

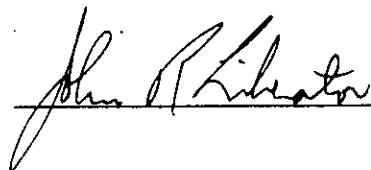
1 the removal of restrictions on Respondent's real estate
2 salesperson license in that Respondent was ordered as a part of
3 his sentence in the underlying criminal conviction to pay a fine
4 of \$10,000. Respondent has made only minimal efforts to pay said
5 fine with \$9,120 still remaining to be paid. Consequently,
6 Respondent has not complied with Section 2911(f) of Title 10,
7 California Code of Regulations.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
9 for removal of restrictions on his real estate salesperson license
10 is denied.

11 This Order shall become effective at 12 o'clock
12 noon on May 8, 1995.

13 DATED: April 17, 1995

14 JOHN R. LIBERATOR
15 Interim Commissioner

16 
17 _____
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27

COPY

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

SEP 11 1989

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of }
JOAQUIN BERNAL OCANG, }
Respondent. }

NO. H-6155 SF
OAH NO. N-33898

Emily J. J. J.

DECISION

The Proposed Decision dated August 11, 1989, 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 with the following exception:

Conditions 3.D. and F. of the Order of the Proposed Decision are not adopted and shall not be part of the Decision.

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 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.

The Decision shall become effective at 12 o'clock noon on October 2, 1989.

IT IS SO ORDERED September 8, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application)
of:)
)
JOAQUIN BERNAL OCANG,)
)
)
Respondent.)
_____)

CASE NO. H-6155 SF
OAH NO. N-33898

PROPOSED DECISION

This matter was heard before Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California on July 31, 1989 in San Francisco, California.

Complainant was represented by John Van Driel, Staff Counsel.

Respondent was present and represented himself.

Submission of the matter was deferred to August 7, 1989 for submission of further evidence of rehabilitation which was received and considered.

FINDINGS OF FACT

I

Edward V. Chiolo made the Statement of Issues in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

II

Joaquin Bernal Ocang (respondent) made application to the Department of Real Estate of the State of California (Department) for a real estate salesperson license on November 23, 1988.

III

On March 29, 1985, in the U.S. District Court, Northern District of California, respondent was convicted of violations of 18 U.S. Code section 201(c) (Bribery) and 26 U.S. Code section 7206(1) (False Statement on Tax Return), felonies which are crimes involving moral turpitude and which are substantially related to the functions, qualifications and duties of a real estate licensee.

IV

Respondent while on active duty in the Navy took money from a supplier for preferential treatment for the supplier's bid which bid was accepted by the Navy. Respondent accepted over \$14,000 in bribes and he failed to claim the bribes as income on his income tax returns.

V

Respondent has made a great deal of progress toward rehabilitation. He met all the terms and conditions of probation and was discharged from supervision on April 22, 1989. He does have a continuing obligation to make \$40 per month payments toward his fine.

VI

Respondent has had difficulty finding employment. He was employed by Firestone as a warehouse worker about six months after his release up to November of 1986. He has a job offer with Mason-McDuffie Real Estate in Antioch, California. They are aware of his past problems and are willing to supervise him.

VII

Respondent has been attending night school at Los Medanos Business College. He has taken ethics courses, accounting courses and other real estate and business courses. He has maintained a cumulative grade point average of 3.25.

VIII

Respondent has changed his attitude toward honesty. He is active in his church. He has learned that no one is above the law and is remorseful for what he did. Respondent has a family. He is married and has four children between the ages of 13 years old and 7 years old.

DETERMINATION OF ISSUES

I

By reason of the matters set forth in Findings III and IV, cause for denial exists pursuant to sections 480(a) and 10177(b) of the Business and Professions Code.

II

The matters in mitigation, extenuation and rehabilitation as set forth in Findings IV through VII have been considered in making the following order.

ORDER

1. The application of Joaquin Bernal Ochang for a real estate salesperson license is hereby denied, however;

2. A restricted real estate salesperson license shall be issued to respondent under Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fees for said license within ninety (90) days of the Decision.

3. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following conditions:

- A. Said restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.
- B. Said restricted license may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, Regulations of the Real Estate Commissioner and conditions attaching to the restricted license.
- C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.

*Not
Adopted*

D. Respondent shall within 12 months from the effective date of this Decision, present evidence satisfactory to the Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

E. Respondent shall submit with his application for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:

(i) That he/she read the Decision of the Commissioner which granted the right to a restricted license; and

(ii) The he/she will exercise close supervision over the performance by the restricted licensee of the activities for which a real estate license is required.

*Not
Adopted*

F. Respondent shall, within six months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until he passes the examination.

DATED: August 11, 1989

Ruth S. Astle
RUTH S. ASTLE
Administrative Law Judge

RSA:lhj

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FILED JUN 19 1989

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By D. Westbrook
D. Westbrook

In the Matter of the Application of

JOAQUIN BERNAL OCANG,

}

Case No. H-6155 SF

OAH No. N 33898

Respondent

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, State Bldg., 455 Golden Gate Ave., Rm 2248, San Francisco, CA
(2 hour hearing)
on the 31st day of July, 19 89, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: June 19, 1989

By John Van Driel
JOHN VAN DRIEL, Counsel

COPY

FILED
MAY 09 1989

1 JOHN VAN DRIEL, Counsel
Department of Real Estate
2 185 Berry Street, Room 5816
San Francisco, CA 94107-1770
3 (415) 557-3220

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

10

11 In the Matter of the Application of)
12 JOAQUIN BERNAL OCANG,)
13 Respondent.)

No. H-6155 SF
STATEMENT OF ISSUES

14

15 The Complainant, EDWARD V. CHILOLO, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against JOAQUIN BERNAL OCANG (hereinafter respondent)
18 alleges as follows:

19

I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about November 23, 1988.

23

II

24 Complainant, EDWARD V. CHILOLO, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity.

27

/ / / / /

1 III

2 On or about March 29, 1985, in the U.S. District
3 Court, Northern District of California, respondent pled guilty
4 to and was convicted of violations of 18 U.S. Code Section
5 201(c) (BRIBERY) and 26 U.S. Code Section 7206(1) (FALSE
6 STATEMENT ON TAX RETURN), felonies, and which bear a substantial
7 relationship under Section 2910, Title 10, California Code of
8 Regulations, to the qualifications, functions or duties of a
9 real estate licensee.

10 IV

11 The crimes of which respondent was convicted, as
12 alleged in Paragraph III above, constitute cause for denial of
13 respondent's application for a real estate license under
14 Sections 480(a) and 10177(b) of the California Business and
15 Professions Code.

16 WHEREFORE, the Complainant prays that the
17 above-entitled matter be set for hearing and, upon proof of the
18 charges contained herein, that the Commissioner refuse to
19 authorize the issuance of, and deny the issuance of, a real
20 estate salesperson license to respondent, and for such other and
21 further relief as may be proper in the premises.

22 *Edward V. Chiolo*

23 _____
24 EDWARD V. CHIOLO
25 Deputy Real Estate Commissioner

26 Dated at San Francisco, California,
27 this *12th* day of *April*, 1989.