FILED

FEB 19 2014

BUREAU OF REAL ESTATE

By

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Notice of Intention to Issue Bar Order of RICHARD ANTHONY RODRIGUEZ, Respondent.	CalBRE No. H-38782 LA OAH No. 201305143

DECISION

The Proposed Decision dated January 27, 2014, of the Administrative Law Judge Eric Sawyer of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on FEB 28 2014.

IT IS SO ORDERED February 12, 2014.

REAL ESTATE COMMISSIONER

By: JEFFREY MASON
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Notice of Intention to Issue Bar Order Against:	Case No. H-38782 LA
RICHARD ANTHONY RODRIGUEZ,	OAH No. 2013051043
Respondent.	

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 7, 2014, in Los Angeles.[1] The record was closed and the matter was submitted for decision at the conclusion of the hearing.

Lissete Garcia, Counsel, represented Wayne S. Bell (Complainant).

Richard Anthony Rodriguez (Respondent) was present and represented himself.

FACTUAL FINDINGS

1. Complainant brought the Notice of Intention to Issue Bar Order (Bar Order) in his official capacity as the Real Estate Commissioner (Commissioner), Bureau of Real Estate (Bureau), which is within the Department of Consumer Affairs. Respondent timely submitted a request for a hearing to contest the Bar Order.

2. At no time has Respondent been licensed in any capacity by the Bureau.

3. In order to operate a prepaid rental listing service (PRLS), one must either have a PRLS license pursuant to Business and Professions Code section 10167.2[2] or a real estate broker license pursuant to section 10131, subdivision (b).

---

[1] Pursuant to an unopposed motion by Complainant that was granted by the Presiding Administrative Law Judge, the hearing of this matter was consolidated with the hearing in the *Matter of the Accusation Against Pierre Augusto Ortiz*, Case No. H-38747 (OAH No. 2013070074). Because the pleadings in the consolidated cases are different, a separate Proposed Decision in each case is being issued.

[2] All further statutory references are to the Business and Professions Code.

4. On May 13, 1996, in Case No. H-26599 LA, the Commissioner found that Respondent violated section 10167.2 by engaging in the business of a PRLS within the State of California without a license and issued an Order to Desist and Refrain against Respondent, who was doing business as Royal Credit Co. During the hearing of this matter, Respondent admitted that he owned and operated Royal Credit Co. and that he did so without a license.

5. In August 2006, Respondent leased an office located at 9251 Garvey Avenue, unit K, in South El Monte (Garvey Avenue location). A credit application for the lease of that office space was submitted by Respondent at that time. When Respondent's credit application was rejected, another individual, Raymond A. Fuentes, successfully completed a credit application and signed a lease on behalf of the business. However, according to the landlord of that property, Respondent was the person who controlled the office space.

6. In 2011, a business known as "Global Rentals" was operating out of the Garvey Avenue location. At that time, a Bureau special investigator was conducting an office survey of that location and met Respondent, who identified himself as the office manager of Global Rentals. At the time, Global Rentals was engaged in PRLS under a PRLS license issued by the Bureau to Brennon Martin Felix. However, the Bureau's special investigator came to the conclusion, after that and subsequent observations of Global Rentals' business activities, that in fact Respondent was the "shot caller" of the operation.

7. On January 30, 2012, in Case No. H-37816 LA, the Commissioner issued an Order to Desist and Refrain against Mr. Felix, doing business as Global Rentals at the Garvey Avenue location, for violating sections 10167.9, subdivision (c) (unapproved use of a modification or addendum to a prepaid rental listing contract) and 10167.10 (refusal to refund advance fees paid).

8. In May 2011, Respondent approached Jason Rodriguez, introduced to him by a mutual acquaintance, about being a "silent partner" for a PRLS business. In exchange for Jason Rodriguez obtaining the necessary documents and licenses in his name, including a PRLS license from the Bureau, Respondent would pay him $800 per month. Jason Rodriguez's only job duty would be to maintain office supplies. In execution of that agreement, Jason Rodriguez obtained a PRLS license, doing business as International Home Rentals. In reality, Respondent ran and controlled that operation, which was engaged in PRLS and ran such operations out of the Garvey Avenue location. By this time, Global Rentals had already ceased operations.

9. On July 27, 2012, in Case No. H-38310 LA, the Commissioner issued an Order to Desist and Refrain against Jason Rodriguez, doing business as International Home Rentals, for violating sections 10167.9, subdivision (c) (unapproved use of a modification or addendum to a prepaid rental listing contract), and 10167.10 (refusal to refund advance fees paid). By August 2012, all operations at the Garvey Avenue location ceased and the lease there expired.

10. On or about August 18, 2012, Pierre Augusto Ortiz, a licensed real estate salesperson, submitted an application to the Bureau on behalf of Hacienda Home Rentals for a PRLS license. The proposed PRLS contract submitted along with the application was not approved by the Bureau, nor did the Bureau issue a PRLS license to Mr. Ortiz or anyone on behalf of Hacienda Home Rentals.

11. Despite the fact that the Bureau never issued a PRLS license, Hacienda Home Rentals still engaged in prepaid rental listing services from its location at 2211 South Hacienda Boulevard, suite 116, in Hacienda Heights. In the course of operations from August through September 2012, employees or agents of Hacienda Home Rentals, themselves also unlicensed, along with Mr. Ortiz, solicited prepaid rental listing services to at least three different prospective tenants. Those clients were induced to sign a written contract (unapproved by the Bureau) with Hacienda Home Rentals and pay an up-front fee of $195 for a listing of rental properties that were supposed to meet their requirements for a rental property. Those clients later discovered that the listing of properties provided by Hacienda Home Rentals included properties that were not available for tenancy or were not as described or advertised. Those clients made timely requests for refunds according to the terms of their written contracts after they were unable to find a rental property that suited their specifications through Hacienda Home Rentals and obtained a rental from other services. Hacienda Home Rentals delayed responding to the requests and then in bad faith failed to provide refunds.

12. After complaints about Hacienda Home Rentals' unsavory practices were made to the Bureau, the same special investigator who previously contacted Respondent at Global Rentals began investigating Hacienda Home Rentals. Copies of the lease for the property and bank records for the business were in the name of Mr. Ortiz. However, both the landlord and property manager for the office space where Hacienda Home Rentals conducted business advised the special investigator that it appeared to them that Respondent was the person who owned and operated the business. Based on the totality of the evidence presented in this case, it was established that the situation for Hacienda Home Rentals was similar to those for Global Rentals and International Home Rentals, which is that Respondent compensated Mr. Ortiz to be the front person for the operation and to obtain the PRLS license from the Bureau, but that Respondent owned and operated the business.

13. In his testimony, Respondent denied having any ownership or control of the aforementioned PRLS businesses, other than Royal Credit Co. He argued that point is proven by the lack of ownership documentation for those businesses in his name. That argument was unpersuasive given that Respondent purposely had others obtain required documents in their names to hide his involvement. He testified that he was simply involved in the three PRLS businesses as a consultant, who was asked by those involved to help them set up their operations. Respondent's testimony was convenient, self-serving and unpersuasive. His testimony was also refuted by the credible testimony of Jason Rodriguez, as well as the evidence from the landlords of the two properties in question who believed that Respondent was the owner and operator of the businesses located there.

14. The only documentation presented by Respondent was a letter purportedly written by Pierre Augusto Ortiz on January 2, 2013. The letter indicates that Mr. Ortiz was the sole owner and operator of Hacienda Home Rentals. Although that letter was admitted into evidence over Complainant's hearsay and foundation objections, the letter creates more questions than provides answers. The fact that Mr. Ortiz chose not to appear for the hearing on the Accusation against him which was consolidated with this case is suspicious. The letter fails to address the observations of the landlord of the property where the Hacienda Home Rentals was located indicating that Respondent was actually in charge of operations. It is claimed in the letter that the business was operated ethically and in good faith, yet there is no discussion concerning the three clients who were taken advantage of by Hacienda Home Rentals. More alarming is the failure to acknowledge that Hacienda Home Rentals was unlicensed to operate as a PRLS, let alone explain how it could do so ethically and in good faith. For these reasons, the letter purportedly from Mr. Ortiz is not credible.

LEGAL CONCLUSIONS

1. Pursuant to section 10087, the Commissioner may, after appropriate notice and an opportunity to be heard, issue an order barring a person from holding any position of employment, management, or control in a real estate business, for a period of no longer than 36 months, if that person is unlicensed and was previously issued an order to desist and refrain pursuant to section 10086, provided the Commissioner finds that the bar is in the public interest and that person has committed or caused a violation of the Real Estate Law or order of the Commissioner, which violation was known or should have been known or has caused material damage to the public.

2. Those barred under section 10087 are prohibited from participating in any business activity of a real estate salesperson or broker and from engaging in any real estate-related business activity on the premises where a real estate salesperson or broker is conducting business; and from participating in any real estate related business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, title company, or underwritten title company.

3. Respondent was knowingly involved in performing and directing unlicensed PRLS activities, using fictitious business names, including Hacienda Home Rentals and Royal Credit Co., which required a PRLS license or a real estate broker license, and therefore constitutes a violation of sections 10167.2 (unlicensed activity) and 10167.15 (misdemeanor offense). (Factual Findings 1-14.)

4. Respondent was knowingly involved in performing and directing PRLS activities, while doing business as Global Rentals and International Home Rentals, which resulted in violation of sections 10167.9, subdivision (c) (unapproved use of a modification or addendum to a prepaid rental listing contract), and 10167.10 (refusal to refund advance fees paid), thereby causing material damage to the public. (Factual Findings 1-14.)

5. Pursuant to section 10087, a bar order is in the public interest, in that Respondent knowingly violated provisions of the Real Estate Law. After receiving an order from the Commissioner to desist and refrain from engaging in unlicensed PRLS activity, Respondent embarked on a plan to "rent" PRLS licenses from others, who were compensated by Respondent to be the "front" of the PRLS businesses in question. The last such enterprise, Hacienda Home Rentals, never obtain a valid license. Respondent went to great lengths to hide his involvement in these businesses. Each of the three PRLS businesses fronted by others for Respondent violated the Real Estate Law. Such violations caused material damage to the public, in that at least three consumers each paid $195 for prepaid rental listing services that were never provided; and thereafter their valid refund requests were delayed and denied in bad faith. Respondent accepted no responsibility for his misconduct, expressed no remorse, and offered no sign of rehabilitation. His testimony was not credible. No reason is apparent to bar Respondent for any period less than the maximum time under these circumstances. (Factual Findings 1-14.)

ORDER

For a period of 36 months from the effective date of this order, Respondent Richard Anthony Rodriguez is barred and prohibited from engaging in any of the following activities in the State of California: (a) holding any position of employment, management, or control in a real estate business or PRLS business; (b) participating in any business activity of a real estate salesperson or a real estate broker; (c) engaging in any real estate related business activity on the premises where a PRLS, real estate salesperson or real estate broker is conducting business; and (d) participating in any real estate related business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, title company, or underwritten title company.

DATED: January 27, 2014

ERIC SAWYER,
Administrative Law Judge
Office of Administrative Hearings

SAC

Department of Real Estate
320 West Fourth Street, Ste. 350
Los Angeles, California 90013

Telephone: (213) 576-6982

FILED
MAR 27 2013
DEPARTMENT OF REAL ESTATE
BY: C. R

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

To: RICHARD ANTHONY RODRIGUEZ.	No. H-38782 LA NOTICE OF INTENTION TO ISSUE BAR ORDER

TO: RICHARD ANTHONY RODRIGUEZ
119 S. Curtis Ave.
Alhambra, California 91801

Pursuant to Section 10087 of the California Business and Professions Code ("Code"), you, RICHARD ANTHONY RODRIGUEZ ("Respondent"), are hereby notified of the intention of the California Real Estate Commissioner ("Commissioner") to issue a Bar Order pursuant to Section 10087(a)(1) of the Code based on the following findings:

1. The Commissioner caused an investigation to be made of the activities of Respondent, and has determined that Respondent has engaged in and continues to engage in the business of, act in the capacity of, advertise, or assume to act, as a prepaid rental listing service ("PRLS") in the State of California within the meaning of Code Section 10167 without having a PRLS license or a real estate broker license.

2. On May 13, 1996, in Case No. H-26599 LA, the Commissioner found that Respondent violated Code Section 10167.2 by engaging in the business of a PRLS within the State of California and issued an Order to Desist and Refrain against Respondent, who was doing business as Royal Credit Co.

3. From on or about August 25, 2006, through August, 2012, Respondent leased an office located at 9251 Garvey Ave., Unit K, South El Monte, California 91733. Respondent compensated third parties including Brennon Martin Felix and Jason Jose Rodriguez to obtain PRLS licenses from the Department for Respondent's PRLS entities including Global Rentals and International Home Rentals. Respondent directed and managed said PRLS entities from that office location.

4. On January 30, 2012, in Case No. H-37816 LA, the Commissioner issued an Order to Desist and Refrain against Brennon Martin Felix, doing business as Global Rentals, for a violation of Code Section 10167.9(c) (unapproved use of a modification or addendum to a prepaid rental listing contract) and 10167.10 (refusal to refund advance fees paid). Global Rentals was operating from the office location at 9251 Garvey Ave., Unit K, South El Monte, California 91733.

5. On July 27, 2012, in Case No. H-38310 LA, the Commissioner issued a separate Order to Desist and Refrain against Jason Jose Rodriguez, doing business as International Home Rentals, for a violation of Code Section 10167.9(c) (unapproved use of a modification or addendum to a prepaid rental listing contract) and 10167.10 (refusal to refund advance fees paid). International Home Rentals began operating out of the office located at 9251 Garvey Ave., Unit K, South El Monte, California 91733, after the Department issued an Order to Desist and Refrain against Global Rentals.

6. Subsequently, Respondent relocated his PRLS operation to a new location at 2211 South Hacienda Blvd., Suite # 116, Hacienda Heights, California 91745. Respondent attempted to obtain a PRLS license by having a third party, Pierre Augusto Ortiz, apply for a PRLS for Hacienda Home Rentals with the Department on September 5, 2012. Respondent,

while doing business as Hacienda Home Rentals, once again violated Code Section 10167.2 by engaging in the business of a PRLS within the State of California.

7. Respondent's activities as described in Paragraphs 2, 3 and 6 above, in performing or directing unlicensed PRLS activities, using fictitious business names including Hacienda Home Rentals and Royal Credit Co., which require a PRLS license or a real estate broker license constitutes a violation of Code Sections 10167.2 (unlicensed activity) and 10167.15 (misdemeanor offense).

8. Respondent's activities as described in Paragraphs 3 through 5 above, in performing or directing PRLS activities, while doing business as Global Rentals and International Home Rentals, in violation of Code Sections 10167.9(c) (unapproved use of a modification or addendum to a prepaid rental listing contract) and 10167.10 (refusal to refund advance fees paid), have caused material damage to the public.

9. A Bar Order is in the public interest in that Respondent has violated provisions of the Code, which violations were known to Respondent, or should have been known to Respondent.

10. A Bar Order is in the public interest in that Respondent has violated provisions of the Code, which violations have caused material damage to the public.

PLEASE TAKE NOTICE that the Commissioner seeks to bar and prohibit Respondent, RICHARD ANTHONY RODRIGUEZ for a period of thirty-six (36) months from the effective date of the Bar Order from engaging in any of the following activities in the State of California:

(A) Holding any position of employment, management, or control in a real estate business or PRLS business;

(B) Participating in any business activity of a real estate salesperson or a real estate broker;

(C) Engaging in any real estate related business activity on the premises where a PRLS, real estate salesperson or real estate broker is conducting business; and,

(D) Participating in any real estate related business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, title company, or underwritten title company.

NOTICE OF RIGHT AND OPPORTUNITY FOR A HEARING

Pursuant to Code Section 10087, Respondent has the right to request a hearing under the California Administrative Procedure Act (Chapter 4.5 – commencing with Section 11400 of the Government Code). If Respondent desires a hearing, Respondent must submit a written request within fifteen (15) days after the mailing or service of this "Notice of Intention to Issue Bar Order." The request may be in any form provided it is in writing, includes Respondent's current return address, and indicates that Respondent wants a hearing, is signed by Respondent or on Respondent's behalf, and is delivered or mailed to the Department of Real Estate, 320 West Fourth Street, Ste. 350, Los Angeles, California 90013, Attention Legal Section, or is delivered personally to the offices of the Department of Real Estate, 320 West Fourth Street, Ste. 350, Los Angeles, California.

If no hearing is requested within said fifteen (15) day time period, Respondent's failure to request a hearing shall constitute a waiver of the right to a hearing.

///

///

///

///

///

RICHARD ANTHONY RODRIGUEZ IS IMMEDIATELY PROHIBITED FROM ENGAGING IN ANY BUSINESS ACTIVITY INVOLVING REAL ESTATE THAT IS SUBJECT TO REGULATION UNDER THE REAL ESTATE LAW.

It is so ordered this 25th day of March 2013.

REAL ESTATE COMMISSIONER

WAYNE S. BELL