

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SOCOPROPMGT, INC. and
CHRISTOPHER SANCHEZ,

Respondents.

Case No. H-11934 SF

OAH No. 2016030301

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on August 31, 2016, in Oakland, California.

Richard K. Uno, Real Estate Counsel, represented complainant.

Rizza Gonzales, Attorney at Law, represented respondents Socopropmgt, Inc. and Christopher Sanchez, who was present.¹

The record was left open until September 21, 2016, to permit respondents to file a written closing argument and for complainant to file an optional reply. Respondents' closing argument was timely filed on September 14, 2016, marked as exhibit N, and received into evidence. No submission was filed by complainant.

This record closed, and the matter was deemed submitted for decision on September 21, 2016.

FACTUAL FINDINGS

1. Complainant Robin S. Tanner made the statement of issues in her official capacity as a Supervising Special Investigator of the State of California.
2. Respondent Christopher Sanchez is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a real estate broker. Sanchez has been a real estate licensee since 2002. He has been licensed

¹ Natricia Aileen Company was also named as a respondent in the Accusation. All allegations against Company were settled prior to the hearing.

as a real estate broker since 2006. There have been no prior disciplinary actions against Sanchez.

Respondent Socopropmgt, Inc. (SCPM) holds a real estate corporation license. The license was originally issued on February 12, 2015. Respondent Sanchez is the designated broker-officer.

Oscar Rodriguez-Lopez

3. Oscar Rodriguez-Lopez (Rodriguez) was licensed by the Bureau of Real Estate (Bureau) as a real estate salesperson in 2004. Rodriguez was the subject of disciplinary proceedings in Case No. H-5253. The discipline was based on Rodriguez's 2009 felony domestic violence conviction. Rodriguez's salesperson license was revoked pursuant to an order of the real estate commissioner that went into effect on July 19, 2010.

On September 9, 2013, the Commissioner determined that Rodriguez was continuing to engage in licensed activities and issued a "Desist and Refrain Order" against Rodriguez.

On March 18, 2016, the Commissioner issued a "Final Bar Order," after again determining that Rodriguez was continuing to engage in licensed activities.

4. When Rodriguez was licensed, he worked as a property manager for Pacific Properties. In late 2013 or early 2014, Rodriguez and licensee Company formed Sonoma County Property Rentals. Rodriguez owned 80 percent of SCPM and Company owned 20 percent. Pete Foppiano was initially the broker of record for the new entity. Rodriguez left Pacific Properties and recruited its clients to his new business. He also sought out new clients. Sanchez replaced Foppiano as the broker in May 2014.

Corporate License Application

5. On September 2, 2014, Sanchez signed an application for a corporate license for Socopropmgt, Inc, doing business as Sonoma County Property Rentals & Sales, listing himself as the designated broker-officer. The application was filed by the Bureau on October 31, 2014. The application advises applicants that, pursuant to California Code of Regulations, title 10, section 2746, the designated officer shall file a background statement of information for any person owning or controlling more than ten percent of its shares, if the person has 1) received an order issued by a court or governmental agency during the preceding ten years temporarily restraining or enjoining any business conduct; 2) had a license to practice real estate suspended or revoked during the preceding ten years; 3) engaged in acts requiring a real estate license without a valid license during the preceding ten years which have been enjoined by court of law or administrative tribunal; or 4) been convicted of a crime that is substantially related to the qualifications, functions, or duties of a licensee. A background statement was required for Rodriguez because: 1) he owned more than 10 percent of the business; 2) he had his license revoked for committing a substantially

related crime; and 3) he had been subject to a Desist and Refrain Order after practicing without a license. Sanchez failed to file a background statement for Rodriguez.

Investigations

6. In June 2014, Terrence Patterson, a special investigator for the Bureau, was assigned to investigate a consumer complaint that was submitted by John Boss, a principal of Pacific Properties, on March 21, 2014. Boss alleged that Rodriguez was performing the duties of a licensee despite that fact that his license had been revoked. Specifically, Boss alleged that Rodriguez continued to hold himself out as a property manager and was soliciting clients, marketing rentals, and collecting rents. Rodriguez had contacted his former clients at Pacific Properties and notified him that he would be providing the same services he had been performing at Pacific Properties at SCPM.

Patterson visited the website for SCPM on June 11, 2014. He observed that Rodriguez was featured on the website offering his services in property management. The website did not put prospective clients on notice that his real estate license had been revoked. Pete Foppiano was listed as the broker.

Patterson visited the SPCM website again on November 19, 2015. Rodriguez continued to hold himself out as head of property management and business development. Sanchez was now listed as the broker.

Patterson concluded that Rodriguez had continued to engage in licensed activities and that Sanchez had provided him the opportunity to do so.

Patterson spoke with Sanchez during his investigation and found him to be cooperative.

7. Emily Kendrick is an investigator for the Department of Consumer Affairs. She conducted an investigation of Rodriguez, after the matter was referred by the Bureau.

As part of her investigation, Kendrick visited SPCM on October 9, 2014, and posed as a prospective renter. Rodriguez was not present and Kendrick met with Sanchez. Sanchez told Kendrick that the company was owned by Rodriguez and Company and was in the business of renting residential and commercial properties and selling homes. He gave her Rodriguez's business card which listed him as the "Business Development Manager" of SCPM.

Kendrick called Rodriguez on December 8, 2014. Rodriguez was upset about the investigation and expressed his outrage at his perceived unfairness regarding the Bureau's acts against him. Rodriguez acknowledged to Kendrick that he left Pacific Properties and went out on his own and formed SCPM with Company, his girlfriend. He acknowledged that he had owned 80 percent of the business, but claimed that he sold his shares to his

mother in October 2014, when he found out that an investigation was underway. He did provide proof of the sale to Kendrick.

Rodriguez explained to Kendrick that he was teaching Sanchez and Company the business because they had no prior experience in property management.

Kendrick referred the matter to the district attorney for possible criminal prosecution of Rodriguez.

8. Ed Dorsaneo is a private investigator who was hired to investigate Rodriguez. Dorsaneo owns his own rental properties. He called SCPM to set up an appointment at his rental property. Rodriguez and Sanchez came and met with Dorsaneo on March 13, 2015. Both were present throughout the meeting, however Rodriguez "did all the talking." Rodriguez told Dorsaneo that he had been in the property rental business for 14 years and recently decided to begin a new company and was undercutting the competition to get established. Rodriguez engaged in negotiations with Dorsaneo over costs, terms of a property management contract, and potential marketing of the property.

A property management agreement was provided which identified Sanchez's name and license number.

Trust Fund Audit

9. The Bureau conducted an audit of SCPM's property management activities in late 2015, and determined that SCPM violated the Real Estate law in several respects. Respondents stipulated to the facts alleged in the Accusation, which state:

SCPM maintained bank accounts at JP Morgan Chase Bank, NA, in Rohnert Park, including: Trust Account No. 1, "SoCoPropMgt, Inc DBA Sonoma County Property Rentals-Property Management Trust Account", No. XXXXX8723' Bank Account No. 1, "SoCoPropMgt Inc. DBA Sonoma County Property Rentals-Operating Account", No. XXXXX1165 and from time to time deposited trust funds into these accounts.

During the audit it was revealed that:

(a) SCPM failed to designate Bank Account #1 as a trust account as required by Section 2832 of the Regulations;

(b) During an accountability performed on Trust Account #1, and as of July 31, 2014, a shortage of \$42.58 was revealed, in violation of Section 10145 of the Code;

(c) SCPM failed to obtain written permission from owners of trust funds in Trust Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations and

(d) SCPM deposited trust funds into Bank Account #1, thereby mixing trust funds with non-trust funds in violation of Section 10176(e) of the Code.

SCPM further stipulated that these acts constituted violations of the real estate laws.

Respondents' evidence

10. Respondent Sanchez is 36 years old and grew up in Sonoma County. He has a four-year-old child he supports. Sanchez worked in the mortgage lending industry when he was first licensed as a salesperson in 2002. He started a home loan business with his step-brother in 2008. In 2013, he left the business because he was burned out and wanted a new career. Sanchez went to work at Arc Capital as a loan originator. He worked for Pete Foppiano. Sanchez also started doing marketing work for small businesses, including real estate businesses and restaurants. Sanchez met Rodriguez when Rodriguez contacted him to do marketing for SCPM. Pete Foppiano needed to leave SCPM, so Sanchez stepped in as the broker in May 2014.

11. When Sanchez joined SCPM, he was not familiar with the property management business. He was excited about the opportunity to learn a new business and add to his real estate knowledge. He was aware the Rodriguez's real estate license had been revoked. He had a discussion with Rodriguez about what Rodriguez could and could not do. Sanchez told him he could do bookkeeping and accounting and told him not to show properties, quote fees, be the face of the company, or sign contracts. Sanchez began to learn the business and put new systems into place. Initially, Sanchez worked a few hours a week at SCPM, but he is now working there six to seven days a week, for 12 or more hours a day. Under Sanchez's leadership, the business has grown and now manages 240 properties. They also perform a small number of residential sales.

12. Sanchez concedes that Rodriguez performed some licensed activities when Sanchez first came aboard as broker. He added that Rodriguez also independently performed some licensed activities without Sanchez's knowledge. After Sanchez was contacted by the Bureau, Rodriguez's role changed to prevent future violations. He was limited to performing inspections and doing bookkeeping. At this time, Rodriguez has no role at SCPM.

13. Sanchez explained that at a October 24, 2014, meeting of the Board of Directors of SCPM, Rodriguez announced that he was selling all his shares in the SCPM to his mother. Rodriguez also resigned as president and from any position on the Board.

Sanchez believes that the shares were sold but has never seen proof that the transfer occurred.

14. Regarding the meeting with undercover investigator Dorsaneo, Sanchez explained that it was an unusual situation in that Dorsaneo had called and asked specifically for Rodriguez. The meeting happened "early on" in his relationship with SCPM. Sanchez testified that he was present for the negotiating and would not have allowed Rodriguez to go to the meeting on his own.

15. Regarding the allegation that SCPM failed to provide a background statement for Rodriguez when applying for the corporate license, Sanchez stated that it was not his intention to hide anything from the Bureau. He blamed "bad timing." The company was growing and Sanchez was eager to get a corporation set up and phase out Rodriguez. He stated that it was "unfortunate that it was messy at the beginning."

16. Regarding the audit allegations, Sanchez explained that the \$42.58 shortage was inadvertent and was the result of bank fees. SCPM now maintains a minimum balance at all times to avoid future bank fees. The auditor further discovered that SCPM was depositing rents into its own account. Sanchez explained that SCPM was accepting credit card payments which were deposited in to the operating account and then immediately transferred into the appropriate trust account. Once SCPM learned that this procedure was improper, the system was changed. Sanchez appreciated the valuable feedback he received during the audit.

17. Sanchez apologized to the Bureau and explained that he only had the best intentions. He added that SCPM is a different company than it was when the Bureau conducted its investigation. He has learned about property management and hopes to stay in the property management business for fifteen or twenty more years.

18. In an undated letter, Manuel Ramos writes that he is the branch manager for a community bank in Sonoma County and has been working in the banking community for 11 years. Ramos has known Sanchez for about six years. Ramos has found Sanchez to be professional, caring, knowledgeable, honest, trustworthy, and committed to serving his clients.

19. In a letter dated May 9, 2016, Pete Foppiano, a licensed real estate broker, writes that he has known Sanchez for several years and engaged him to manage his own rental property. Foppiano writes that he has read the Accusation in this matter. He has always found Sanchez to be honest, efficient, and diligent about keeping clients and tenants informed. He has recommended Sanchez's services to others who have also been satisfied with his work.

20. In a letter dated June 17, 2016, Senior Loan Officer Luis Marquez, Sanchez's step-brother, writes that he has been in the mortgage business since 2001. Marquez and Sanchez were business partners for many years. Before the last recession, they co-managed

a team of over 25 agents for Investors Trust Mortgage. After the recession, they formed their own business. Sanchez was the operations manager and helped the company quickly grow. Marquez has read the Accusation in this matter. He states that he has trusted Sanchez with his own clients, business, and finances and is confident in Sanchez's integrity and character.

21. In a letter dated April 29, 2016, licensed real estate broker Andrew Oandason writes that he has known Sanchez for several years and has found him to be professional, competent, trustworthy, diligent, transparent, and passionate about the real estate profession.

22. Sanchez was active with the Hispanic Chamber of Commerce in Sonoma County for about six or seven years. He served as president in 2007 and devoted many hours to the organization.

Costs

23. In connection with the investigation and prosecution of this accusation, the Bureau has incurred expenses of \$11,503.75. These costs reflect \$3,579.85 in auditing costs, \$2,901.40 in legal services, and \$5,022.50 in investigation costs. The costs are supported by certifications by auditor Tom Cameron, complainant Robin S. Tanner, and Real Estate Counsel Richard K. Uno. These costs are found to be reasonable in light of the scope of the investigation.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10137, together with sections 10177, subdivision (d), and 10176, subdivisions (a), (c), and (i), authorize the Real Estate Commissioner to discipline a licensee who compensates unlicensed individuals, willfully disregards the real estate laws, makes any substantial misrepresentations, engages in a continued or flagrant course of misrepresentation, or otherwise engages in fraud or dishonest dealing.

Sanchez and SCPM permitted Oscar Rodriguez-Lopez to engage in licensed activity by performing property management functions for SCPM. Therefore, cause exists to discipline the licenses of respondent Sanchez and respondent SCPM under these provisions, in light of the matters set forth in Findings 6, 7, 8, and 12.

2. Business and Professions Code section 10177, subdivision (a), together with California Code of Regulations, title 10, section 2746, authorize the Real Estate Commissioner to discipline a licensee who procures a license by fraud, misrepresentation or deceit.

Sanchez submitted an application for a corporate license without the requisite background statement for Rodriguez-Lopez. Cause exists to discipline the license of respondent Sanchez under these provisions, in light of the matters set forth in Finding 5.

3. Business and Professions Code sections 10145, 10176, subdivision (e), and 10177, subdivisions (d) and (g), together with California Code of Regulations, title 10, sections 2832 and 2832.1, authorize the Real Estate Commissioner to discipline a licensee who disregards the real estate laws and engages in negligence or incompetence regarding the handling of client trust funds.

Cause exists to discipline the license of respondent SCPM under these provisions, in light of the matters set forth in Finding 9.

4. Business and Professions Code sections 10177, subdivisions (d) and (h), and 10159.2, subdivision (d), together with California Code of Regulations, title 10, section 2725, authorize the Real Estate Commissioner to discipline a designated officer who willfully disregards or violates the Real Estate Law by failing to exercise reasonable control over the real estate activities being performed by a corporate licensee.

The violations described above in Legal Conclusions 1 and 3 demonstrate that SCPM violated the Real Estate Law while Sanchez was broker of record. Therefore, cause exists to discipline the license of Sanchez.

5. Business and Professions Code section 10106 authorizes the Bureau to recover in disciplinary proceedings its reasonable costs of investigation and enforcement. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of costs sought pursuant to statutory provisions such as Business and Professions Code section 10106. These factors include: (a) whether the licensee has been successful at hearing in getting charges dismissed or reduced; (b) the licensee's subjective good faith belief in the merits of his or her position; (c) whether the licensee has raised a colorable challenge to the proposed discipline; (d) the financial ability of the licensee to pay; and (e) whether the scope of the investigation was appropriate in light of the alleged misconduct.

Taking these factors in consideration, respondents will be ordered to pay \$11,503.75, pursuant to Business and Professions Code section 10106.

6. The evidence established that Rodriguez continued to engage in licensed activity after his license was revoked. He formed Sonoma County Property Rentals and Sales as a means of continuing to operate as a property manager. He was able to continue to violate the law through the assistance of respondent Sanchez.

Respondent Sanchez exercised extremely poor judgment by becoming the broker for SCPM without having any knowledge of the property management business. He then allowed Rodriguez to continue operating the business, knowing that Rodriguez's license had been revoked. Rodriguez continued to engage in licensed activity after Sanchez became involved in SCPM. Furthermore, Sanchez submitted a fraudulent application for corporate licensure, concealing Rodriguez's ownership in SCPM. Finally, SCPM failed to adhere to

the law in managing trust accounts. Under these circumstances, the protection of the public mandates that Sanchez's broker license be revoked. Because Sanchez is the designated broker of respondent Socopropmgt, Inc., revocation of Socopropmgt, Inc.'s corporate license is warranted.

In mitigation, Sanchez has been licensed for 14 years without any prior discipline. He appeared sincere in his desire to learn from his mistakes and abide by the law. Sanchez has presented sufficient evidence to warrant a real estate license, albeit on a restricted basis and with proper oversight. Given the seriousness of the violations, it is necessary that Sanchez's future activities be overseen by another licensee. It would not be against the public interest to issue respondent a restricted salesperson license.

ORDER

1. All licenses and licensing rights of respondent Socopropmgt, Inc. under the Real Estate Law are revoked.

2. All licenses and licensing rights of respondent Christopher Sanchez under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent Sanchez 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 that Code:

1. Conviction or Plea to a Crime

The restricted license issued to respondent Sanchez 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 is substantially related to respondent's fitness or capacity as a real estate licensee.

2. Violation of Law

The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.

3. Application for Unrestricted License

Respondent Sanchez shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

4. Continuing Education Requirement

Respondent Sanchez shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate 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.

5. Professional Responsibility Condition

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

6. Reporting Condition

Respondent Sanchez shall report in writing to the Bureau of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which respondent engaged during the period covered by the report.

3. Respondents Sanchez and Socopropmgt, Inc. shall pay the Bureau costs associated with the investigation and enforcement pursuant to Business and Professions Code section 10106 in the amount of \$11,503.75. The Bureau may establish a reasonable payment schedule for the payment of these costs in installments.

DATED: October 11, 2016

DocuSigned by:

Karen E Reichmann

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KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings