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JUN 14 2008

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By 

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In the Matter of the Accusation of)
)
)
 JULIO CESAR AGUILAR,)
)
)
 Respondent.)
 _____)

No. H-32293 LA
L-2005120286

DECISION

The Proposed Decision dated May 15, 2006, 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.

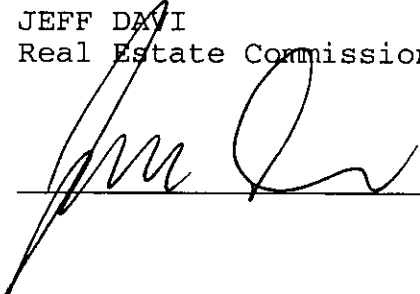
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 July 5, 2006.

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner

6-12-06


BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JULIO CESAR AGUILAR,

Respondent.

Case No.: H-32293 LA

OAH No.: L2005120286

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on April 25, 2006.

Alvaro Mejia, Staff Counsel, represented the Complainant.

Respondent appeared in person and was represented by Michael A. Lanphere, Attorney at Law.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

1. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.
2. At all times herein mentioned, Respondent was and still is 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 salesperson. Respondent was first licensed by the Department on January 16, 1997.
3. In June, 1998, and in October, 1998, shortly after he was first licensed by the Department, Respondent submitted documents to HUD (The United States Department of Housing and Urban Development) which misrepresented (fraudulently inflated) the income of a prospective buyer to secure HUD funds for the purchase of single family residences.

Based upon the fraudulent documents, the two loans were funded. The wrongdoing was ultimately discovered and in 2001, Respondent was indicted. Thereafter, on January 30, 2003, in the United States District Court, Central District of California, Southern Division, in case no. 02-CR-139, Respondent was convicted of violating two (2) counts of title 18, United States Code, section 1343 (Wire Fraud), and violating two (2) counts of title 18, United States Code, section 2(b) (Causing An Act To Be Done).

4. The crime set forth in Finding 3, by its facts and circumstances, is a crime of moral turpitude.

5. Respondent's conduct set forth in Finding 3 constitutes the appropriating of funds belonging to another person; the employment of fraud and deceit to achieve an end; the doing of an unlawful act of conferring a financial benefit upon the perpetrator.

6. As a result of the conviction Respondent was sentenced to two years formal probation and ordered to pay fines totaling \$1,700. He timely paid the fines and was issued a satisfaction of judgment. Pursuant to court order, he timely reported the conviction to the Department. Respondent's probation officer, in recommending a penalty of a two year probation without jail time, stated: "In mitigation, Aguilar (Respondent) has no prior criminal history and the fraudulent loans that he was involved with did not result in a loss. Because of the probation officer has not identified any aggravating factors, a sentence of probation has been recommended." Respondent, in a statement to the court took responsibility for his wrongdoing and expressed contrition as follows:

"I, Julio Aguilar, take full responsibility of the charges against me. I used the wrong resources to help families obtain their dreams of owning a home. I did not do this in a malicious way to hurt anybody or to make large amounts of money. By helping families I was really hurting myself. I understand my error and feel bad for my actions. After this experience it makes me value my career, surrounding, my time with my daughter and even my freedom. I am truly sorry for what I've done and will do anything the Court asks me to do."

7. Respondent was transparent with the Department during its investigation of Respondent's wrongdoing. He was at all times open and honest during the Department's interview process. The interviewer found Respondent to be remorseful, candid, honest, professional and to have a good attitude. Respondent was open, honest and candid in his testimony. Respondent's testimony, together with documentary evidence from family members, friends and other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns, demonstrated a change in attitude from that which existed at the time of wrongful conduct. That change was reflected during the Department's renewal process when Respondent disclosed the conviction and the details thereof on the renewal application in October, 2004.

8. Respondent has recently married. He is the father of a daughter from another marriage and contributes to his daughter's financial support and moral upbringing. He and his daughter are members of St. Pius X Catholic Church and they have participated in faith formation classes, parent and child retreats, parent meetings. Both attend mass, together, on a regular basis. Respondent has stability of family life and is fulfilling parental and familial responsibilities.

9. Respondent, is an active member of the Bell Masonic Lodge and has progressively demonstrated and practiced the principle that is a cornerstone of freemasonry: "that which takes good men and helps them become better." He has received recognition and advancement due to his adherence to that principle. Respondent, now a Master Mason, participates in the works of public good administered by the Bell Masonic Lodge. He, therefore, has significant and conscientious involvement in programs designed to provide social benefits and to ameliorate social problems.

Additionally, Respondent now hold the rank of brown belt with Gosikido Martial Arts. From time to time he has assisted the Grand Master in profile demonstrations for charity organizations, including Jerry's Muscular Dystrophy Kids Camp.

10. Respondent has demonstrated social responsibility on a number of occasions. In particular, he is a regular contributor to orphanages under the aegis of St. Raymond's Catholic Church and he has received a letter of commendation from the National Marrow Donor Program for stem cell donations to a twelve year old girl with leukemia.

11. The conduct leading to the conviction included two transactions involving dishonesty and deception, eight years ago when Respondent was 24 years of age, and is not a part of a pattern of history or dishonesty or of deceptive conduct. Respondent has been a licensee of the Department for nine years. He has suffered no other criminal conviction and no discipline of his license. At present he is a professionally and socially responsible person.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 490 provides in pertinent part:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . .

2. Business and Professions Code section 10177, subdivision (b) provides:

The commissioner may suspend or revoke the license of a real licensee, or may deny the issuance of a license to an applicant, who has done any of the following. . . .

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

3. California Code of Regulations, title 10, section 2910 provides in pertinent part:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of sections 480 and 490 of the Code if it involves:

(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

- - -

(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.

- - -

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

Violations

4. Cause exists for discipline of Respondent's license for violation of Business and Professions Code section 10177, subdivision (b), by reason of Findings 3 and 4.

5. The crime set forth in Finding 3, is substantially related to the qualifications, functions and duties of a real estate licensee pursuant to the California Code of Regulations, title 10, section 2910, by reason of Finding 5.

6. Respondent's conviction for a substantially related crime, as set forth in Findings 3 and 5, constitutes grounds to discipline his real estate salesperson license pursuant to Business and Professions Code section 490.

Penalty Considerations

7. The Department has issued Criteria of Rehabilitation set forth in California Code of Regulations, title 10, section 2912. According to that regulation, the Guidelines are to be considered in evaluating the rehabilitation of a licensee who is subjected to disciplinary action as a result of a crime. Applying the Guidelines to this case Respondent, by reason of Findings 6 through 11, has met most of the criteria. The conviction is more than two years ago and the wrongful conduct leading to the conviction occurred approximately eight years ago. Respondent's rehabilitation to date is sufficient to allow licensure on a restricted status.

ORDER

All licenses and licensing rights of Respondent Julio Cesar Aguilar, 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 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.

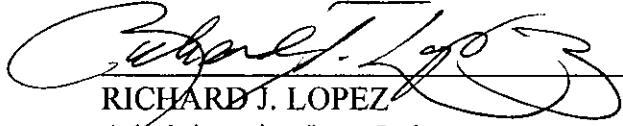
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

- (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
- (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating activities for which a real estate license is required.

5. 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: 15 May 2006


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

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5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6916

FILED
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DEPARTMENT OF REAL ESTATE

By 

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H- 32293 LA
12 JULIO CESAR AGUILAR,) A C C U S A T I O N
13 Respondent.)
14 _____)

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against JULIO CESAR AGUILAR, ("Respondent") alleges as follows:

18 1.

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

22 2.

23 Respondent is presently licensed and/or has license
24 rights under the Real Estate Law, Part 1 of Division 4 of the
25 California Business and Professions Code ("Code"), as a real
26 estate salesperson.
27

3.

1 On or about January 30, 2003, in the United States
2 District Court, Central District of California, Southern
3 Division, in case no. 02-CR-139, Respondent was convicted of
4 violating two (2) counts of Title 18, United States Code,
5 Section 1343 (Wire Fraud), and violating two (2) counts of Title
6 18, United States Code, Section 2(b) (Causing An Act To Be
7 Done). The underlying facts of this crime involve moral
8 turpitude, which bears a substantial relationship under Section
9 2910, Title 10, Chapter 6, California Code of Regulations to the
10 qualifications, functions or duties of a real estate licensee.
11

4.

12 The crime of which Respondent was convicted, as
13 described in Paragraph 3 above, constitutes cause under Sections
14 490 and 10177(b) of the Code for the suspension or revocation of
15 the license and license rights of Respondent under the Real
16 Estate Law.
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent, JULIO CESAR AGUILAR, under the Real Estate Law (Part
6 1 of Division 4 of the Business and Professions Code) and for
7 such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at Los Angeles, California

10 this 28th day of October, 2005.

11 
12 Maria Suarez
13 Deputy Real Estate Commissioner

14 cc: JULIO CESAR AGUILAR
15 MAXRES Inc.
16 Maria Suarez
17 Sacto.
18 JO
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