

FILED
FEB - 9 2005
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
RICHARD GARY DALE,)
Respondent.)

No. H-30968 LA
L-2004060450

DECISION

The Proposed Decision dated January 3, 2005, 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.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

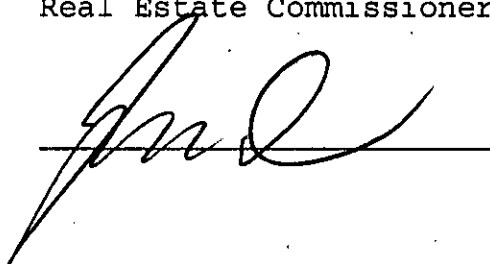
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on February 23, 2005.

IT IS SO ORDERED

1-25-05

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RICHARD GARY DALE
d.b.a. California First Capital,

Respondent.

OAH NO. L2004060450

CASE NO. H-30968 LA

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge (ALJ), Office of Administrative Hearings, at Los Angeles, California on November 23, 2004.

Department of Real Estate Staff Counsel Martha J. Rosett represented complainant.

Respondent, Richard Gary Dale, personally appeared and was represented by David E. Swanson, Esq.

Oral and documentary evidence was received and the matter was submitted.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. The Accusation was filed by Maria Suarez (complainant) while acting in her official capacity as a Deputy Real Estate Commissioner, Department of Real Estate (DRE), State of California.
2. On January 5, 1977, respondent was licensed by the DRE as a real estate broker. At all times relevant to the instant proceedings respondent's real estate broker license was, and currently is, in full force and effect.
3. On December 23, 2002, respondent was convicted in Orange County Superior Court, in case number 02SM03741 of one count of violating California Penal Code section 484, subdivision (a) - 488 (Petty Theft), a misdemeanor crime involving moral turpitude which, pursuant to California Code of Regulations, title 10, section 2910, is substantially related the qualifications, functions and duties of a licentiate.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. The crime for which respondent was convicted, as described in Finding 3, is substantially related to the qualifications, functions and duties of a licentiate (See Cal. Code Regs., title 10, § 2910). Respondent's conviction, therefore, constitutes a ground for discipline of respondent's real estate broker license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b); however, as set forth in Conclusion 2, below, the ALJ concludes that it would not be against the public interest to restrict respondent's license.

2. Based on the mitigating factors set forth in Findings 5, 6, 7, 8, 9, 10, 11, and 12, it appears that respondent's conviction resulted from behavior completely out of character for respondent without likelihood of reoccurrence. All factors considered, the ALJ concludes that it would not be adverse to the public interest to revoke respondent's broker license and issue him a restricted real estate broker license.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Richard G. Dale, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefore and pays to the Department 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 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:

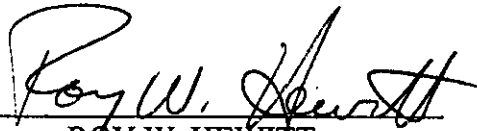
1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. 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. Respondent 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. Respondent 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 the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: January 3, 2005.



ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
RICHARD GARY DALE,)
_____)
Respondent(s)

Case No. H-30968 LA
OAH No. L-2004060450

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DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, NOVEMBER 23, 2004, at the hour of 11:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal 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.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: November 1, 2004

By



MARTHA J. CROSETT, Counsel

cc: Richard Gary Dale
David Swanson, Esq.
Sacto.
OAH

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
RICHARD GARY DALE,)
Respondent(s)

Case No. H-30968 LA

OAH No. L-2004060450

FILED
SEP - 9 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION ca

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, OCTOBER 26, 2004, at the hour of 10:30 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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DEPARTMENT OF REAL ESTATE

Dated: September 9, 2004

By

Martha J. Rosett
MARTHA J. ROSETT, Counsel

cc: Richard Gary Dale
David Swanson, Esq.
Sacto.
OAH

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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of)
)
RICHARD GARY DALE,)
)
_____)
Respondent (s)

Case No. H-30968 LA
OAH No. L-2004060450

FILED
JUL - 1 2004
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent (s) :

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, SEPTEMBER 9, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal 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.

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DEPARTMENT OF REAL ESTATE

Dated: July 1, 2004

By 
MARTHA J. ROSETT, Counsel

cc: Richard Gary Dale
David Swanson, Esq.
Sacto.
OAH

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013-1105

4 (213) 576-6982
5 (213) 576-6914

FILED
JUN - 9 2004
DEPARTMENT OF REAL ESTATE

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-30968 LA
12)
13 RICHARD GARY DALE, dba) A C C U S A T I O N
14 California First Capital,)
15 Respondent.)

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against RICHARD GARY DALE, dba California First Capital
19 (hereinafter "Respondent"), is informed and alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 her official capacity.

24 2.

25 At all times herein mentioned, Respondent was and still
26 is licensed and/or has license rights under the Real Estate Law
27

1 (Part 1 of Division 4 of the Business and Professions Code). At
2 all times mentioned herein, Respondent was licensed as a real
3 estate broker. Respondent was first licensed by the Department
4 as a broker in 1977.

5 3.

6 On or about December 23, 2002, in the Superior Court of
7 California, County of Orange, in Case No. 02SM03741, Respondent
8 was convicted of violating Penal Code Section 484(a)-488 (petty
9 theft), a crime of moral turpitude which is substantially related
10 to the qualifications, functions and duties of a real estate
11 licensee. Respondent was sentenced to three years summary
12 probation, the terms of which included payment of fines.

13 4.

14 Respondent's conviction, as set forth in Paragraph 3
15 above, constitutes grounds for the revocation or suspension of
16 Respondent's license pursuant to Business and Professions Code
17 Sections 490 and 10177(b).

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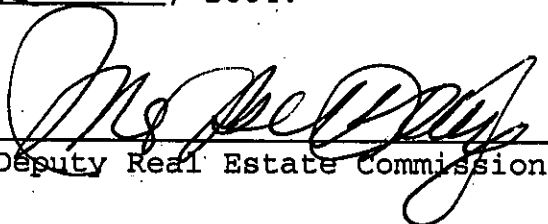
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WHEREFORE, the Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent RICHARD GARY DALE under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California
this 1st day of June, 2004.


Deputy Real Estate Commissioner

cc: Richard Gary Dale
Sacto.
Maria Suarez
DW