

FILED

NOV 21 2022

DEPT. OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MARESSA MARIE MARTINEZ,

Respondent.

No. H-42191 LA

ORDER GRANTING RECONSIDERATION

On September 12, 2022, a Decision revoking Respondent's Real Estate Salesperson license was signed in the above-entitled matter. Said Decision was to become effective on October 24, 2022 and was stayed by separate Order to November 23, 2022.

On October 20, 2022, Respondent petitioned for reconsideration of the Decision of September 12, 2022.

I find that there is good cause to reconsider the Decision of September 12, 2022. Reconsideration is hereby granted and pursuant to Section 11521(b) of the Government Code, the matter is reassigned to an Administrative Law Judge of the Office of Administrative Hearings for hearing.

This Order shall be effective immediately.

Dated: 11.17.22

DOUGLAS R. McCAULEY
Real Estate Commissioner

Douglas R. McCauley

FILED

OCT 24 2022

DEPT. OF REAL ESTATE

By

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
 MARESSA MARIE MARTINEZ,)
)
 Respondent.)

NO. H-42191 LA

ORDER STAYING EFFECTIVE DATE

On September 12, 2022, a Decision was rendered in the above-titled matter to become effective October 24, 2022.

IT IS HEREBY ORDERED that the effective date of the Decision of October 24, 2022 is stayed for a period of 30 days to consider Respondent's petition for reconsideration.

The Decision of September 12, 2022 shall become effective at 12 o'clock noon on November 23, 2022.

IT IS SO ORDERED this ^{21st} day of October, 2022.

Douglas R. McCauley
Real Estate Commissioner

[Signature]

FILED

SEP 22 2022

DEPT. OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)
) DRE No. H-42191 LA
MARESSA MARIE MARTINEZ,)
)
Respondent(s).)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on 08/09/2022, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, MARESSA MARIE MARTINEZ ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code ("Code") and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("Regulations").

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") 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. 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 Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On June 9, 2022, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on June 13, 2022.

2.

On 08/09/2022, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

LICENSE HISTORY

3.

(MARESSA MARIE MARTINEZ)

a. Respondent MARESSA MARIE MARTINEZ is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real estate salesperson ("RES"), Department of Real Estate ("Department") license ID 01897904.

b. The Department originally issued Respondent's RES license on or about April 14, 2011.

c. Respondent's license is scheduled to expire on February 19, 2024, unless renewed.

d. From August 17, 2020 to May 4, 2021, Respondent was a RES under the brokerage of Big Block Realty, Inc. ("BBR"). At all times mentioned herein, Kimberly McKeag ("McKeag") was, and is, the designated officer of BBR.

4.

To date, the Department has incurred investigation costs of \$3,823.80.

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on June 13, 2022, which is incorporated herein as part of this Decision.

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DETERMINATION OF ISSUES

1.

The overall conduct of Respondent violates the Real Estate law and constitutes cause for the suspension or revocation of her real estate license and license rights under the provisions of Code Section 10177(g) of the Business and Professions Code.

2.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent MARESSA MARIE MARTINEZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on OCT 24 2022.

DATED: 9.12.22.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

1 Department of Real Estate
2 320 West Fourth St, Ste 350
3 Los Angeles, CA, 90013
4
5
6
7

FILED

AUG 09 2022

DEPT. OF REAL ESTATE

By R. Posada

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. **H-42191 LA**
12)
12 MARESSA MARIE MARTINEZ,) DEFAULT ORDER
13)
13 Respondent.)
14)

15 Respondent MARESSA MARIE MARTINEZ, having failed to file a Notice
16 of Defense within the time required by Section 11506 of the Government Code, is now in
17 default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED AUG 09 2022

19 DOUGLAS R. McCAULEY
20 REAL ESTATE COMMISSIONER

21
22 By: CHIKA SUNQUIST
23 Assistant Commissioner, Enforcement
24
25
26
27

Kevin H. Sun, Counsel (SBN 276539)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Fax: (213) 576-6917
Email: Kevin.Sun@dre.ca.gov
Attorney for Complainant

FILED

JUN 13 2022

DEPT. OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MARESSA MARIE MARTINEZ,

Respondent.

No. H-42191 LA

ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against MARESSA MARIE MARTINEZ ("Respondent") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 (MARESSA MARIE MARTINEZ)

4 a. Respondent MARESSA MARIE MARTINEZ is presently licensed and/or has
5 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
6 Professions Code, as a real estate salesperson ("RES"), Department of Real Estate¹
7 ("Department") license ID 01897904.

8 b. The Department originally issued Respondent's RES license on or about April
9 14, 2011.

10 c. Respondent's license is scheduled to expire on February 19, 2024, unless
11 renewed.

12 d. From August 17, 2020 to May 4, 2021, Respondent was a RES under the
13 brokerage of Big Block Realty, Inc. ("BBR"). At all times mentioned herein, Kimberly McKeag
14 ("McKeag") was, and is, the designated officer of BBR.

15 LICENSED ACTIVITIES

16 4.

17 At all times mentioned herein, Respondent engaged in the performance of
18 activities requiring a real estate license pursuant to Code Section 10130.

19 FACTS DISCOVERED BY THE DEPARTMENT

20 5.

21 On or about August 14, 2020, Respondent entered into an Independent
22 Contractor Agreement ("ICA") with BBR. In the ICA, Respondent agreed that she "shall have
23 no authority to incur obligations on Broker's (BBR) behalf and promises (1) not to sign any
24 contract, agreement, lease or note in the name of Broker (including commission instructions,
25 referral agreements and listing cancellations) . . ."

26
27 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate
under the Department of Consumer Affairs.

6.

On or about August 14, 2020, Respondent signed BBR's Policy & Procedures Manual ("PPM"). The PPM stated that "Associates shall be permitted to sign ONLY (sic) listing agreement on behalf of Broker. Documents requiring Broker's signature include, but are not limited to, Commission Instructions. . ."

7.

On or about March 11, 2021, consumer Gamlowski David K & Carolyn C Trust entered into a Residential Listing Agreement (C.A.R. Form RLA, Revised 12/18) ("RLA") with Respondent and RES Bobbie Ranney (ID 01089888) ("Ranney") for BBR for the listing of the property located at 525 S. R Street in Lompoc, California (the "Property"). The RLA was signed on behalf of BBR by Respondent and Ranney.

8.

On or about March 12, 2021, a Residential Purchase Agreement and Joint Escrow Instructions (C.A.R. Form RPA-CA, Revised 12/18) ("RPA") was entered into for the sale of the the Property. The RPA was signed on behalf of BBR by Respondent, as the buyer's agent, and Ranney, as seller's agent. The offer was accepted on or about March 13, 2021.

9.

On or about April 7, 2021, a Commission Disbursement Authorization Form was forged for the commission for sale of the Property. Per the form, the commission, in the amount of \$290.00 was issued to BBR and \$21,710.00 was issued to Respondent.

APPLICABLE SECTIONS OF THE REAL ESTATE LAW

Code Section 10139

10.

Code Section 10139 provides, in pertinent part, that "[a]ny person acting as a real estate broker, real estate salesperson, or mortgage loan originator without a license or license endorsement, or who advertises using words indicating that he or she is a real estate broker, real estate salesperson, or mortgage loan originator without being so licensed or without

1 having obtained a license endorsement, shall be guilty of a public offense punishable by a fine
2 not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a
3 term not to exceed six months, or by both fine and imprisonment; or if a corporation, be
4 punished by a fine not exceeding sixty thousand dollars (\$60,000). . .”

5 Grounds for Disciplinary Action – Code Section 10176

6 11.

7 Pursuant to Code Section 10176, “The commissioner may, upon his or her own
8 motion, and shall, upon the verified complaint in writing of any person, investigate the actions
9 of any person engaged in the business or acting in the capacity of a real estate licensee within
10 this state, and he or she may temporarily suspend or permanently revoke a real estate license at
11 any time where the licensee, while a real estate licensee, in performing or attempting to perform
12 any of the acts within the scope of this chapter has been guilty of any of the following:

13 . . .

14 (i) Any other conduct, whether of the same or of a different character than
15 specified in this section, which constitutes fraud or dishonest dealing. . .”

16 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

17 12.

18 In the course of the activities described above in Paragraph 4, and based on the
19 facts discovered by the Department in Paragraphs 5 through 9, above, Respondent acted in
20 violation of the Code and Regulations, as described below.

21 13.

22 On or about April 7, 2021, Respondent forged the signature of McKeag on the
23 Commission Disbursement Authorization Form in violation of **Code Sections 10139 and**
24 **10176(i).**

25 ///

26 ///

27 ///

14.

The overall conduct of Respondent violates the Real Estate Law and constitutes cause for the suspension or revocation of her real estate license and license rights under the provisions of **Code Section 10177(g)** for negligence.

COSTS

15.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

PRAYER

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent MARESSA MARIE MARTINEZ, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California this 9 day of June, 2022.


Veronica Kilpatrick
Supervising Special Investigator

cc: MARESSA MARIE MARTINEZ
Veronica Kilpatrick
Sacto.