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FILED
MAR 10 2005
DEPARTMENT OF REAL ESTATE

By *K. Schneider*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H-29195 LA
)
MA. LUISA BARRETTO ESTES,)
)
Respondent.)
)

ORDER DENYING UNRESTRICTED LICENSE

On January 9, 2002, a Decision was rendered herein denying Respondent's real estate salesperson license, but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on February 22, 2002.

On or about April 4, 2003, Respondent petitioned for removal of restrictions attaching to Respondent's real estate salesperson license.

///

///

1 I have considered Respondent's petition and
2 the evidence submitted in support thereof. Respondent
3 has failed to demonstrate to my satisfaction that it
4 would be in the public interest to issue an unrestricted
5 real estate salesperson license to Respondent, in that:

7 I

8 On or about October 28, 1987, Respondent was
9 convicted of violating Penal Code Section 484 (Petty Theft).
10 Said crime involves moral turpitude and bears a substantial
11 relationship under Section 2910, Title 10, California Code of
12 Regulations ("Regulations") to the qualifications, functions
13 or duties of a real estate licensee.

14 On March 12, 2001, Respondent applied to the
15 Department of Real Estate ("Department") for a real estate
16 salesperson license.

17 On August 23, 2001, a Statement of Issues was filed
18 which stated grounds to deny Respondent's application pursuant
19 to Business and Professions Code ("Code") Sections 480(a) and
20 10177(b).

21 A hearing was held on the Statement of Issues on
22 October 31, 2001. Thereafter, a Decision was rendered granting
23 Respondent the right to a restricted real estate salesperson
24 license.

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II

The burden of proving rehabilitation rests with the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).

A petitioner is required to show greater proof of honesty and integrity than an applicant for first-time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

The Department has developed criteria in Regulation 2911 to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

2911(1) - Respondent has not provided proof of significant or conscientious involvement in community, church or social programs.

2911 (n) (1) - Respondent has not provided proof of a change in attitude from that which existed at the time of the conduct in question. As part of the petition application process, Respondent had an interview with a Deputy Real Estate Commissioner ("Deputy"). At the interview, Respondent did not express remorse for her conviction and Respondent provided conflicting versions of the events that led to her conviction.

Given the fact that Respondent has not established that Respondent has complied with Regulations 2911(1) and 2911(n) (1), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

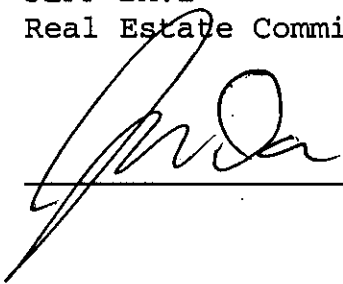
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NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for the issuance to Respondent of an unrestricted
salesperson license is denied.

This Order shall become effective at 12 o'clock noon
on MAR 30 2005

DATED: 3-9-05

JEFF DAVI
Real Estate Commissioner



cc: Ma. Luisa Barretto Estes
3186 Muir Trail Drive
Fullerton, CA 92833

FILED
JAN 16 2002
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Jane B. Oron

* * * * *

In the Matter of the Application of)	No. H-29195 LA
))
MA. LUISA BARRETTO ESTES,	L-2001090434
))
Respondent.)
))

DECISION

The Proposed Decision dated December 13, 2001, 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, but the right to a restricted real estate salesperson license is granted to respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on February 5, 2002.

IT IS SO ORDERED

January 9, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

MA. LUISA BARRETTO ESTES,

Respondent.

Case No. H-29195 LA

OAH No. L2001090434

PROPOSED DECISION

Administrative Law Judge M. Amanda Behe, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on October 31, 2001.

James R. Peel, Counsel, represented the Department of Real Estate.

Respondent represented herself.

Respondent filed for expungement of her conviction prior to the hearing but the court had not ruled on her request. The record remained open for respondent to submit evidence of the court's ruling. That documentation was received on November 24, 2001, as Exhibit E in evidence. The matter was submitted on November 24, 2001.

FACTUAL FINDINGS

1. Thomas McCrady is a Deputy Real Estate Commissioner of the Department of Real Estate (hereinafter "the Department"), State of California, and filed the Statement of Issues in his official capacity.

2. On March 12, 2001, Ma. Luisa Barretto Estes (hereinafter "respondent") filed an application for a real estate salesperson's license with the Department. Any license issued would be subject to the conditions of Business and Professions Code section 10153.4.

3. The application contained Question 25, which asked: "Have you ever been convicted of any violation of law?" Respondent answered "No."

4. On October 28, 1987, in the Municipal Court for the County of Los Angeles, State of California, respondent was convicted of a violation of Penal Code section 484 [PETTY THEFT], a crime involving moral turpitude. The circumstance of the crime was shoplifting of an item of child's clothing.

5. Respondent's crime is substantially related to the qualifications, functions and duties of the licensed activity, pursuant to the criteria enumerated in Title 10, California Code of Regulations, section 2910. Title 10, California Code of Regulations, section 2910, establishes the criteria for determining whether the actions of a respondent are substantially related to the licensed activity, as follows:

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

"(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

...

"(8) 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.

...

"(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 applicant or licensee."

Respondent's criminal conviction is substantially related to the qualifications, functions and duties of the licensed activity pursuant to Section 2910 (a)(1) and (8).

6. Respondent took full responsibility for the act fourteen years ago, and continues to do so. Her testimony that she did not note the conviction on her application because her attorney advised that it would be off her record after a year was credible. Respondent holds a notary public certification. She submitted fingerprints and an application to the Secretary of State for that certification which was issued without any indication that her petty theft conviction was still on her record.

On October 30, 2001, respondent filed for expungement of her conviction. Respondent's conviction was expunged pursuant to Penal Code section 1203.4 on November 14, 2001.

7. The Department's criteria for rehabilitation are found in Title 10, California Code of Regulations, section 2912, as follow:

"The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

- "(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.).
- "(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
- "(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- "(d) Successful completion or early discharge from probation or parole.
- "(e) Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- "(f) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.
- "(g) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- "(h) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- "(i) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

- “(j) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- “(k) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- “(l) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:
 - “(1) Testimony of applicant.
 - “(2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.
 - “(3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
 - “(4) Evidence from psychiatrists, clinical psychologists, sociologists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.”

8. Respondent presented substantial evidence to establish rehabilitation pursuant to section 2912, especially since fourteen years have passed since the conviction (subsection (a)) and the conviction has been expunged (subsection (c)). Respondent paid her court fine fourteen years ago, at the time of the conviction. Most importantly, respondent has not had any other arrest or conviction in the past fourteen years. No evidence suggests that alcohol or drugs were involved in the conviction or that respondent has ever abused such substances. Respondent displays true remorse for the petty theft incident.

Respondent divorced the husband to whom she was married at the time of the offense. She and her current husband have raised her daughter, who just turned nineteen and is a college student living at home. Respondent has a degree in accounting from a college in the Philippines.

Respondent is currently employed as a supervisor of the Medical and Dental Benefits Department of the United Food and Commercial Workers International Union, AFL-CIO. She started as a clerk with that organization twelve years ago and has been successively promoted to her current position. She intends to continue her employment, but is also interested in real estate as another professional opportunity.

Respondent has provided community service in holding various offices with her homeowners' association, including President of that group. Her activities include regular meetings and working for the improvement of her neighborhood.

9. Respondent's supervisor, Ricardo Icaza, is familiar with respondent's twelve years of employment with the United Food and Commercial Workers International Union, AFL-CIO. Mr. Icaza wrote that respondent is "reliable, responsible and of good moral character."

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application for a real estate salesperson's license was established for violation of Business and Professions Code sections 480(a) and 10177(b) for the crime of which respondent was convicted. Respondent established that she is rehabilitated from that conviction, and has been a law-abiding and responsible citizen since 1987.

2. Complainant did not establish by a preponderance of the evidence cause for denial of respondent's application for a real estate salesperson's license pursuant to Business and Professions Code sections 480(c) and 10177(a).

ORDER

The application of respondent Ma. Luisa Barretto Estes for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to the respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions

attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to Respondent.

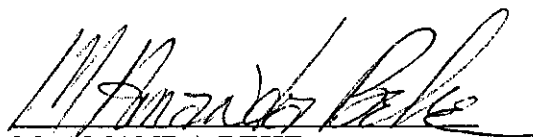
3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent shall, within eighteen months from the issuance of the restricted license under Business and Professions Code section 10153.4 submit evidence satisfactory to the Commissioner of successful completion at an accredited institution of two of the courses listed in section 10153.2, other than Real Estate Principles, Advanced Legal Aspects of Real Estate, Advanced Real Estate Finance or Advanced Real Estate Appraisal. If respondent fails to present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen months after issuance. Said suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the respondent of the lifting of the suspension.

Dated: December 13, 2007



M. AMANDA BEHE

Administrative Law Judge

Office of Administrative Hearings

Sacto
Hag

FILED
OCT 10 2001
DEPARTMENT OF REAL ESTATE

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

By Laura B. Iron

* * * *

In the Matter of the Application of) Case No. H-29195 LA
)
MA. LUISA BARRETTO ESTES,) L-2001090434
)
)
Respondent(s))

NOTICE OF HEARING ON APPLICATION

To the above-named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California, on **OCTOBER 31, 2001** at the hour of **1:30 p.m.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: October 10, 2001

DEPARTMENT OF REAL ESTATE

By: James R. Peel
JAMES R. PEEL, Counsel

cc: Ma. Luisa Barretto Estes
Sacto.
OAH

RE 500 JRP:lbo

Sacks
Jan

FILED
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DEPARTMENT OF REAL ESTATE

1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105
3
4 Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

By *Laura B. Dine*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) No. H-29195 LA
12 MA. LUISA BARRETTO ESTES,) STATEMENT OF ISSUES
13 Respondent.)

14
15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against MA. LUISA BARRETTO ESTES (Respondent) is informed and
18 alleges in his official capacity as follows:

19 I

20 On or about March 12, 2001, Respondent applied to the
21 Department of Real Estate of the State of California for a real
22 estate salesperson license with the knowledge and understanding
23 that any license issued as a result of that application would be
24 subject to the conditions of Section 10153.4 of the Business and
25 Professions Code.

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II

In response to Question 25 of the said license application, to wit: "Have you ever been convicted of any violation of law?", Respondent marked the box denoting "No".

III

In truth, on or about October 28, 1987, in the Municipal Court for the County of Los Angeles, State of California, Respondent was convicted of violating Penal Code Section 484 (Petty Theft), a crime involving moral turpitude and substantially related to the duties and responsibilities of a real estate licensee.

IV

Respondent's failure to reveal the criminal matter set forth in Paragraph III, above, in said application, constitutes the attempted procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which is cause to deny Respondent's application for a real estate salesperson license under Sections 480(c) and 10177(a) of the Code.

V

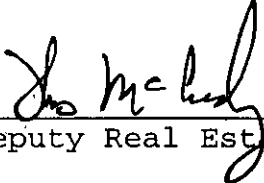
The crime of which Respondent was convicted, as described in Paragraph III, constitutes cause for denial of her application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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1 The Statement of Issues is brought under the provisions
2 of Section 10100, Division 4 of the Business and Professions Code
3 of the State of California and Sections 11500 through 11528 of
4 the Government Code.

5 WHEREFORE, the Complainant prays that the above-
6 entitled matter be set for hearing and, upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of, a real estate salesperson
9 license to Respondent MA. LUISA BARRETTO ESTES, and for such
10 other and further relief as may be proper in the premises.

11 Dated at Los Angeles, California
12 this 23rd day of August, 2001.

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15 
16 Deputy Real Estate Commissioner
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25 cc: Ma. Luisa Barretto Estes
26 SACTO
27 Thomas McCrady
EME