

FILED

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

FEB 23 2017

BUREAU OF REAL ESTATE

By *Carl Delano*

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In the Matter of the Application of	)	CalBRE No. H-40360 LA
	)	
MARY CARMEN BELTRAN,	)	OAH No. 2016090834
	)	
	)	
	)	
<u>Respondent.</u>		

DECISION

The Proposed Decision dated January 3, 2017, 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.

Date line, page 5 "January 3, 2016" is amended to read "January 3, 2017".

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. 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 Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on MAR 15 2017

IT IS SO ORDERED 2/13/17

WAYNE S. BELL  
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI  
Chief Deputy Commissioner

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

In the Matter of the Application of:

MARY CARMEN BELTRAN,

Respondent.

Case No. H-40360 LA

OAH No. 2016090834

**PROPOSED DECISION**

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on December 5, 2016.

Diane Lee, Staff Counsel, represented Complainant Maria Suarez, Supervising Special Investigator of the State of California.

Respondent Mary Beltran represented herself.

Oral and documentary evidence was received at the hearing, and the matter was submitted December 5, 2016.

Complainant brings this Statement of Issues to deny Respondent's application for a real estate salesperson license. Respondent has two five-year-old federal convictions arising out of her transporting cocaine, but because she has shown substantial rehabilitation, a restricted license is granted.

**FACTUAL FINDINGS**

*Jurisdiction*

1. Complainant issued this Statement of Issues solely in her official capacity.
2. On October 30, 2015, Respondent applied for a real estate salesperson license. The Bureau denied the application, and Respondent timely requested a hearing.

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### *Criminal Conviction*

3. On May 30, 2012, in the United States District Court for the District of Utah, case number 2:11-cr-00951, Respondent was convicted on her guilty plea of possession of cocaine with intent to distribute (21 U.S.C. § 847(a)(1)), and aiding and abetting an offense against the United States (18 U.S.C. § 2), both felonies. She and another woman were arrested October 25, 2011, while transporting cocaine by car from Los Angeles to Colorado. "Friends" in Los Angeles were paying Respondent \$5,000 for the trip. (The aiding and abetting charge was based on the allegation that Respondent and the other driver aided and abetted each other.) Respondent was fined \$100 and sentenced to 48 months in prison followed by 48 months of supervised release.

### *Mitigation, Aggravation and Rehabilitation*

4. Respondent is 37 years old. She attended Mt. San Antonio College but did not complete her first semester. She got married in 1999, and she and her husband moved to New Mexico that year, then to Texas to run a towing business. They returned to California, where Respondent obtained a real estate salesperson license in 2004. She worked actively in real estate until about 2007. Her license expired April 5, 2012, less than two months before her conviction.

5. In 2008, Respondent and her husband separated. They are still separated, but not legally divorced. Her children from that marriage are 16 and 14. She has a third child who is about seven months old. She does not live with the baby's father. Respondent lives with her children. Her ex-husband is "supportive," but the father of the baby is out of the picture. Respondent's parents and aunt help with the children.

6. In about 2007, Respondent started working at an automobile insurance office, processing new policies and taking payments. She left that job in 2009, and helped her father in his textile business while her husband paid the mortgage on the house where she and their children lived.

7. Respondent testified that in 2010, she started "running with the wrong crowd." She went out to clubs, partied daily, and "thought I was having the time of my life." Alcohol was her "gateway drug," and led to abuse of other drugs. Her husband cut her off financially. Respondent ingested cocaine and methamphetamine the day she was arrested.<sup>1</sup>

8. Respondent paid the fine. While incarcerated in the Federal Correctional Institution in Dublin, California, she completed the 500-hour Residential Drug Abuse Program in August 2013, after which she participated in the facility's Big Sister program as a big sister for about nine months. She also completed a "Trauma in Life" workshop, a correspondence course in drug and alcohol treatment, and a course in using Adobe Illustrator. She took "as many courses as I could" while in prison.

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<sup>1</sup> Respondent disclosed in her testimony that the trip on which she was arrested was her third such trip.

9. After serving 22 months in prison, Respondent was released to a halfway house in June 2014, then to home confinement in September 2014. She has been on parole since December 31, 2014. Her parole will end in December 2018.

10. Respondent has been sober since she was arrested in October 2011. She attended Alcoholics Anonymous and Narcotics Anonymous until her son was born in mid-2016. She no longer associates with the friends from her days of parties and drugs, but has re-established social ties to some of her friends from before that time. She does not go out socially except with family.

11. Respondent has done extensive volunteer work with Los Angeles Dependency Lawyers, Inc., a non-profit organization of attorneys who represent parents in juvenile dependency proceedings. The organization (or its member attorneys) also employs social workers and investigators. Respondent introduced a November 2016 letter from Yvette Ramirez, a social worker/investigator with the organization, praising Respondent's commitment, communication skills, work ethic and concern for the population the organization serves. Respondent also volunteers with Programa Misionero of Compton, for which she goes to quarterly retreats for teenagers and talks about drugs.

12. Respondent holds two part-time jobs with real estate brokers, both of whom know about her conviction and both of whom are willing to employ her as a salesperson. Jimmy Mercado, a broker with Remax Supreme in Downey who employs about 12 salespersons, described her in a letter as a meticulous worker. Lloyd Ikerd, a broker in Paramount, wrote in a letter that Respondent's job duties included collecting rents and doing his banking, and that she was honest, reliable, resourceful and hard working.

13. Respondent was a credible witness who was forthcoming in her testimony and took responsibility for her actions.

## LEGAL CONCLUSIONS

1. There is cause to deny the application under Business and Professions Code sections 480 and 10177,<sup>2</sup> as paragraph 3 of the Statement of Issues alleges. Section 480, subdivision (a)(1) (which, under section 475, governs a license denial under these circumstances) allows a board to deny a license to an applicant who has been "convicted of a crime" that is "substantially related to the qualifications, functions, or duties of the business or profession for which application is made." (§480, subd. (a)(3)(B).) Section 10177, subdivision (b), which applies specifically to the Bureau, similarly allows it to deny a license to an applicant who has been convicted of "a crime substantially related to the qualifications, functions, or duties of a real estate licensee[.]" Respondent's cocaine convictions (Factual Finding 3) are substantially related under CCR section 2910, subdivision (a)(8), because the

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<sup>2</sup> "Section" or "§" will refer to the Business and Professions Code, unless preceded by "CCR," which denotes title 10 of the California Code of Regulations.

crime was an unlawful act committed with “with the intent of conferring a financial or economic benefit upon the perpetrator.”

2. Respondent has the burden of showing rehabilitation. She meets most of the applicable criteria of rehabilitation in CCR section 2911:

(a) It has been more than four years since her conviction (CCR § 2911, subd. (a)), and more than five years since she committed the offense. (Factual Finding 3.)

(b) She has paid all monetary penalties. (CCR § 2911, subd. (g); Factual Finding 8.)

(c) She has abstained from drugs and alcohol for more than five years. (CCR § 2911, subd. (g); Factual Finding 10.)

(d) Her volunteer work with Los Angeles Dependency Lawyers and Programa Misionero (Factual Finding 11) is “[s]ignificant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.” (CCR § 2911, subd. (l).)

(e) The evidence of her living situation (Factual Finding 5) does not necessarily establish stability of family life, but it does establish “fulfillment of parental and familial responsibilities.” (CCR § 2911, subd. (h).)

(f) She has established “[n]ew and different social and business relationships from those which existed at the time” of her conviction.” (CCR § 2911, subd. (m); Factual Finding 10.) Significantly, a broker trusts her to handle rent payments and his banking. (Factual Finding 12.)

(g) The evidence shows a change in attitude. (CCR § 2911, subd. (n).) Respondent takes responsibility for the actions that led to her conviction. She began a path of self-improvement in prison (Factual Finding 8), and has stayed away from the social milieu that got her into trouble. Two brokers vouch for her character (Factual Finding 12.)

3. The principal issue standing between Respondent and licensure is her probation, which will last another two years. Given the extensive rehabilitation Respondent has shown, remaining concerns about her are best dealt with by granting a restricted a license.

#### ORDER

Respondent Mary Carmen Beltran’s application for a real estate salesperson license is denied, but a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license 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 license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by 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 the 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 or for the removal of any of the conditions, limitations or restrictions of a restricted license until three years after this Decision's effective date.

3. 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, and Sacramento, CA 95818-7000. The letter shall state the arrest date, 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 be grounds to suspend or revoke that license.

4. Respondent shall submit with any application for license under a real estate employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker, on a form RE 552 (Rev. 4/88) approved by the Bureau of Real Estate, certifying:

(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 restricted licensee relating to activities for which a real estate license is required.

DATED: January 3, 2016

DocuSigned by:

Howard Posner

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HOWARD POSNER

Administrative Law Judge

Office of Administrative Hearings