

Reporting Criminal Convictions

This case demonstrates the importance of fully disclosing one's past to the Board when applying for a salesperson's or broker's license and keeping the Board informed if a real estate licensee pleads guilty or no contest, is convicted or found guilty of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony.

THE SITUATION:

On September 8, 2005, Ms. Lucy Rayes was issued a Virginia real estate salesperson's license. On January 14, 2019, her license was upgraded to a broker license. Shortly thereafter, in February 2019, she transferred to a new office as an associate broker.

On March 23, 2019, the Board received a Criminal Conviction Reporting form from Ms. Rayes disclosing a June 2014 misdemeanor conviction. Ms. Rayes was found guilty of defrauding a Wal-Mart and sentenced to 90 days of incarceration, suspended, and ordered to have no contact with Wal-Mart. At the time of the report, there was no appeal pending and the time for appeal had elapsed.

THE INVESTIGATION:

According to Ms. Rayes, she sent a Real Estate Criminal Conviction Reporting form to the Board on approximately July 1, 2014, via United States Postal Service First-Class Mail®. However, she was unable to provide proof that she mailed the information to the Board and admitted that she never followed up with the Board to verify receipt of the form.

When she transferred her licensed to a new office, she informed Edward Ross, managing broker, that she had been convicted of a misdemeanor and that she had reported it to the Board. Mr. Ross called the Board and learned that the Board had not received notification from Ms. Rayes of her conviction.

Ms. Rayes stated that she immediately filled out the form and sent it to the Board. Investigators noted that the broker signed off on the transfer application on February 2, 2019 but did not receive the criminal conviction reporting form until March 23, 2019. When asked, Ms. Rayes said she "immediately filled out the paperwork, but it took me a few weeks to go back to the courtroom and ask for copies of the final dispositions." However, the copy of the court order sent to the Board appears to have been certified by the deputy clerk on June 17, 2014. If she had to request a copy, the Clerk's certification should have been dated on or after March 23, 2019, and not June 2014.

On October 27, 2018, the Board received a Broker License Application from Ms. Rayes. On the application, Ms. Rayes answered "no" to the following question:

Have you been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury within the past five years? Any pleas of nolo contendere shall be considered a conviction.

Ms. Rayes signed the application and certified a statement that she had a “good reputation for honesty, truthfulness, and fair dealing, and am competent to transact the business of real estate broker or real estate salesperson in such a manner as to safeguard the interests of the public.” On January 14, 2019, the Board upgraded Ms. Rayes license to an associate broker license.

When asked, Ms. Rayes stated that she answered “no” on the application because she thought that the Board had already been notified of the misdemeanor conviction. She told investigators she believed the application was referring to new convictions. She now realizes that the application was referring to all convictions, even if she had previously disclosed them.

THE RESULT:

The Board determined that Ms. Rayes’s conviction was a misdemeanor involving moral turpitude. In addition, she furnished substantially inaccurate or incomplete information to the Board in obtaining her broker’s license and further failed to inform the Board in writing within 30 days that she was convicted of a misdemeanor involving moral turpitude. The Board inferred from her actions and inconsistent statements that she intentionally failed to report her criminal conviction. The Board fined her \$2,400 for the violations and revoked her license.