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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)	DRE No. H-41971 LA
)	
LORELEI ANN GRIGGS,)	OAH No. 2021090174
)	
Respondent.)	

DECISION

The Proposed Decision dated February 16, 2022, 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 Department 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 Department'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.

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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 4.8.22.

IT IS SO ORDERED MAY 4 2022

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LORELEI ANN GRIGGS,

Respondent.

Agency Case No. H-41971 LA

OAH No. 2021090174

PROPOSED DECISION

Naki Margolis, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by video conference on January 25, 2022.

Complainant Veronica Kilpatrick was represented by Andrea Bentler, agency attorney, Department of Real Estate (Department), State of California. Respondent Lorelei Ann Griggs represented herself.

The hearing on this matter was concluded on January 25, 2022. Testimony and documentary evidence was received. The record closed and the matter was submitted for decision on January 25, 2022.

SUMMARY

Complainant seeks suspension or revocation of respondent's real estate broker license due to her 2019 criminal conviction for defrauding a public housing authority. Respondent has submitted evidence asserting mitigation and rehabilitation. Given insufficient evidence of rehabilitation, respondent's license is revoked.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant brought the Accusation in her official capacity as a Supervising Special Investigator of the State of California.
2. Respondent received a real estate salesperson license from the Department on October 22, 1982. This license expired on June 26, 2007. Respondent received a real estate broker license, license number B/00840980, on July 6, 2007. This license expired on July 5, 2019, and was renewed on July 6, 2019. The license will expire July 5, 2023, unless renewed.
3. After receiving the Accusation, respondent filed a notice of defense requesting a hearing. This hearing was then scheduled.
4. All jurisdictional requirements have been met.

Criminal Conviction; Underlying Circumstances

5. On October 4, 2019, in the Superior Court of California, County of Los Angeles, respondent was convicted, on a no contest plea, of defrauding a public

housing authority of more than \$950, during the period on or between May 16, 2014, and November 2, 2016, in violation of Penal Code section 487, subdivision (i), a misdemeanor. The court sentenced respondent to summary probation for 36 months on terms and conditions, including performing 480 hours of community service, payment of restitution in the amount of \$8,902.82 to the Pico Rivera Housing Authority, and payment of fines and fees.

6. Respondent described the circumstances underlying her conviction in her Conviction Detail Report and Interview Information Statement, signed on June 8, 2020, and submitted to the Department. Respondent wrote that the conviction related to a program violation for Section 8 housing, having an unauthorized person living in the housing unit. (Exh. 4, p. 4.)

7. Respondent submitted into evidence as exhibit B, an investigation report from the Orange County District Attorney Office Bureau of Investigation (OCDA) dated July 19, 2017, with respondent's handwritten notes on it. This report summarizes the findings of an investigation into a fraud allegation that respondent was not utilizing the Section 8 housing unit as her primary residence, that she was living and managing her daughter's property in the City of Pico Rivera, and that her daughter (Shawleen Garcia) was residing in respondent's unit.

8. On July 19, 2017, investigators from the OCDA visited respondent's Section 8 housing unit in Costa Mesa, California, and interviewed respondent and her daughter, Ms. Garcia. (Exh. B.) During this interview, respondent admitted that Ms. Garcia had been residing at her unit since January 2016. (*Id.*, p. 2.) Ms. Garcia stated she had taken up permanent residency in the unit in January 2016. (*Ibid.*) The investigators also found Ms. Garcia sleeping in the unit's only bedroom. (*Id.*, pp. 1-2.)

9. At hearing, respondent asserted that her daughter did not live at her Section 8 housing unit. Respondent claimed that the fraud allegations against her were false and were due to retaliation by her former son-in-law, who was close to a governmental official. This government official purportedly pursued the charges against respondent. Respondent's testimony was not credible because her account of the facts and circumstances surrounding her conviction was convoluted and far-fetched. Respondent's testimony at hearing was also contradicted by her earlier admission to the OCDA investigators that her daughter was living in her Section 8 housing unit. Respondent's earlier admission to the OCDA investigators is deemed more credible because it is corroborated by the admission of her daughter and the investigators' observation that her daughter was sleeping at the housing unit. Respondent was not honest and forthcoming at the hearing.

10. Respondent submitted one reference letter from her daughter as part of exhibit A. In her January 20, 2022 letter, Ms. Garcia wrote that she did not reside at respondent's residence while respondent had a Section 8 contract. This letter is not given any weight because of Ms. Garcia's bias. In addition, Ms. Garcia's statements in her January 20, 2022 letter are contradicted by her admission to the OCDA investigators and the OCDA investigators' observations.

11. Respondent also submitted as part of exhibit A, a photocopy of a portion of a boarding pass dated May 1, 2016, in the name of Ms. Garcia, for a flight from Santa Ana, California to Portland, Oregon. Respondent asserted this was evidence that Ms. Garcia lived in Portland, Oregon and did not return to California until the end of May or June 2021. This boarding pass does not establish this fact and has no evidentiary value.

12. Respondent's conviction of defrauding a public housing agency is conclusive evidence of her guilt of the offense charged, and she may not impeach this conviction in this administrative hearing. (Bus. & Prof. Code, § 493, subd. (a); *Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

Rehabilitation Considerations

13. Respondent is in her 60's and disabled. She was terminated from Section 8 housing due to her criminal conviction. Respondent provides real estate services for family and friends. Respondent has one real estate agent working under her real estate broker license, from which respondent receives some commissions. Respondent stays current on her continuing education requirements for her license. There is no history of discipline against respondent's license.

14. Approximately six years ago, respondent became a guardian for her two grandchildren, aged 13 and 16, who came to live with her. For some time after the 2019 conviction, respondent continued to support her two grandchildren. Respondent's grandson, now 19 years old, still lives with respondent. He is attending college, has a good job, and contributes \$800 per month to respondent. Her granddaughter moved out of respondent's home, married, and is expecting a baby.

15. Respondent remains on criminal probation until October 2022. Respondent still owes \$6,302.82 in restitution to the Pico Rivera Housing Authority. Respondent has paid all court fees and fines in connection with her criminal conviction. Due to her disability, respondent was unable to perform her community service hours. Instead, respondent was permitted to, and did, complete house arrest.

16. At hearing, respondent did not express any remorse for her actions. Respondent continued to deny she had committed any crime. Other than her

daughter's letter, respondent did not submit any character reference letters or present any witnesses to testify on her behalf.

Costs

17. The Department incurred costs of investigation in this matter of \$1,151.50 and costs of enforcement of \$691.20, for total costs of \$1,842.70.

18. Payment of these costs would create financial difficulty for respondent. On a monthly basis, respondent receives \$1,200 in social security, \$500 in a pension, \$800 from her grandson, and some residual payments from real estate activities. Respondent's rent is \$2,100 per month, and her utilities are under \$100.

LEGAL CONCLUSIONS

Cause for License Discipline

1. The standard of proof for complainant to prevail on the Accusation is clear and convincing evidence to a reasonable certainty. (See *Borror v. Dept. of Real Estate* (1971) 15 Cal.App.3d 531; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

2. The Department may suspend or revoke a real estate license based on a criminal conviction which is substantially related to the qualifications, functions, or duties of a real estate licensee. (Bus. & Prof. Code, §§ 490, subd. (a), 10177, subd. (b).)

Respondent's criminal conviction for defrauding a housing authority is substantially related to the qualifications, functions, or duties of a real estate licensee. It involves the fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person; the employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end; and doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another. (Cal. Code Regs., tit. 10 (CCR), § 2910, subd. (a) (1), (4), (8).) Respondent fraudulently obtained Section 8 housing by defrauding the housing authority. She did an unlawful act (committing fraud) to obtain a financial benefit upon herself (obtaining Section 8 housing.)

3. There is cause to suspend or revoke respondent's real estate broker license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), because respondent was convicted of a crime substantially related to the qualifications, functions, and duties of her license.

Rehabilitation Factors

4. Respondent has the burden of proof to show rehabilitation. (*Whetstone v. Board of Dental Examiners* (1927) 87 Cal.App.156, 164.) Criteria have been developed by the Department to evaluate the rehabilitation of a licensee who has committed a crime. The criteria are found at CCR, section 2912. These criteria are summarized as follows: (1) passage of at least two years since the conviction; the two-year period may be increased based on consideration of the nature and severity of the crime(s) and/or act(s) and the licensee's history of "substantially related" criminal convictions and/or license discipline; (2) restitution to the injured party; (3) expungement of the criminal conviction; (4) successful completion or early discharge

from probation; (5) payment of fines imposed in connection with the criminal conviction; (6) new and different social and business relationships from those which existed at the time of the act; (7) stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction; (8) completion of formal educational or vocational training courses; (9) significant and conscientious involvement in community; and (10) change in attitude from that which existed at the time of the act.

5. Applying these criteria, respondent has failed to demonstrate her rehabilitation. A change in attitude is arguably the most significant factor for predicting future conduct or rehabilitation for a real estate licensee. (*Singh v. Davi* (2012) 111 Cal.App.4th 141, 148.) Respondent did not demonstrate any change in attitude from that which existed at the time of the criminal acts. Respondent has not expressed remorse or taken responsibility for her crime. Respondent did not submit any character reference letters to show a change in attitude.

6. In addition, although more than two years have elapsed since respondent's criminal conviction in October 2019, the two-year period must be increased because respondent committed a serious crime of dishonesty by defrauding a housing authority. Respondent's conviction has not been expunged. Respondent still owes \$6,302.82 in restitution to the Pico Rivera Housing Authority. Respondent has not had any significant and conscientious involvement in the community. There is no evidence that respondent has new or different social and business relationships from those which existed at the time of respondent's act. Respondent has not engaged in completion of educational or vocational training courses.

7. There is scant evidence showing any rehabilitation. Respondent's stability of family life and fulfillment of familial responsibilities after the October 2019

conviction have been good. Respondent has provided support for her two grandchildren. Her grandson is now attending college and living with respondent. In addition, other than restitution, respondent has paid all other fines and fees in connection with her conviction.

Discussion and Outcome

8. The purpose of licensure, and license discipline, is to provide protection to the public, rather than to punish the licensee. (*Handeland v. Department of Real Estate* (1976) 58 Cal.App.3d 513, 518; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

9. At hearing, respondent was not honest and forthcoming. Honesty and integrity are qualities that are critical for real estate brokers, who deal with members of the public in confidential and fiduciary matters. (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 177-178.) Where respondent was convicted of defrauding a public housing agency, and has failed to show any rehabilitation, the Department has no assurance that similar conduct of dishonesty will not reoccur.

10. Costs of investigation and enforcement can be recovered by complainant under Business and Professions Code section 10106. The actual costs of investigation and enforcement in this matter are \$1,842.70.

11. Ordering respondent to pay costs at this time, in addition to the revocation of license, will be unduly punitive. Accordingly, recovery of costs will be payable only upon reinstatement of respondent's revoked license.

ORDER

All licenses and licensing rights of respondent Lorelei Ann Griggs under the Real Estate Law are revoked.

As a condition precedent to any reinstatement of her license under the Real Estate Law, respondent shall pay to the Real Estate Commissioner the investigation and enforcement costs of \$1,842.70.

DATE: 02/16/2022

Naki Margolis

NAKI MARGOLIS

Administrative Law Judge

Office of Administrative Hearings