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MAR 15 2012

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

In the Matter of the Accusation of)	No. H-37464 LA
)	
BRADLEY RAYMOND FELDMAN,)	L-2011090936
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated February 23, 2012, 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.

Pursuant to Section 11517 (c) (2) of the Government Code, the following correction is made:

Order, page 5, "DATED: February 23, 2010" is amended to read "DATED: February 23, 2012".

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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
APR 04 2012

IT IS SO ORDERED 3/12/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

In the Matter of the Accusation of:

BRADLEY RAYMOND FELDMAN,

Respondent.

Case No. H-37464 LA
OAH No. 2011090936

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on February 14, 2012, in Los Angeles, California.

Complainant was represented by Julie L. To, Counsel for the Department of Real Estate (Department). Bradley Raymond Feldman (respondent) appeared personally and represented himself.

Evidence was received and the matter was submitted for decision. The Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. Complainant, Maria Suarez, made the Accusation in her official capacity as Deputy Real Estate Commissioner of the State of California.

2. Respondent is presently licensed and/or has licensing rights as a real estate salesperson under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code

3. On January 6, 2010, in the Superior Court of California, County of Orange, Case No. 09HM05144, respondent entered a plea of guilty and was convicted of violating Penal Code section 243, subdivision (e)(1), battery against a cohabitant, a misdemeanor that is substantially related to the duties, functions and qualifications of a real estate salesperson. Judgment of conviction was entered and the court sentenced respondent to state prison for 16 months. The sentence was suspended and respondent was placed on informal probation for three years on certain conditions including conditions ordering respondent to serve 90 days in the Seal Beach city jail, to complete a batterer's treatment program, and to pay fines and fees totaling \$710.

4. The facts and circumstances underlying the conviction were that respondent and his wife of five years were having an argument after both of them drank some beers. The argument escalated and respondent attempted to leave the house when his wife blocked the door. Respondent grabbed his wife by the neck and shoved her aside forcefully. The incident occurred at a time when respondent and his wife were having marital problems. Their relationship became volatile and resulted in the physical altercation described above. Respondent is now divorced.

5. Respondent has no history of violent behavior before or after the incident. He has completed all of the requirements of his probation, which is scheduled to expire on January 6, 2013.

6. Respondent has been employed for the past seven years as a real estate salesperson at First Team Real Estate located in Laguna Nigel. Respondent has performed very well in his job. His testimony regarding the manner in which he conducts business is corroborated by letters from his co-workers and his supervisor. He has never had any complaints relating to his work as a real estate salesperson.

7. Respondent is active in his church. He attends weekly "Life Group" meetings at his church where he is the group facilitator. He spends his spare time with his two daughters and volunteers for his older daughter's softball team.

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke respondent's real estate salesperson license under Business and Professions Code sections 490, and 10177, subdivision (b), for a misdemeanor conviction that is substantially related to the duties, functions and qualifications of a real estate salesperson pursuant to California Code of Regulations, title 10, section 2910, subdivision (a)(8).

2. California Code of Regulations, title 10, section 2911, sets forth criteria for establishing rehabilitation. Respondent has met the applicable criteria set forth in section 2911, as follows:

(a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. Respondent's conviction is more than two years old.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee. This factor is not applicable to this case.

(c) *Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.* Respondent's conviction has not been expunged.

(d) *Expungement or discontinuance of a requirement of registration pursuant to the provisions of section 290 of the Penal Code.* This factor is not applicable to this case.

(e) *Successful completion or early discharge from probation or parole.* Respondent has not completed probation.

(f) *Abstinence from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.* This factor is not applicable to this case because there was no evidence that respondent has an alcohol or substance abuse problem.

(g) *Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.* Respondent has paid all fines and fees imposed by the Superior Court.

(h) *Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.* This factor is not applicable to this case.

(i) *New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.* Respondent is now divorced from his wife. Therefore, the volatile relationship with his wife has been resolved.

(j) *Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.* Respondent now has a stable family life in that he spends most of his spare time with his daughters and is involved in their sports activities.

(k) *Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.* Respondent did not present evidence on this issue.

(l) *Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.* Respondent is now quite involved in his church and in his oldest daughter's softball team.

(m) *Change in attitude from that which existed at the time of the commission of the criminal acts.* . . The cause of respondent's aggressive behavior was the volatile relationship with his wife. As noted above, this issue has been resolved. In any event, one cannot necessarily extrapolate physical aggression that occurs within a domestic setting into a general proclivity for violence. The dynamics of a troubled domestic relationship and the emotions therein are so different in kind and intensity from ordinary business and social interactions that such a generalization is not warranted. There was no evidence that respondent has been physically aggressive with anyone else. Further, Respondent presented evidence that the problems with his marriage did not affect his professional life. The physical aggression exhibited by respondent against his wife was limited to a domestic dispute in a troubled marriage, which has since ended. Recidivism is unlikely.

3. Pursuant to regulation section 2911, respondent established rehabilitation to the extent that the public would be adequately protected if respondent is allowed to continue working as a real estate salesperson under a restricted license.

ORDER

All licenses and licensing rights of respondent Bradley Raymond Feldman, 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 thereof 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 a 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 to 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 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: February 23, ²⁰¹²2010

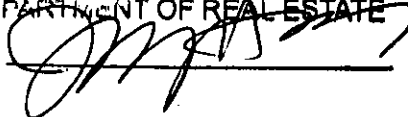

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

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FILED

AUG 22 2011

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H- 37464 LA
12 BRADLEY RAYMOND FELDMAN,) A C C U S A T I O N
13 Respondent.)
14 _____)

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16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against BRADLEY RAYMOND FELDMAN, a.k.a. Bradley Raymond Seldman
19 ("Respondent"), alleges as follows:

20 1.

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

24 2.

25 Respondent is presently licensed and/or has license
26 rights under the Real Estate Law, Part 1 of Division 4 of the
27

1 California Business and Professions Code ("Code"), as a real
2 estate salesperson.

3 3.

4 On or about January 6, 2010, in the Superior Court of
5 the State of California, Orange County, Case No. 09HM05144,
6 Respondent was convicted of violating California Penal Code
7 Section 243(e)(1) (battery against cohabitant), a misdemeanor.
8 Respondent was sentenced to three years probation, 90 days in
9 jail, and ordered to: complete eight hours of community service;
10 pay fines and restitution; and stay away from Christine Rennee
11 Hartley.

12 4.

13 This conviction, by its facts and circumstances, bears
14 a substantial relationship under Section 2910, Title 10, Chapter
15 6, California Code of Regulations to the qualifications,
16 functions or duties of a real estate licensee.

17 5.

18 The crime of which Respondent was convicted
19 constitutes cause under Sections 490 and 10177(b) of the Code
20 for the suspension or revocation of the license and license
21 rights of Respondent under the Real Estate Law.

22 ///

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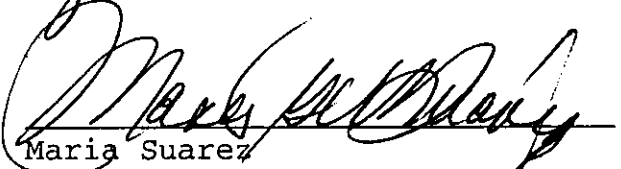
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and license rights of Respondent, BRADLEY RAYMOND FELDMAN, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 17th day of August, 2011.


Maria Suarez
Deputy Real Estate Commissioner

cc: BRADLEY RAYMOND FELDMAN
First Team Real Estate - Orange County
Maria Suarez
Sacto.