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SEP 30 2020

DEPARTMENT OF REAL ESTATE
By B. Nichols

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Application of: AMY RENEA EDWARDS, Respondent.))))	DRE No. H-3312 FR OAH No. 2020040648
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DECISION

The Proposed Decision dated August 06, 2020, 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 application for a real estate salesperson license is denied. The earliest date on which the applicant may reapply for a license is one year from the effective date of this Decision. If and when application is again made for this license, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

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 OCT 21 2020

IT IS SO ORDERED 9.25.20

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

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

In the Matter of the Application of:

AMY RENEA EDWARDS, Respondent

Case No. H-3312 FR

OAH No. 2020040648

PROPOSED DECISION

Sean Gavin, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter telephonically on July 7, 2020.

Kyle T. Jones, Counsel, represented Brenda Smith (complainant), Supervising Special Investigator, Department of Real Estate (Department).

Amy Renea Edwards (respondent) appeared on her own behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on July 7, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. On April 22, 2019, respondent filed an application with the Department for a real estate salesperson license. On March 19, 2020, complainant, in her official capacity, signed and thereafter filed the Statement of Issues, seeking to deny respondent's application based on her criminal convictions. Respondent timely filed a Notice of Defense. This hearing followed.

Criminal Convictions (2013 – 2017)

2. On September 22, 2017, in the Superior Court of California, County of Los Angeles, Case No. 7AR00801, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 12500, subdivision (a) (driving without a valid license), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for three years with conditions including that she pay fines and fees. The circumstances underlying the conviction occurred on May 30, 2017, when police officers observed respondent drive the wrong way on a one-way road, conducted a traffic stop, and discovered her driver's license was suspended.

3. On June 26, 2013, in the Superior Court of California, County of Kern, Case No. BM821035A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 12500, subdivision (a) (driving without a valid license), a misdemeanor. The court imposed a \$575 fine. The circumstances underlying the conviction occurred on March 29, 2013, when a police officer observed respondent enter an intersection against a red light. The officer conducted a traffic stop, at which time respondent disclosed to the officer that her driver's license was suspended.

Matters in Aggravation: Criminal Convictions (2005 – 2008)

4. On September 19, 2008, in the Superior Court of California, County of Kern, Case No. BM736014A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 14601.1, subdivision (a) (knowingly driving with a suspended license), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for three years with conditions including that she pay fines and fees. The circumstances underlying the conviction occurred on July 20, 2008, when a police officer observed respondent driving without license plates, conducted a traffic stop, and discovered her driver's license was suspended.

5. On August 27, 2008, in the Superior Court of California, County of Kern, Case No. BM732964A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol (DUI)), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for three years with conditions including that she serve two days in jail, attend a three-month alcohol education program, and pay fines and fees. The circumstances underlying the conviction occurred on June 13, 2008, when a police officer stopped respondent because she failed to stop at an intersection prior to making a turn, and did not have a rear license plate. Respondent exhibited objective signs of intoxication, performed unsatisfactorily on field sobriety tests, and was arrested. Her blood alcohol content (BAC) was determined, via breath sample, to be 0.08 percent.

6. On August 21, 2006, in the Superior Court of California, County of Kern, Case No. BM694089A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 12500, subdivision (a) (driving without a valid license), a

misdemeanor. The court imposed a \$335 fine. Complainant did not submit evidence of the circumstances underlying the conviction.

7. On January 6, 2006, in the Superior Court of California, County of Kern, Case No. BM679805A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 14601.1, subdivision (a) (knowingly driving with a suspended license), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for three years with conditions including that she pay fines and fees. The circumstances underlying the conviction occurred on August 31, 2005, when a police officer observed respondent driving without wearing a seat belt, conducted a traffic stop, and discovered her driver's license was suspended.

8. On July 8, 2005, in the Superior Court of California, County of Kern, Case No. BM658143A, respondent was convicted, on her plea of no contest, of violating Vehicle Code section 20002, subdivision (a) (hit and run driving), a misdemeanor. The court suspended imposition of sentence and placed respondent on informal probation for three years with conditions including that she pay fines and fees. The circumstances underlying the conviction occurred on March 3, 2004, when respondent was involved in a collision with another vehicle in a parking lot and left the scene without exchanging contact information with the other driver or contacting law enforcement.

Respondent's Evidence

9. On June 18, 2019, respondent signed and submitted to the Department a Conviction Detail Report for each of her seven convictions.¹ In the Conviction Detail Report regarding her 2017 conviction for driving without a valid license, respondent explained: "I am a small town girl, was in a big city, and turned the wrong way down a 1 way street." She also listed the positive changes she made in her life since the conviction as follows: "I now carry a purse with my license in it at all times and it's valid."

10. In the Conviction Detail Report regarding her 2013 conviction for driving without a valid license, respondent wrote, "I do not remember why I didn't have my license in hand this day or know what I was stopped for, but this happened in Bakersfield." Regarding rehabilitative changes to her life, she responded, "I now carry a purse with my valid license in it at all times."

11. At hearing, respondent explained she did not know her license was suspended prior to her 2017 conviction for driving without a valid license. She now believes her license had been suspended because she did not pay traffic tickets. She also said she did not know her license had been suspended prior to her 2013 conviction for driving without a valid license. She believes her license was suspended

¹ In addition to the seven convictions alleged in the Statement of Issues, respondent also disclosed a January 2011 conviction for driving on a suspended license in the Superior Court of California, County of San Luis Obispo. Complainant did not allege this conviction as either a ground for denial or a matter in aggravation, and it was not considered for any purpose in this proposed decision.

in 2013 as a result of her 2008 DUI conviction. After her 2008 DUI conviction, she took all classes ordered by the court, but she inadvertently failed to complete all the paperwork necessary to reinstate her driver's license.

12. Regarding her convictions between 2005 and 2008, respondent was in her 20s, and a single mother of two children. She was "low-income," and her license was suspended due to unpaid traffic tickets. Since then, she has "learned some lessons" and matured.

13. Respondent is now 38 years old. In December 2017, she graduated from Bakersfield College with a degree in communications. From April 2018 through March 2020, she worked as a financial aid advisor for a cosmetology college in Bakersfield. In that role, she helped people make significant financial decisions related to their education. She enjoyed the work, and believes she excelled at it. She was also bonded to do collections with respect to federally-backed loans.

14. In addition, from March 2019 through the present, respondent has worked as a food delivery driver for a local take-out and food delivery service. She is proud that she maintained her livelihood despite her driver's license issues.

15. Respondent has paid all court-imposed fines and fees. She has had no further contact with law enforcement since her last conviction in September 2017. She is scheduled to remain on criminal probation until September 22, 2020.

Analysis

16. The Department has adopted criteria for evaluating rehabilitation of license applicants. The criteria relevant to this matter include: the time that has elapsed since commission of the acts or offenses; the nature and severity of the acts or

crimes; payment of fines, penalties, and restitution; successful completion of probation; completion of formal education or vocational training courses for economic self-improvement; and a change in attitude from that which existed at the time of the conduct in question. (Cal. Code Regs., tit. 10, § 2911.)

17. Driving without a valid driver's license is a serious offense. The Department of Motor Vehicles (DMV) licenses drivers who demonstrate they can safely operate motor vehicles on public roadways. Respondent did not demonstrate her ability to safely operate a motor vehicle and follow the DMV's rules and regulations, and lost her license as a result. Despite not being properly licensed, respondent drove anyway. Her contention at hearing that she did not know her license was suspended prior to her 2013 conviction is inconsistent with her contemporaneous admission to the responding police officer that her license was suspended. Each time respondent drove without being properly licensed, she put herself and the public at risk. She was most recently convicted less than three years ago, in September 2017. She was convicted of the same crime in June 2013. Those convictions are aggravated by her five additional convictions from 2005 through 2008, all of which related to driving.

18. Respondent submitted some evidence of rehabilitation. She has not had contact with law enforcement since her September 2017 conviction, but such evidence is given little weight because it is expected a person will act "in an exemplary fashion" while on probation. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099). She believes she has matured and "learned some lessons," but "a truer indication of rehabilitation is sustained conduct over an extended period of time." (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent has not had an opportunity to demonstrate her ability to follow the law for a sustained period of time while not on probation.

19. Respondent's work as both a financial aid advisor and delivery driver demonstrate movement toward rehabilitation. When all the evidence of rehabilitation is weighed against her 2017 and 2013 convictions, however, respondent did not meet her burden of demonstrating she is sufficiently rehabilitated to safely serve the public as a real estate licensee. As a result, her license application must be denied.

LEGAL CONCLUSIONS

1. An applicant for a license bears the burden to prove she should be granted a license. (*Martin v. Alcohol Beverage Control Appeals Board* (1959) 52 Cal.2d 238.) Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.) The term preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

2. The Real Estate Commissioner may deny a license to an applicant who has been convicted of a crime that is substantially related to the qualifications, functions or duties of a real estate licensee. (Bus. & Prof. Code, §§ 480, subd. (a)(1) & 10177, subd. (b).) Pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8), crimes are substantially related to the qualifications, functions, or duties of a real estate licensee if they involve "doing of any unlawful act . . . with the intent or threat of doing substantial injury to the person or property of another."

3. Respondent's 2017 and 2013 convictions of driving on a suspended license are both substantially related to the qualifications, functions, or duties of a real estate licensee because they involved doing an unlawful act, driving without a valid license, that entailed the threat of doing substantial injury to the person or property of

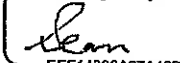
another. Cause therefore exists to deny respondent's application for a real estate salesperson license pursuant to Business and Professions Code sections 480, subdivision (a)(1) and 10177, subdivision (b).

4. Based on the Factual Findings as a whole, specifically 16 through 19, respondent did not meet her burden of proving sufficient rehabilitation such that issuing her a real estate license would be consistent with the public interest, safety, and welfare. Respondent's application must therefore be denied.

ORDER

Respondent Amy Renea Edwards's application for a real estate salesperson license is DENIED.

DATE: August 6, 2020

DocuSigned by:

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SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings