

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE COMMISSION

v.

GAVATA S. KING
Respondent

CASE NO. 2006-RE-068

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FINAL ORDER

The Maryland Real Estate Commission issued a summary suspension of the license of the Respondent Gavata S. King on August 31, 2005. Ms. King was unable to appear at the scheduled reinstatement hearing. On May 19, 2008, she submitted a written request for reinstatement of her license. A hearing was held on June 26, 2008 before a panel of three members of the Commission. Jessica Kaufman, Assistant Attorney General, appeared on behalf of the Commission. Ms. King elected to proceed without the assistance of counsel. The hearing was electronically recorded.

Findings of Fact

From the testimony and exhibits presented, and with an opportunity to observe the demeanor of the witness and to assess he credibility, the Real Estate Commission finds the relevant facts to be these:

1. Gavata S. King was licensed by the Real Estate Commission ("Commission") as a salesperson on August 2, 2005. In her application for the license and in her licensing examination registration form, she answered "no" to the question of whether she

had ever been convicted of a felony or a misdemeanor. Her license was returned to the Real Estate Commission by her broker on August 25, 2005.

2. Ms. King acknowledges, and the records reflect that she has been convicted of criminal offenses on several occasions since 1995. In June 1995 she pled guilty to a misdemeanor charge of passing a bad check in Fairfax County, Virginia, and was sentenced to 30 days suspended and restitution. In March 1997, she pled guilty to the charge of theft in an amount of less than \$300 in Montgomery County, Maryland, and was sentenced to 18 months suspended, and a \$200 fine. In September 1998 she pled guilty to the charge of theft in an amount over \$300 and received a 5-month jail sentence, suspended, and ordered to pay restitution in the amount of \$588 in the District Court for Baltimore City. In May 2000 she was found guilty of uttering and passing a forged object, a felony, and sentenced to one year incarceration in Arlington County, Virginia. In November 2004 she pled guilty to 1st degree theft in the Superior Court of the District of Columbia, and was sentenced on January 10, 2005 to fifteen months in prison, and three years supervised release. In October 2005 she pled guilty to the charge of engaging in a theft scheme in an amount over \$500 from February 1, 2005 through April 30, 2005, and was sentenced in December 2005 to four years incarceration in Montgomery County, Maryland. She was sentenced the same day on another theft charge to a two-year consecutive sentence. On December 13, 2006, Judge Johnson in Montgomery County modified the sentence in each of the

two cases by suspending the balance of the incarceration, and placing Ms. King on 5 years supervised probation. A further motion for reconsideration of sentence is pending currently in that court.

3. On September 2, 2005, Ms. King was served with a Notice and Order of Summary Suspension of her real estate license based on the false statement on her application. A hearing on the summary suspension was scheduled for October 19, 2005. The hearing was postponed, at Ms. King's request, due to her incarceration.

4. Ms. King was released from incarceration on January 28, 2008. On May 19, 2008, she asked that her real estate license be reinstated.

5. In her testimony, Ms. King stated that she was offering no excuse for her past behavior, and that she believes that she has paid her debt to society. She stated that she never defrauded any clients. She is currently working as an administrative assistant through several temp agencies. She needs the income from a real estate career to help support her family. She is currently on probation in Maryland and in the District of Columbia. She participated in a number of therapy and counseling programs while incarcerated.

The application for a real estate license that she filed in 2005 was filled out by her manager in her presence. She did not volunteer any information about her criminal convictions, and her manager did not ask her if she had any.

She has not spoken with any brokers about affiliating with them should her license be reinstated.

Discussion

While Ms. King's current candor about her criminal convictions is admirable, the fact remains that over a ten-year period she had many run-ins with the law that involved theft and financial fraud. She is currently on probation in two jurisdictions. At the time that she applied for a real estate license in 2005, she did not reveal her criminal background to her broker or to the Real Estate Commission. When that information was revealed, through other sources, her license was summarily suspended.

The law requires the Commission to consider five factors in deciding on the impact of a felony conviction on an individual's ability to hold a real estate license. Section 17-322(d). The first factor is the nature of the crime. As noted above, Ms. King's crimes involved financial fraud of one sort or another. One of the most recent, in Montgomery County, involved the loss of \$11,752.69 to one company, and \$11,298.55 to another. These crimes must be viewed as serious violations of the criminal law, which resulted in a substantial financial loss. Mismanagement of monies is related to the activities authorized by the license, factor two, because a real estate salesperson receives trust monies routinely in the course of a transaction. In the same way, theft convictions are relevant to the fitness of an individual to provide real estate brokerage services, factor three. Real estate licensees owe a duty of trust to the public they serve in a number of ways: handling monies entrusted by a party to the transaction, keeping the confidences of their clients, treating all parties to the

transaction fairly, and protecting the public against fraud, misrepresentation, or unethical practices in the real estate field. The fourth factor, the length of time since the conviction, is related in part to the fifth factor, the activities of the individual before and after the conviction. It is important to the Commission that a period of time has gone by so that it can evaluate whether the individual has truly embarked on a different course of conduct from that which led to the conviction. In this case, Ms. King has been out of prison for only six months and is currently on probation in two jurisdictions. Her convictions covered a span of ten years, which must be balanced against the short time since her release.

With regard to her conduct before her convictions, the Commission notes that Ms. King did plead guilty and acknowledged her criminal conduct. She has taken responsibility for it both in her testimony and in her written communication with the Commission. Further, she has participated in a series of counseling programs during the course of her incarceration, and appears sincere in her commitment to turning her life around.

Weighing the five factors, the Commission has concluded that it would be premature to allow Ms. King to hold a real estate license, given the serious nature of the offenses, the number of offenses and the time period over which they were committed, the relationship of the offenses to the responsibilities of a real estate licensee, the relatively short period of time that has elapsed since her release from prison, and the two probationary

terms she is currently serving.

The Commission must also consider the conditions under which Ms. King obtained her license in the first place. She answered "no" to the question regarding criminal convictions on both her registration for the real estate examination and her application for a license. She also did not tell her prospective broker about her convictions. Had she answered the questions truthfully, it is very unlikely that she would have been granted a license, as she was undoubtedly aware. These facts constitute a clear violation of Section 17-322(b)(1).

For all these reasons, the Commission believes that Ms. King's request for reinstatement of her license must be denied at this time.

Conclusions of Law

Based on the Findings of Fact, the Real Estate Commission reaches these conclusions as a matter of law:

1. Gavata S. King was a licensed real estate salesperson beginning in August 2005.
2. Ms. King did not disclose information regarding her criminal convictions on her registration for the real estate licensing examination or on her application for licensure.
3. Ms. King had numerous criminal convictions from 1995 through 2005.
4. Ms. King is in violation of Section 17-322(b)(1) and (24) of the Business Occupations and Professions Article, Annotated Code of Maryland.

5. Ms. King's real estate license must be revoked.

Order

In consideration of the Findings of Fact and Conclusions of Law, it is, by the Maryland Real Estate Commission, this 9th day of July 2008,

ORDERED,

A. That all real estate licenses held by the Respondent, Gavata S. King, be and hereby are **REVOKED**;

B. That the records, files, and documents of the Maryland Real Estate Commission reflect this decision.

Maryland Real Estate Commission

By: *William J. Connelly*
Executive Director

Note - A judicial review of this Final Order may be sought in the Circuit Court of Maryland in the county in which the Respondent resides or has her principal place of business. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.