise to appear in the superior court. The department store recovered the items that respondent attempted to steal. Respondent admitted her misconduct and was remorseful for her actions.

5. Respondent established mitigation in that she was suffering from serious depression and stress at the time of the incident. In 2008, respondent's mother was diagnosed with cancer and respondent became her caregiver until her mother died. Respondent was extremely close to her mother and her mother's death had a significant emotional impact on her. Respondent's father was diagnosed with stage three kidney failure prior to the incident and respondent has become his caregiver while continuing to work as a real estate salesperson. In addition, respondent became pregnant prior to the incident. Because of the pressure of being a caregiver for her parents while working as a real estate salesperson, respondent made a painful decision to abort her pregnancy. This decision had a profound effect on respondent.

6. Respondent was an anesthesiologist in China and was studying for the medical board examination when her parents became ill. She testified that her life changed completely when her parents became ill. Her emotional state was such that she does not even know why she attempted to steal the clothes. She is remorseful and ashamed.

7. Respondent has been licensed since 2001. She has not had any previous complaints, nor has she been the subject of prior discipline. Respondent is currently working for United Realty with six current listings. Respondent's only outside activity is her sponsorship of a church teen group at New Life Church in Orange County.

8. Respondent submitted numerous letters from family and friends all of whom attested to respondent's honesty, trustworthiness and kindness.

9. Pursuant to Business and Professions Code Section 10106, complainant requests costs of investigation of this matter in the amount of \$628.05, and costs of enforcement in the amount of \$631.90. These costs are reasonable under section 10601.

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke respondent's real estate salesperson license under Business and Professions Code sections 490, and 10177, subdivision (b), for a misdemeanor conviction that is substantially related to the duties, functions and qualifications of a real estate salesperson pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8).

2. Complainant submitted reasonable costs of investigation under Business and Professions Code section 10106. Therefore, cause exists to grant complainant's request for the costs of investigation and enforcement.

3. California Code of Regulations, title 10, section 2912, sets forth criteria for rehabilitation. The factors set forth in section 2912 are applied 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 department.

Respondent's conviction occurred 11 months ago.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.

Respondent is paying restitution.

(c) Expungement of the conviction or convictions resulting from immoral or antisocial acts.

Respondent's conviction has not been expunged.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of section 290 of the Penal Code.

This factor is not applicable to this case.

(e) Successful completion or early discharge from probation or parole.

Respondent is still on summary probation.

(f) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.

This factor is not applicable in this case.

(g) Payment of any fine imposed in connection with the criminal conviction.

Respondent has paid the fine imposed by the Superior Court.

(h) Correction of business practices responsible in some degree for the crime or crimes for which the licensee was convicted.

This factor is not applicable in this case.

(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.

Respondent's misconduct was an individual act that did not involve social or business relationships.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial.

Respondent has stabilized her family situation. She currently makes sure her father receives appropriate medical care.

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

There was no evidence presented addressing this factor.

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

Respondent sponsors a teen church group at New Life Church.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts. . .

Respondent admitted her misconduct and accepted responsibility for her actions. Further, respondent expressed genuine remorse during her testimony.

3. Respondent satisfied some of the applicable criteria of rehabilitation set forth in regulation section 2912. Respondent has paid the fine in her criminal case and is otherwise completing all terms of her probation. She is remorseful for her misconduct and testified credibly during the hearing. In addition, respondent established substantial mitigation as set forth in Factual Findings 5 and 6. Respondent's conduct on the day of the incident was an aberration from her usual conduct. Recidivism is unlikely. In consideration of all of the facts and circumstances of this case, the public would be adequately protected with an order of revocation and issuance of restricted license under appropriate conditions.

ORDER

All licenses and licensing rights of respondent Tina Lee, 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 thereof 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.

3. 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 three years have elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for a 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 to activities for which a real estate license is required.

5. Respondent shall pay to the Bureau of Real Estate the costs of investigation and enforcement of this matter in the amount of \$1,418.70. In its discretion, the Bureau may allow respondent to pay this amount in installments.

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 Bureau of Real Estate, Post Office Box 137000, Sacramento, California 95813-7000. 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 suspension or revocation of that license.

DATED: June 22, 2016


HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings