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MAR 26 2018

BUREAU OF REAL ESTATE

By ASabui

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	CalBRE No. H-40844 LA
	)	
KWANG MAN LEE	)	OAH No. 2017111069
	)	
Respondent.	)	

DECISION

The Proposed Decision dated February 23, 2018 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 party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. 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 4/13/18.

IT IS SO ORDERED March 22, 2018

WAYNE S. BELL
REAL ESTATE COMMISSIONER

Daniel J. Sandri

By: DANIEL J. SANDRI
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

KWANG MAN LEE,

Respondent.

Case No. H-40844 LA

OAH No. 2017111069

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge, with the Office of Administrative Hearings, on January 25, 2018, in Los Angeles, California.

Complainant was represented by James R. Peel, Counsel for the Bureau of Real Estate (Bureau). Kwang Man Lee (respondent) appeared personally and represented himself.

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

FACTUAL FINDINGS

1. Complainant, Veronica Kilpatrick, made the Accusation in her official capacity as Supervising Special Investigator of the State of California.
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.
3. On December 5, 2016, in the United States District Court for the Central District of California, Case No. 13-1041M, respondent entered a plea of guilty and was convicted of violating 18 United States Code section 201, subdivision (b)(1), bribery of a public official, a felony that is substantially related to the duties, functions and qualifications of a real estate broker. The court sentenced respondent to serve six months in federal prison. Upon his release from prison, respondent was placed on supervised release for a period of three years on certain conditions, including that he not use illegal drugs, submit to random drug testing, and participate in an outpatient drug treatment program.

4. The facts and circumstances underlying the conviction are that during a period in 2010, respondent bribed certain federal immigration officials to approve immigration applications for permanent residence for his clients. Respondent, an attorney licensed in the State of California, represented immigration clients at the time he committed the crime. Respondent resigned his license to practice law in 2014.

5. Respondent is remorseful for his misconduct and was clearly saddened by his decision to surrender his State Bar license. Respondent presented evidence of mitigation in that he was using drugs (cocaine and marijuana) and drinking alcohol during the time he committed the crime. Respondent testified that from the time that he was arrested and charged, he cooperated with law enforcement and federal prosecutors at all stages of the criminal proceedings. Respondent testified credibly that his decision to cooperate with law enforcement and the prosecution was a factor in his receiving a relatively light sentence for his felony conviction.

6. Respondent has complied with the conditions of his supervised release. He has passed all drug testing and completed the court-ordered psychological counseling. His probation and supervised release is scheduled to end in December 2019.

7. In the Accusation, complainant requested costs of investigation and enforcement pursuant to Business and Professions Code section 10106. However, complainant did not submit evidence of such costs.

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke respondent's real estate broker's license under Business and Professions Code sections 490 and 10177, subdivision (b), and California Code of Regulations, title 10, section 2910, based on respondent's conviction and his conduct underlying his conviction, as set forth in Factual Findings 3 and 4.

2. Cause does not exist under Business and profession Code section 10106 to order respondent to pay the Bureau's costs of investigation and enforcement, based on Factual Finding 7.

3. California Code of Regulations, title 10, section 2912, sets forth criteria for establishing rehabilitation. The rehabilitation criteria set forth in section 2912, are to be considered by the Bureau pursuant to Section 482 of the Business and Professions Code for the purpose of evaluating rehabilitation of a licensee who has committed a crime, and are set forth as follows:

(a) The time that has elapsed since commission of the act(s) or offense(s):

- (1) The passage of less than two years after the most recent criminal conviction or act of the licensee that is a cause of action in the Bureau's Accusation against the licensee is inadequate to demonstrate rehabilitation.
- (2) Notwithstanding subdivision (a)(1), above, the two-year period may be increased based upon consideration of the following:
 - (A) The nature and severity of the crime(s) and/or act(s) committed by the licensee.
 - (B) The licensee's history of criminal convictions and/or license discipline that are "substantially related" to the qualifications, functions, or duties of a real estate licensee.
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee, or escheat to the State of these monies or other properties if the victim(s) cannot be located.
- (c) Expungement of the conviction(s) which culminated in the administrative proceeding to take disciplinary action.
- (d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances and/or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance and/or alcohol.
- (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- (h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (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 educational 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 and/or other evidence of rehabilitation submitted by the licensee.

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

(3) Evidence from probation or parole officers and/or law enforcement officials competent to testify as to licensee's social adjustments.

(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

(5) Absence of subsequent felony convictions, misdemeanor convictions, or other conduct that provides grounds to discipline a real estate licensee, which reflect an inability to conform to societal rules when considered in light of the conduct in question.

4. Respondent is thus far in compliance with the enumerated terms of probation and supervised release. He completed the court-ordered psychological counseling and has passed all drug testing. Further, respondent's expression of remorse was credible. Respondent has begun the process of rehabilitation. However, respondent was convicted of a serious felony based on dishonest conduct, which required planning, bribing and conspiring with certain federal immigration officials. His conviction is only 14 months old. He remains on federal probation and supervised release, which is scheduled to terminate in December 2019. Respondent not has met most of the relevant criteria of rehabilitation set forth in California Code of Regulations, title 10, section 2912. The imposition of discipline in this case requires a balancing of public protection, the seriousness of the offense, and the evidence of mitigation and rehabilitation. Based on the facts and circumstances of this case, revocation of respondent's broker's license is the appropriate discipline.

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ORDER

All licenses and licensing rights of respondent Kwang Man Lee under the Real Estate Law are revoked.

DATED: February 23, 2018

DocuSigned by:

Humberto Flores

HUMBERTO FLORES

Administrative Law Judge

Office of Administrative Hearings