BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:	DRE No. H-42023 LA
NAKIA ALEXANDRIA RENEAU-HOLLAND,	OAH No. 2021120901
Respondent.	

DECISION

With no Decision issued prior to July 22, 2022, pursuant to Government Code section 11517(c)(2), the Proposed Decision dated April 6, 2022 of the Administrative Law Judge of the Office of Administrative Hearings, is deemed adopted by operation of law as the Decision of the Real Estate Commissioner in the above-entitled matter, effective July 23, 2022.

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.

IT IS SO ORDERED 9.12.22.

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:

NAKIA ALEXANDRIA RENEAU-HOLLAND, Respondent.

Agency Case No. H-42023 LA

OAH No. 2021120901

PROPOSED DECISION

Thomas Lucero, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by telephone and videoconference on March 8, 2022.

Kevin Sun, Staff Counsel, represented complainant Maria Suarez, who brought the accusation in her official capacity as a Supervising Special Investigator of the State of California. Steven D. Finley, Attorney at Law, represented respondent Nakia Alexandria Reneau-Holland.

Testimony and documents were received in evidence. The record was closed and the matter was submitted for decision on March 8, 2022.

STATEMENT OF THE CASE

In 2018, respondent claimed that jewelry was stolen from her home. Seeking to be paid more than once for the same property, she fraudulently made the claim to more than one insurer. The resulting February 2019 felony conviction is the only matter in respondent's criminal record. Claimant contends she was led to her anomalous misconduct under the bad influence of a husband from whom she has separated. Claimant's sister and business partner testified to respondent's good character. Claimant's broker is aware of the wrongdoing and conviction and continues to work and be associated with respondent.

ISSUES

Whether respondent's misconduct shows such a lack of character and integrity as to pose undue risk to persons who might rely on her to conduct real estate transactions honestly, or whether respondent's evidence of rehabilitation may be trusted as an adequate safeguard against further impropriety.

FINDINGS OF FACT

1. In submitting her June 1, 2021 Notice of Defense, respondent timely sought a hearing on the accusation, served by the Department on June 1, 2021.

2. On December 14, 2018, the Department issued respondent salesperson license number S/02081447, which is scheduled to expire on December 13, 2022.

2018 Felony Complaint

3. On October 17, 2018, a felony complaint was filed against respondent and her husband in the California Superior Court, County of Los Angeles, case number BA472226. The felony complaint included an allegation of attempted grand theft, on which respondent was later convicted. Respondent did not report the felony complaint to the Department within 30 days as required under Business and Professions Code section 10186.2.

February 2019 Conviction

4. On February 5, 2019, as set out in Exhibit 3, in the California Superior Court, County of Los Angeles, case number BA472226, on pleas of nolo contendere, respondent was convicted of two felonies: aiding and abetting in the knowing presentation of a false or fraudulent claim for payment of an insured loss in violation of Penal Code section 550, subdivision (a)(1), and attempted grand theft in violation of Penal Code sections 664 and 487d. On February 6, 2019, however, the court dismissed the count under Penal Code section 550, subdivision (a)(1), for aiding and abetting. The court suspended imposition of sentence and placed respondent on summary probation for two years on terms and conditions, including that respondent pay fines, fees, and assessments totaling $435 and obey all laws and orders of the court. Respondent fulfilled all terms of her probation.

5. The circumstances underlying the conviction occurred in 2017 and 2018. Respondent and her husband sought reimbursement from three insurance companies, in each instance claiming theft of the same insured personal property. More specifically, on August 18, 2017, respondent called American Bankers Insurance Company of Florida – Assurant, reporting theft of a ring set and high heel shoes. After

respondent submitted receipts, appraisal certificates which assigned a unique number to appraised jewels, and a police report, the insurer paid her $5,681.59 on September 24, 2017. In February 2018, respondent's husband submitted a claim to a second insurer for the same jewelry, but was advised it was not insured and he received no payment. On June 6, 2018, respondent made a claim to Liberty Mutual Insurance Company. The appraisal certificate and its unique number, which turned up in a careful insurance investigation, showed that respondent was claiming loss of the same jewelry for which she had already been paid on September 24, 2017. The claim was denied.

Report of Conviction to Department

6. On March 25, 2019, a lawyer for respondent advised the Department of her February 5, 2019 conviction.

7. Respondent's February 28, 2021 Interview Information Statement also reported her February 5, 2019 conviction. It also reported that, as a result of the conviction, the Department of Insurance revoked respondent's license to act as a life-only agent. In remarks, respondent wrote:

> I take full responsibility for my participation. I'm very conscious of right & wrong. I live my life righteous & live my life by the word of God. Real estate is my passion. I have never had issues in regard to fraud etc. Every one of my clients has enjoyed working w/ me because of my honesty, integrity, work ethic & more. Me & my sister are both Realtors & work together. We are creating a legacy for our children. . . . This is a family business. I am not a threat to society, my clients or anyone for that matter.

8. In a March 5, 2021 Conviction Detail Report, respondent wrote that a person living in her home stole her ring, for which she and her husband owed $10,000. An insurer reimbursed them $1,000 for the ring. After some months passed, they bought another insurance policy and filed another claim, which respondent explains as "a lack of judgment, it wasn't right & I take full responsibility." Regarding rehabilitation, respondent wrote:

> I did community service, I am in a prayer group, I have positive influences in my life, I live my life righteous & according to God. I share my story often to let people know to do things w/ honesty & integrity.

As her explanation of the crime, respondent wrote: "Lack of judgment, it wasn't right, & I take full responsibility." Regarding why the conviction was not disclosed on her application, respondent wrote: "I did not know I was being charged w/ any crime when I sent in my application."

Rehabilitation

9. Respondent's older sister, Natasha Reneau Jones, testified to respondent's good character. Both licensed real estate salespersons, the sisters worked together at times before 2020, but that year they formed a group, the Reneau Group, and have worked as partners under the supervision of real estate brokerage Keller Williams Beverly Hills. Ms. Jones stated that they complement each other well. Ms. Jones is more relaxed and informal, respondent stricter, more apt to be concerned with factual accuracy, checking on matters more than once to be certain transactions are properly conducted.

10. Ms. Jones was "very surprised" to learn of the criminal proceedings and conviction. In her estimation, the criminal matter was out of character for her sister. Ms. Jones spoke of the bad influence that respondent's husband had on her sister. Ms. Jones understands that respondent takes full responsibility for her misconduct, but the family is relieved that with dissolution of the marriage the bad influence of her sister's husband will be removed.

11. Ms. Jones was unclear about the facts that led to respondent's conviction, but understood that respondent allowed a woman to stay at her home who stole a valuable ring. Respondent and her husband decided that they would make more than one insurance claim for the value of the ring.

12. As Ms. Jones testified, management personnel at Keller Williams Beverly Hills are aware of respondent's conviction and its circumstances. They discussed the incident with respondent and decided to keep her at the brokerage based on her good work in the past, her good reputation among clients, and their evaluation of respondent as fit to practice.

Character Reference Letters

13. Ms. Jones wrote a character reference letter, Exhibit C, that was consistent with her hearing testimony. She wrote that their parents raised them in a Christian household, teaching them to treat people with kindness and always do right. Ms. Jones gives an example of respondent's diligent work on behalf of clients when she checked and rechecked rent control restrictions that might affect property in the transaction. Ms. Jones wrote that together she and respondent have built a good business reputation. Regarding the conviction: "She understands the mistake she made while in a vulnerable position. That is no excuse . . . . I can assure you that she

would never do anything like that again [because] she has learned from the mistake and . . . we are accountability partners in life and in business."

14. Rod Watson, Director of Sports and Entertainment at Keller Williams Beverly Hills states in his letter, Exhibit D, he has known respondent for three years and regards her as "one of my go to professionals when it comes to servicing our Celebrity Athlete clients." He wrote how she cares well for her two daughters while working full time, "[h]er work ethic . . . unmatched along with her attitude and drive to succeed." He states that, like respondent, he made a mistake for which he served jail time. Like him, she has worked hard to show she is trustworthy. He asks that respondent be given the opportunity to redeem herself.

15. In an August 2, 2021 letter, Exhibit E, Shana Palmer, respondent's friend and former colleague, described respondent as a selfless, kindhearted, and supportive woman and a "phenomenal mother." She believes respondent has found her calling in real estate, and is no longer vulnerable but strong and confident, someone Ms. Palmer "trusts wholeheartedly." She states that respondent has come a long way from her past mistake.

16. In his character reference letter, Exhibit F, Jeremy Henderson, owner of The Problem Solvers Assemblers LLC, describes respondent's passion for real estate, and how it has helped him. He believes she learned a "huge lesson" from her misconduct and conviction. He wrote that respondent has helped his organization with her knowledge of real estate investing and is dedicated to all her clients.

Costs

17. The Department incurred reasonable costs totaling $2,122.80: $1,326 for investigation and $796.80 for enforcement.

PRINCIPLES OF LAW

1. Complainant bears the burden of proof. The standard of proof is proof that is, as stated in *Ettinger v. Medical Board of Quality Assurance* (1982) 135 Cal.App.3d 853, 855, "clear and convincing . . . to a reasonable certainty."

2. Business and Professions Code sections 490 and 10177, subdivision (b), provide that the Department may discipline respondent's license if she has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensee.

3. Criteria for finding substantial relationship are set out in regulations promulgated by the Real Estate Commissioner. All regulations cited here are sections of title 10 of the California Code of Regulations. Regulation 2910 sets out the following circumstances that show a substantial relationship between a crime and licensure:

Under subdivision (a)(8): "Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator . . . ."

Under subdivision (c): "If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or acts were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the . . . licensee."

4. Under Business and Professions Code section 10186.2, subdivision (a)(1)(A), cause for discipline exists if a licensee fails to report to the Department in writing within 30 days the bringing of a criminal complaint charging the licensee with a felony.

5. Criteria for evaluating rehabilitation are set out in Regulation 2912, including: (a) the time elapsed since the offense was committed, with special attention to whether more than two years have passed since the most recent conviction, as well as a crime's nature and severity and a respondent's criminal history; (b) restitution; (c) expungement; (d) discontinuance of registration requirement under the Penal Code; (e) completion of or early discharge from probation or parole; (f) abstinence from alcohol or drugs if appropriate; (g) payment of fines imposed by a criminal court; (h) correction of any business practice responsible for an offense; (i) social and business relationships new and different from those connected to crime; (j) stable family life; (k) formal education or vocational training; (*l*) significant and conscientious involvement in programs to benefit society; (m) a change in attitude, with special consideration given to whether a respondent has re-offended and to testimony and other evidence from respondent and respondent's family, friends, and others, such as a probation officer or psychologist able to address a respondent's social adjustments.

6. The Department may be awarded reimbursement of its reasonable costs for investigation and enforcement under Business and Professions Code section 10166.

ANALYSIS

1. In attempting to be paid twice for the same loss, respondent intended to confer a financial or economic benefit upon herself. Respondent's crime is thus substantially related to the license the Department issued her under Regulation 2910, subdivision (a)(8).

2. Under Regulation 2910, subdivision (c), the context of the crime indicates that moderate weight should be given respondent's misconduct. On the one hand, in

aggravation, there were months between respondent's first report of an insured loss and her next attempt to be paid by a different insurer. Respondent had a months-long plan to take advantage of more than one insurer and carried that plan out. On the other hand, in mitigation, respondent did not receive more than the property claimed lost was worth. Respondent intended, but did not inflict, substantial harm.

Self-Reporting Failure

3. Cause exists to discipline respondent's license for her failure to self-report as required under Business and Professions Code section 10186.2, subdivision (a)(1)(A). Respondent failed to advise the Department within 30 days of the filing of the felony complaint against her.

4. Such a reporting failure is significant in light of the number of real estate licensees. As set out in Business and Professions Code section 10050, subdivision (b), the Real Estate Commissioner is responsible for and concerned with "the maximum protection for the buyers of real property and those persons dealing with real estate licensees." There are many hundreds of licensees. Persons dealing with them are many more. As a practical matter, it is impossible for the Department to track the day to day activity of all licensees. Licensees' self-reporting is crucial.

5. But numbers alone do not explain the self-reporting obligation. Most licensees are law abiding. Even those who stray into criminal activity, like respondent, may not do so for reasons relating to real estate. Respondent's crime was not related to real estate. In mitigation of her wrongdoing, it had no effect on a real estate transaction.

6. But character and conduct of all kinds are connected. As Business and Professions Code section 10050 states, the Commissioner is concerned with public

protection in the broadest sense. The Commissioner is responsible to protect the real estate market and the professionals and their clients involved in that market. That market is crucial to California in terms of wealth in the multi-millions of dollars, and crucial as well to fundamental social stability.

7. Each licensee's self-reporting obligation is small compared to the Commissioner large governmental responsibilities. Cumulatively, however, when licensees respect the self-reporting obligation, they make governmental responsibility much more manageable and, conversely, when a licensee ignores the obligation there is material and immediate harm to public protection. Whether or not a conviction is related to the real estate profession, then, it is a serious breach of duty when any licensee fails, as respondent failed, to honor the self-reporting obligation. "The crime here, of course, does not relate to the technical or mechanical qualifications of a real estate licensee, but there is more to being a licensed professional than mere knowledge and ability. Honesty and integrity are deeply and daily involved in various aspects of the practice." (*Golde v. Fox*, 98 Cal.App.3d 167, 176 (Cal. Ct. App. 1979)

8. Professionals like respondent have wide discretion and no small responsibility in handling real estate transactions so that they conform to complex laws and regulations. When a real estate licensee professes to be ignorant or is otherwise neglectful of a particular professional obligation, in this case respondent's professed lack of awareness that self-reporting is required, such ignorance or neglect places in doubt whether the professional will be mindful of the other professional obligations that ensure that real estate transactions are well managed and conformable to the laws.

9. Case law recognizes that respect for professionalism in its many aspects has broad implications. The Commissioner and the Department are concerned not

simply with policing rules and regulations, but with ensuring that the real estate profession is, as much as possible, uncompromised by conduct of licensees that is incompetent, or, just as bad, that is dishonest, immoral, or disreputable. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

The Felony Conviction

10. Cause exists under Business and Professions Code sections 490 and 10177, subdivision (b), to discipline respondent's license by reason of her felony conviction. The law allows for discipline up to and including revocation of respondent's license.

11. But respondent may continue to be licensed if she is rehabilitated from her wrongdoing. Evaluating rehabilitation is not a simple matter, as the extensive and non-exclusive criteria of Regulation 2912 suggest.

12. Rehabilitation takes time, as subdivision (a) of Regulation 2912 suggests. The day after commission of a crime a facile profession that one will no longer do wrong is hardly to be trusted. Here, however, the time elapsed since respondent's offense and conviction, more than two years. As respondent's testimony showed, she has had time for reflection and regret, and credibly testified that wrongdoing is safely in her past. Another factor favoring a finding of rehabilitation, respondent has only one conviction in her criminal history. Tempering these considerations, however, is the nature and severity of respondent's crime. As set out above, respondent's plan to defraud did not succeed, but she held on to it for months, and was thwarted only by a thorough investigation by an insurer.

13. Respondent's rehabilitation is indicated under Regulation 2912, subdivision (i), given her social relationships new and different from those connected

to the crime. Respondent is separated from her husband, who was an influence on her in attempting insurance fraud. A similar consideration under Regulation 2912, subdivision (j), is that respondent has a more stable family life in that she is close to her older sister, who is very much involved in her life day to day as a business partner, and not as a family member only.

14. Other criteria of rehabilitation under Regulation 2912 are largely absent, with the important exception of subdivision (m). A good sign that rehabilitation has been or will be achieved is respondent's remorse and acknowledgement of wrong because they are indicative of a change in attitude. Respondent acknowledged that she had departed from values in her past and has re-embraced those values through a commitment to faith and family.

15. Respondent's 2019 conviction was more than two years ago. Respondent's rehabilitation, however, needs more time for full realization, especially considering that she was convicted of a felony involving fraud. She has made good progress toward full responsibility, which is likely to be encouraged and continued with a restricted license.

16. Respondent is properly responsible for the Department's costs. She is gainfully employed and there was no evidence of any particular hardship in her reimbursing the Department. (See *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32.)

ORDER

All licenses and licensing rights of respondent Nakia Alexandria Reneau-Holland under the Real Estate Law, including salesperson license number S/02081447, are revoked; provided, however, a restricted salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department 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 Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of Business and Professions Code section 10156.6:

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 two years have elapsed from the effective date of this Decision.

4. 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.

5. Respondent shall pay the Commissioner a total of $2,122.80 in reimbursement of enforcement and investigation costs. Respondent shall pay such reimbursement in installments and on such terms as the Commissioner may determine, with due regard for respondent's financial resources.

6. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department, including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination

DATE: 04/06/2022

Thomas Lucero

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings