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APR 28 2017

BUREAU OF REAL ESTATE

By Zm - Ga

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	BRE No. H-40381 LA
INBAL GINDEL BEN DOV,)	OAH No. 2016100429
)	
Respondent.)	
)	

ORDER DENYING RECONSIDERATION

On March 7, 2017, a Decision adopting the Proposed Decision was rendered in the above-entitled matter. The Decision was to become effective on March 31, 2017 (and was stayed by separate Order to April 28, 2017).

On or about April 7, 2017, Respondent petitioned for reconsideration of the Decision.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision After Rejection, and reconsideration is hereby denied.

IT IS SO ORDERED 4/27/17.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

Daniel J. Sandri

By: DANIEL J. SANDRI
Chief Deputy Commissioner

Sent

FILED

MAR 28 2017

BUREAU OF REAL ESTATE

By *[Signature]*

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	BRE No. H-40381 LA
INBAL GINDEL BEN DOV,)	OAH No. 2016100429
)	
Respondent.)	
)	

ORDER STAYING EFFECTIVE DATE

On March 7, 2017, a Decision was rendered in the above-entitled matter to become effective at noon on March 31, 2017.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed, and the Decision of March 7, 2017, shall become effective at 12 o'clock noon on April 28, 2017.

DATED: March 28, 2017

WAYNE S. BELL
REAL ESTATE COMMISSIONER

[Signature]

FILED

MAR 13 2017

BUREAU OF REAL ESTATE

By *Al Delon*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	CalBRE No. H-40381 LA
)	
INBAL GINDEL BEN DOV,)	OAH No. 2016100429
)	
Respondent.)	

DECISION

The Proposed Decision dated February 16, 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.

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

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.

This Decision shall become effective at 12 o'clock noon on MAR 31 2017.

IT IS SO ORDERED 3/7/17

WAYNE S BELL
REAL ESTATE COMMISSIONER

Daniel J. Sandri

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 Accusation Against:

INBAL GINDEL BEN DOV,

Respondent.

Case No. H-40381 LA

OAH No. 2016100429

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 26, 2017, in Los Angeles. The record was closed and the matter was submitted for decision at the conclusion of the hearing.

Diane Lee, Real Estate Counsel, represented Veronica Kilpatrick (complainant).

Frank M. Buda, Esq., represented Inbal Gindel Ben Dov (respondent), who was present.

SUMMARY

Complainant brings this Accusation¹ to impose discipline on respondent's real estate salesperson license based on her convictions for violating Penal Code section 32 (accessory after-the-fact, knowledge of a crime) and Business and Professions Code section 7028 (contracting without a license), as well as the revocation of her contractor's license. Respondent maintains she has demonstrated sufficient rehabilitation to retain her license. Complainant established, by clear and convincing evidence, that revocation of respondent's real estate salesperson license is warranted, along with an order that she reimburse the Bureau its costs pursuant to an appropriate payment plan.

¹ The parties stipulated at the hearing that the Accusation is amended as follows: (1) the phrase "In Aggravation" is added to paragraph 5 at page two, line 19; (2) paragraph 6 is stricken; and (3) the citation to Business and Professions Code section 10177, subdivisions (g) and (j), are stricken from paragraph 8. These amendments were made to the Accusation by the Administrative Law Judge as stipulated by the parties. (Ex. 1.)

FACTUAL FINDINGS

Parties and Jurisdiction

1. Complainant filed the Accusation while acting in her official capacity as a Supervising Special Investigator of the Bureau of Real Estate (Bureau). Respondent timely submitted a Notice of Defense, which contained a request for a hearing to contest the Accusation.

2. Respondent was originally licensed as a real estate salesperson on December 18, 2012. Her license expired on December 17, 2016.²

Respondent's Convictions

3. On December 13, 2013, in the Superior Court of California, County of Ventura, case number 2013037531, respondent entered a plea of guilty to and was convicted of violating Penal Code section 32 (accessory after-the-fact, knowledge of crime),³ a felony, and Business and Professions Code section 7028, subdivision (a) (contracting without a license), a misdemeanor. As a part of her guilty plea, respondent agreed to the permanent revocation of her contractor's license.

4. On February 17, 2015, the court sentenced respondent to serve 180 days in jail.⁴ In addition, the court placed respondent on formal probation for three years, under terms including that she pay restitution in the amount of \$450.00, pay various fines and fees, and not associate with anyone connected with the underlying indictment and complaint, with the exception of her husband (who had also been involved with Gozlan). Respondent completed her jail time by serving approximately 72 days in a work furlough program. She also paid the restitution and all of the fines and fees. On December 18, 2015, the court terminated respondent's probation early. (Ex. F, p. 1.) On February 22, 2016, the court dismissed respondent's convictions pursuant to Penal Code section 1203.4. (*Id.*, p. 2.) On January 4, 2017, the court reduced respondent's felony conviction to a misdemeanor. (Ex. G, p. 1.)

² During the hearing, respondent stated she has submitted an application to renew her license, and that she was informed by the Bureau that her application is pending.

³ The criminal complaint alleges that respondent, having knowledge that the felony crime of money laundering, in violation of Penal Code section 186.10, had been committed by Avi Gozlan (Gozlan), thereafter harbored, concealed, and aided Gozlan with intent that Gozlan might avoid and escape from arrest, trial, conviction, and punishment. (Ex. 3, p. 1.)

⁴ No explanation was provided for the lengthy delay between respondent's plea and sentence, though presumably it was to allow her to cooperate with authorities, who obtained a conviction against Gozlan.

5. The facts and circumstances underlying respondent's convictions were as follows. Gozlan owned and operated various home improvement companies. Respondent worked for several years as Gozlan's supervisor of the accounting department; her duties included receiving checks, making deposits, processing customer refunds, and processing payroll. In 2011, Gozlan and others requested respondent help them obtain a contractor's license in her name, even though she did not have the requisite experience. Obtaining the license facilitated Gozlan's business operation. On October 18, 2012, Gozlan was arrested during a raid of his business. At Gozlan's request, respondent directed two individuals who had signing authority to withdraw "as much money as they could" from two company accounts in the form of cashier's checks and provide them to her. (Ex. 6, at p. 7.) Respondent asked that the cashier's checks be made payable to General Remodeling, an intentionally generic name, so that one of the companies' subcontractors could cash them and give the money to her. (*Ibid.*) Such actions allowed respondent to pay various vendors and Gozlan's employees (including herself) even though most company bank accounts had been frozen by authorities. Respondent testified she had no knowledge at the time that the accounts had been frozen, but she had earlier admitted to the Bureau that she saw at the time in question many company bank accounts had zero balances. (Ex. 6, p. 7.)

6. Respondent's conviction for accessory after-the-fact to a crime is substantially related to the qualifications, functions, and duties of a real estate salesperson under California Code of Regulations, title 10, section (Regulation) 2910. The elements of the crime for which she was convicted include that she acted with knowledge that Gozlan was money laundering. Evidence presented established that respondent's actions allowed others, including herself, to be paid by Gozlan's company, even though authorities had frozen bank accounts and the business closed its operations. Therefore, respondent performed an unlawful act with the intent of conferring a financial benefit upon herself and others. (Reg. 2910, subd. (a)(8).)

7. Respondent's conviction for contracting without a license is substantially related to the qualifications, functions, and duties of a real estate salesperson under Regulation 2910. Respondent knowingly participated in a scheme to obtain a contractor's license fraudulently, allowed others to use it illegally and thereby contracted without a valid license. Therefore, respondent engaged in fraud and misrepresentation. (Reg. 2910, subd. (a)(4).) She also willfully violated statutory requirements that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct. (*Id.*, subd. (a)(7).)

Discipline by the Contractor's State Licensing Board

8. On June 10, 2011, which was before she obtained her real estate salesperson license, the Contractor's State License Board (CSLB) issued to respondent Contractor's License No. 961985, as the sole owner of C & C Builders. (Ex. 5)

///

9. When applying for her contractor's license, respondent indicated she had seven years and three months of construction experience working on construction projects at the journeyman level. (Ex. 5, p. 4.) When asked by CSLB for proof of her construction experience, respondent submitted a letter in June 2010, prepared by a licensed contractor, that indicated respondent worked for over three years as a project manager responsible for obtaining permits, and supervising jobs in the field including demolition, excavation, foundation work, and framing. (*Id.*, p. 5.) The letter also indicated that respondent assisted framers, plumbers, electricians, drywallers, and painters. (*Ibid.*)

10. As a result of Gozlan's arrest, authorities investigated respondent's status as a licensed contractor. When interviewed by a Ventura County District Attorney Investigator on April 12, 2013, respondent admitted she did not have any of the construction experience indicated in the certification of work experience, that she never worked as a project manager on any construction projects, and that she did not perform any of the work listed in the June 2010 letter. (Ex. 5, pp. 5-6.) When later interviewed in June 2013 by a CSLB Investigator, respondent admitted that her duties while working for home improvement and remodeling companies consisted only of clerical work. (*Id.*, p. 29.)

11. Pursuant to her criminal plea agreement, on November 11, 2014, respondent signed a stipulation in which she agreed to the revocation of her contractor's license and that she would pay the CSLB \$3,817.50 in costs prior to the issuance of any license or registration from the CSLB. On December 17, 2014, the Registrar of Contractors issued an order adopting the stipulation. The revocation of respondent's contractor's license became effective on January 20, 2015. (Ex. 5.)

Aggravation

12. On February 3, 2009, respondent obtained insurance license number 0G48123, and was licensed as an accident and health agent, as well as a life-only agent. (Ex. 4, p. 2.)

13. On July 23, 2014, the Insurance Commissioner of the State of California (Insurance Commissioner) issued an order summarily revoking respondent's license and licensing rights, effective August 22, 2014, based on respondent's convictions described in Factual Finding 3 above.⁵

Respondent's Background and Rehabilitation

14. Respondent has been married since 2010 and has two daughters, ages 5 and 4. She has a good relationship with her husband and her children. She would like to retain her real estate salesperson's license so she can help support her family.

⁵ The order by the Insurance Commissioner indicates respondent was convicted on December 13, 2013. However, respondent was not convicted until February 17, 2015, as discussed more fully in Legal Conclusion 5(a), *infra*.

15. Respondent has worked for Innovative Realty since 2014 as a real estate salesperson under licensed real estate broker Salvador Escalante. She testified she loves her job and wants to keep it. In October and November 2016, she completed 45 hours of real estate licensing and continuing education courses. (Ex. C.) Respondent testified that Mr. Escalante would supervise her if she is allowed to keep her license, and that he would continue to employ respondent if her license is restricted. Respondent's testimony was corroborated by correspondence from Mr. Escalante.⁶ (Ex. A.)

16. Respondent submitted character reference letters written by various individuals who have known respondent in personal and professional capacities. All of the individuals support respondent in her pursuit to retain her real estate salesperson license. (Exs. B, D & H.)

17. In her testimony, respondent expressed remorse for her crimes. She testified she is sorry for her actions, and that she will never do anything like them again. She indicated that she regretted her association with Gozlan and his associates. Respondent has had no contact with the individuals connected with her arrest and conviction, other than her husband. Respondent also expressed remorse for submitting false letters to the CSLB and making the false representations in her application for a contractor's license.

18. A. However, respondent's expression of contrition was somewhat undercut by subtle attempts to decrease or deflect responsibility for her crimes.

B. For example, respondent testified that as Gozlan was being arrested and led away by police, he yelled to her "pay everyone" in Hebrew. Respondent testified that she took that to mean she was to make sure the employees got paid since it was payday. In explaining why she was not actually involved in money laundering, respondent testified that she simply was concerned that employees who had children and homes would not be able to feed their families or pay their mortgages if she did not process payroll. On the other hand, respondent had been in charge of Gozlan's accounting department for so many years, it is hard to believe she had no knowledge of authorities' efforts to freeze the company's bank accounts. In fact, her knowledge that money already had been taken from some of the bank accounts, in conjunction with the raid and witnessing Gozlan's arrest, should have put her on notice that she should not withdraw any funds from the remaining accounts for any reason.

C. In addition, when initially questioned by the CSLB about her contractor's license, respondent indicated her license application was "accurate." (Ex. 5, p. 28.) In a statement she sent to the Bureau, respondent did not even mention submitting a false application to the CSLB or allowing Gozlan to use her contractor's license. In addition, respondent initially testified that she never used the contractor's license, but then admitted on cross-examination that she used the license for three to four months in 2013 after Gozlan's company was closed.

⁶ The correspondence was admitted and used as administrative hearsay pursuant to Government Code section 11513, subdivision (d).

Costs

19. The Bureau incurred a total of \$2,313.20 for costs of investigation and enforcement. This amount is reasonable.

20. Respondent testified she can afford to pay this amount, but not all at once, especially if her license is revoked. If required, respondent believes she could pay the costs in a matter of months pursuant to a payment plan.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant has the burden of proving cause for discipline by clear and convincing evidence to a reasonable certainty. (*The Grubb Co., Inc. v. Dept. of Real Estate* (2011) 194 Cal.App.4th 1494, 1505.) Clear and convincing evidence “requires a finding of high probability,” and has been described as “requiring that the evidence be ‘so clear as to leave no substantial doubt’; ‘sufficiently strong to command the unhesitating assent of every reasonable mind.’ [Citation.]” (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.)

Cause for Discipline

2. A. Pursuant to Business and Professions Code sections 490, subdivision (a), and 10177, subdivision (b),⁷ the Bureau may revoke or discipline a real estate license if the licensee has been convicted of a crime which is substantially related to the qualifications, functions, or duties of a real estate licensee.

B. Clear and convincing evidence established cause to suspend or revoke respondent’s real estate salesperson license pursuant to sections 490, subdivision (a), and 10177, subdivision (b), in that respondent was convicted of crimes substantially related to the qualifications, functions, and duties of a real estate licensee. (Factual Findings 3-7.)

3. A. Pursuant to section 10177, subdivision (f), the Bureau may revoke or discipline a real estate license if the licensee has had a license issued by another government agency disciplined for acts which, if done by a real estate licensee, would be grounds for discipline a real estate license.⁸ Section 10177, subdivision (a), provides for discipline of a licensee who procures, or attempts to procure, a real estate license by fraud, deceit or misrepresentation.

⁷ All further statutory references are to the Business and Professions Code.

⁸ The summary revocation of respondent’s insurance license was not alleged as cause for discipline since section 10177, subdivision (f), requires the discipline in question be taken only after the licensee has had an opportunity for a hearing and other due process protections.

B. Clear and convincing evidence established cause to suspend or revoke respondent's real estate salesperson license pursuant to section 10177, subdivision (f), in that respondent's contractor's license was revoked by the CSLB because she had obtained it as a result of submitting a fraudulent application, acts which, if done by a real estate licensee, would be grounds for discipline of a real estate license. (Factual Findings 8-11.)

Disposition

4. In determining the appropriate discipline, the central question is what level of discipline is necessary to protect the public. Disciplinary proceedings to suspend or revoke a real estate license are not conducted for the primary purpose of punishing an individual. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

5. The rehabilitation criteria for Bureau licensees are set forth at Regulation 2912, and those applicable to this case are summarized and analyzed (using the corresponding letters listed in the regulation) as follows:

(a) As of the hearing, two years had not passed since respondent's convictions. Although respondent entered her guilty plea on December 13, 2013, she was not sentenced until February 17, 2015. While the time of a "conviction" may be "equated with a verdict or guilty plea, when it goes to determine the civil consequences the conviction must be interpreted in a broader sense so as to include not only the verdict or guilty plea but also the judgment entered thereon." (*Boyll v. State Personnel Board* (1983) 146 Cal.App.3d 1070, 1076; *People v. Davis* (2010) 185 Cal.App.4th 998, 1001 ["Where a civil penalty, such as disenfranchisement or debarment from office, follows as a consequence of the conviction, the conviction is held not to occur until the sentence has been pronounced."].) Accordingly, respondent was not convicted until February 17, 2015.

(b) Respondent has paid restitution as ordered by the court.

(c) Respondent's convictions have been expunged.

(e) Respondent's formal probation was terminated early.

(g) Respondent has paid all fines imposed by the court.

(i) Respondent no longer associates with Gozlan or his associates.

(j) Respondent has a stable family life and fulfills her family responsibilities.

(k) Respondent recently completed real estate licensing and continuing education courses, though these are requirements of maintaining her license.

(m) Respondent has had a change in attitude from that which existed at the time of the commission of her crimes, as evidenced by respondent's testimony, her character

reference letters, and the absence of any subsequent convictions. However, respondent's expression of remorse and contrition was mixed, in that it appears that she still has not fully embraced responsibility for her crimes.

6. A. Based on the foregoing criteria, it is evident that respondent has not established sufficient rehabilitation to warrant continued licensure as a real estate salesperson.

B. Her convictions involved serious crimes which unfolded over a few years. Her convictions occurred two years ago and she only was released from probation a little over one year ago. While respondent meets many of the rehabilitation criteria, it must be remembered that most of those were either conditions of her criminal probation or retaining her license. "Since persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that [a licensee] did not commit additional crimes . . . while on probation or parole." (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) It is also interesting to note that no evidence was presented indicating respondent has reimbursed the CSLB its costs. While she is required to do so if and when she obtains a license or registration from the CSLB, there was nothing preventing her from paying those costs at this time or before.

C. Given respondent's repeated and willful disregard of the law and the amount of time respondent engaged in the conduct leading to her convictions and license revocation, when weighed against the amount of time respondent has not been under the supervision of the criminal justice system, more time is needed for the Bureau to assess, and for respondent to establish, her rehabilitation. Revocation of her license is necessary to protect the public at this time. (Factual Findings 1-18.)

Costs

7. The Bureau may recover from respondent the reasonable costs of investigation and enforcement under section 10106. Complainant provided sufficient evidence to support an award of the costs of investigation and enforcement in the amount of \$2,313.20. (Factual Finding 19.)

8. Respondent offered no evidence to demonstrate under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, that a reduction or an elimination of costs is warranted. As such, respondent shall pay the Bureau's costs in full. However, respondent indicates she may have difficulty doing so all at once. She should be required to pay the costs pursuant to an appropriate payment plan. (Factual Finding 20.)

ORDER

All licenses and licensing rights of respondent, Inbal Gindel Ben Dov, under the Real Estate Law, are revoked.

Respondent Inbal Gindel Ben Dov shall pay \$2,313.20 to the Bureau of Real Estate as its costs of investigation and enforcement of this case. The Bureau of Real Estate shall allow respondent to make monthly payments in order that she may pay the full amount of costs within six months of the effective date of this decision.

DATED: February 16, 2017

DocuSigned by:



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ERIC SAWYER,
Administrative Law Judge
Office of Administrative Hearings