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FILED

APR 26 2022

DEPT. OF REAL ESTATE

By 

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-42305 LA
13)
14 NORMA LEON-MONCADA,) **ACCUSATION**
15)
16 Respondent.)

17 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
18 Supervising Special Investigator of the State of California, for cause of Accusation against
19 NORMA LEON-MONCADA ("Respondent"), is informed and alleges as follows:

20 1.

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

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DRE Accusation against Norma Leon-Moncada, H-42305 LA

1 **FACTS DISCOVERED BY THE DEPARTMENT**

2 (CRIMINAL CONVICTION)

3 6.

4 August 16, 2019 Conviction for Violation of Penal Code Section 69

5 (Los Angeles County Case No. MA076200)

6 According to court records certified on January 26, 2021, on or about April 30,
7 2019, in the Superior Court of California, Los Angeles County, in Case No. MA076200, The
8 People of the State of California v. Norma Leon-Moncada, a Felony Complaint was filed that
9 charged Respondent with violation of: Penal Code (“PC”) Section (69) (resisting executive
10 officer) as Count 1 and Count 2, and PC Section 594(a) (vandalism over \$400 damage-
11 damage/destroy real and personal property, to wit, patrol vehicle windows and window frame
12 belonging to Los Angeles County Sheriff’s Department) as Count 3.

13 7.

14 According to court records certified on January 26, 2021, on or about August 16,
15 2019, Respondent pled *nolo contendere* to a violation of PC 69 (Count 1) and pending
16 sentencing the court ordered Respondent prohibited firearms, ammunition, and ammunition
17 feeding devices and ordered Respondent to attend two (2) Alcoholics Anonymous (“AA”)
18 meetings per week.

19 8.

20 According to court records certified on January 26, 2021, on or about December
21 13, 2019, Respondent was sentenced to three (3) years formal probation and ordered to serve
22 three (3) days in Los Angeles County Jail. In addition, Respondent was ordered to pay court
23 assessments, fines and restitution fines, and to perform 30 hours of community labor. The
24 court also ordered Respondent to make restitution to the victim (Los Angeles County) pursuant
25 to PC1202.4(F) in the amount of \$960.00.

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2 According to court records certified on January 26, 2021, on or about December
3 23, 2020, the Felony Complaint was amended to allege Count 1 as a misdemeanor pursuant to
4 PC 17B, and the felony probation was changed to misdemeanor summary probation.

5 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

6 10.

7 **Code Section 490**

8 Pursuant to Code Section 490 *Conviction of Crime – Relationship of Crime to*
9 *Licensed Activity:*

10 “(a) In addition to any other action that a board is permitted to take against a
11 licensee, a board may suspend or revoke a license on the ground that the licensee has been
12 convicted of a crime, if the crime is substantially related to the qualifications, functions, or
13 duties of the business or profession for which the license was issued.

14 (b) Notwithstanding any other provision of law, a board may exercise any
15 authority to discipline a licensee for conviction of a crime that is independent of the authority
16 granted under subdivision (a) only if the crime is substantially related to the qualifications,
17 functions, or duties of the business or profession for which the licensee’s license was issued.

18 (c) A conviction within the meaning of this section means a plea or verdict of
19 guilty or a conviction following a plea of nolo contendere. An action that a board is permitted
20 to take following the establishment of a conviction may be taken when the time for appeal has
21 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting
22 probation is made suspending the imposition of sentence, irrespective of a subsequent order
23 under Section 1203.4 of the Penal Code.
24

1 (d) The Legislature hereby finds and declares that the application of this section
2 has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142
3 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes
4 and regulations in question, resulting in potential harm to the consumers of California from
5 licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that
6 this section establishes an independent basis for a board to impose discipline upon a licensee,
7 and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not
8 constitute a change to, but rather are declaratory of, existing law.”

9 11.

10 Regulation 2910

11 Pursuant to Regulation 2910 *Criteria of Substantial Relationship*:

12 “(a) When considering whether a license should be denied, suspended or
13 revoked on the basis of the conviction of a crime, or on the basis of an act described in Section
14 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related
15 to the qualifications, functions or duties of a licensee of the Bureau within the meaning of
16 Sections 480 and 490 of the Code if it involves:

- 17 (1) The fraudulent taking, obtaining, appropriating or retaining of funds
18 or property belonging to another person.
19 (2) Counterfeiting, forging or altering of an instrument or the uttering of
20 a false statement.
21 (3) Willfully attempting to derive a personal financial benefit through the
22 nonpayment or underpayment of taxes, assessments or levies duly
23 imposed upon the licensee or applicant by federal, state, or local
24 government.

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1 (4) The employment of bribery, fraud, deceit, falsehood or
2 misrepresentation to achieve an end.

3 (5) Sexually related conduct affecting a person who is an observer or
4 non-consenting participant in the conduct or convictions which require
5 registration pursuant to the provisions of Section 290 of the Penal Code.

6 (6) Willfully violating or failing to comply with a provision of Division 4
7 of the Business and Professions Code of the State of California.

8 (7) Willfully violating or failing to comply with a statutory requirement
9 that a license, permit or other entitlement be obtained from a duly
10 constituted public authority before engaging in a business or course of
11 conduct.

12 (8) Doing of any unlawful act with the intent of conferring a financial or
13 economic benefit upon the perpetrator or with the intent or threat of
14 doing substantial injury to the person or property of another.

15 (9) Contempt of court or willful failure to comply with a court order.

16 (10) Conduct which demonstrates a pattern of repeated and willful
17 disregard of law.

18 (11) Two or more convictions involving the consumption or use of
19 alcohol or drugs when at least one of the convictions involve driving and
20 the use or consumption of alcohol or drugs.

21 (b) The conviction of a crime constituting an attempt, solicitation or conspiracy
22 to commit any of the above enumerated acts or omissions is also deemed to be substantially
23 related to the qualifications, functions or duties of a licensee of the department.

24 (c) If the crime or act is substantially related to the qualifications, functions or
25 duties of a licensee of the department, the context in which the crime or acts were committed
26

1 shall go only to the question of the weight to be accorded to the crime or acts in considering the
2 action to be taken with respect to the applicant or licensee.”

3 12.

4 Code Section 10177

5 (selected portions)

6 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action:*

7 “The commissioner may suspend or revoke the license of a real estate licensee,
8 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an
9 applicant, who has done any of the following, or may suspend or revoke the license of a
10 corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to
11 a corporation, if an officer, director, or person owning or controlling 10 percent or more of the
12 corporation’s stock has done any of the following:

13 (a) Procured, or attempted to procure, a real estate license or license
14 renewal, for themselves or a salesperson, by fraud, misrepresentation, or
15 deceit, or by making a material misstatement of fact in an application for
16 a real estate license, license renewal, or reinstatement.

17 (b) (1) Entered a plea of guilty or no contest to, or been found guilty of,
18 or been convicted of, a felony, or a crime substantially related to the
19 qualifications, functions, or duties of a real estate licensee, and the time
20 for appeal has elapsed or the judgment of conviction has been affirmed
21 on appeal, irrespective of an order granting probation following that
22 conviction, suspending the imposition of sentence, or of a subsequent
23 order under Section 1203.4 of the Penal Code allowing that licensee to
24 withdraw that licensee’s plea of guilty and to enter a plea of not guilty,
25 or dismissing the accusation or information.
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1 (2) Notwithstanding paragraph (1), and with the recognition that
2 sentencing may not occur for months or years following the entry
3 of a guilty plea, the commissioner may suspend the license of a
4 real estate licensee upon the entry by the licensee of a guilty plea
5 to any of the crimes described in paragraph (1). If the guilty plea
6 is withdrawn, the suspension shall be rescinded and the license
7 reinstated to its status prior to the suspension. The department
8 shall notify a person whose license is subject to suspension
9 pursuant to this paragraph of that person's right to have the issue
10 of the suspension heard in accordance with Section 10100..."

11 13.

12 Code Section 10106

13 (Costs)

14 Pursuant to Code Section 10106 *Cost Recovery of Investigations*:

15 "(a) Except as otherwise provided by law, in any order issued in resolution of a
16 disciplinary proceeding before the department, the commissioner may request the
17 administrative law judge to direct a licensee found to have committed a violation of this part to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

19 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
20 order may be made against the licensed corporate entity or licensed partnership.

21 (c) A certified copy of the actual costs, or a good faith estimate of costs where
22 actual costs are not available, signed by the commissioner or the commissioner's designated
23 representative, shall be prima facie evidence of reasonable costs of investigation and
24 prosecution of the case. The costs shall include the amount of investigative and enforcement
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1 costs up to the date of the hearing, including, but not limited to, charges imposed by the
2 Attorney General.

3 (d) The administrative law judge shall make a proposed finding of the amount of
4 reasonable costs of investigation and prosecution of the case when requested pursuant to
5 subdivision (a). The finding of the administrative law judge with regard to costs shall not be
6 reviewable by the commissioner to increase the cost award. The commissioner may reduce or
7 eliminate the cost award, or remand to the administrative law judge where the proposed
8 decision fails to make a finding on costs requested pursuant to subdivision (a).

9 (e) Where an order for recovery of costs is made and timely payment is not
10 made as directed in the commissioner's decision, the commissioner may enforce the order for
11 repayment in any appropriate court. This right of enforcement shall be in addition to any other
12 rights the commissioner may have as to any licensee to pay costs.

13 (f) In any action for recovery of costs, proof of the commissioner's decision
14 shall be conclusive proof of the validity of the order of payment and the terms for payment.

15 (g) (1) Except as provided in paragraph (2), the department shall not renew or
16 reinstate the license of any licensee who has failed to pay all of the costs ordered under this
17 section.

18 (2) The department may, in its discretion, conditionally renew or reinstate
19 for a maximum of one year the license of any licensee who demonstrates
20 financial hardship and who enters into a formal agreement with the
21 department to reimburse the department within that one-year period for the
22 unpaid costs.

23 (h) All costs recovered under this section shall be considered a reimbursement
24 for costs incurred and shall be deposited in the Real Estate Fund to be available,
25 notwithstanding Section 10451, upon appropriation by the Legislature.

1 (i) Nothing in this section shall preclude the department from including the
2 recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

3 **FIRSTCAUSE FOR DISCIPLINE**
4 **(SUBSTANTIALLY RELATED CRIME)**

5 14.

6 The crime of which Respondent was convicted, as described above in
7 Paragraphs 6 through 8 in Los Angeles County Case No. MA076200, The People of the State
8 of California v. Norma Leon-Moncada, by its facts and circumstances, bears a substantial
9 relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the
10 qualifications, functions or duties of a real estate licensee.

11 15.

12 The crimes of which Respondent was convicted, as described above in
13 Paragraphs 6 through 8, in Los Angeles County Case No. MA076200, The People of the State
14 of California v. Norma Leon-Moncada, constitutes cause under **Code Sections 490 and**
15 **10177(b)** for the suspension or revocation of Respondent's RES license, license rights and
16 associated license endorsements, if any, under the Real Estate Law.

17 **COSTS**

18 16.

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

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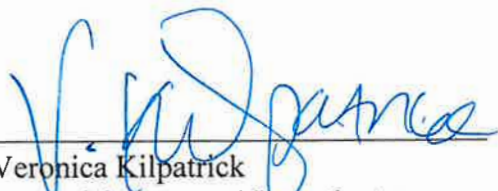
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights and/or associated license endorsements under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of NORMA LEON-MONCADA, 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 22 day of April, 2022.


Veronica Kilpatrick
Supervising Special Investigator

cc: Norma Leon-Moncada
Enforcement – Veronica Kilpatrick
BGA Properties Inc., c/o D.O. Carlos Francisco Orellana
Sacto.