

FILED

JUN 25 2013

DEPARTMENT OF REAL ESTATE
BY: C.R.

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of)	DRE No. H-37966 LA
)	
ROSARIO MARIA HERNANDEZ and)	OAH No. 2012070835
<u>CARLOS ANGEL GALVAN,</u>)	
)	
Respondents.)	
_____)	

DECISION

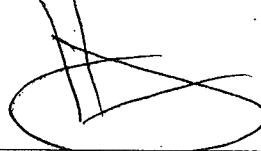
The Proposed Decision dated May 30, 2013, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on
July 15, 2013.

IT IS SO ORDERED

June 19, 2013

Real Estate Commissioner



By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CARLOS ANGEL GALVAN,

Respondents.

Department No. H-37966 LA

OAH No. 2012070835

PROPOSED DECISION

This matter was heard on May 15, 2013, in Los Angeles, by Chris. Ruiz, Administrative Law Judge, Office of Administrative Hearings.

Carlos Galvan (Respondent) was present and represented himself.

Complainant, Maria Suarez, Deputy Real Estate Commissioner, was represented by Lissete Garcia, Counsel for Department of Real Estate (Department). Interpreter Victor Ramos assisted some witness with English-Spanish interpretation.

Oral and documentary evidence was presented and the matter was submitted on May 15, 2013.

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity.
2. Respondent is presently licensed as a real estate broker, license number 01023450, and was initially licensed as a broker in October 2004. Respondent previously held a real estate salesperson's license from approximately 1989 through 2004 when he became a broker. There was no evidence presented that Respondent's real estate salesperson's license was ever disciplined.
3. In 2009, Respondent became involved with Ms. Hernandez (Hernandez) and Mr. Martinez (Martinez). Hernandez was a licensed real estate salesperson. Martinez did not hold any license issue by the Department. The three of them intended to form a real estate business named H&R. Respondent became an officer and director of

H&R, a corporation. Respondent filed a corporation license application with the Department, but it was not processed because the attached check was returned for insufficient funds. At about the same time, Respondent agreed to serve as Hernandez's broker and he requested that the Department list Hernandez as working under his broker's license. From the outset, Respondent remained a director and officer of H&R, an entity he knew was conducting unlicensed activity. While all of H&R's activities were conducted by Martinez, Respondent took no action to supervise H&R or Hernandez, and he took no action to remedy the fact that H&R remained unlicensed and he allowed H&R to fail to comply with the requirements regarding advance fees.

4. The following persons paid money to Martinez for loan modification services for which they received no services: Rosa Perez paid \$2,500 and Rosa Mendoza paid \$4,750. Thus, these consumers suffered financial injury while Respondent was an officer and director of H&R, the entity with which the consumers dealt.
5. The Department incurred reasonable costs of investigation and enforcement in this matter in the sum of \$1,063.25.
6. The evidence established that Respondent does not fully understand his responsibilities as a broker. At hearing he contended that he did not understand the process, nor could he understand the Accusation. He also did not seem to understand why he should have not allowed Hernandez to remain under his broker's license when he only met her once and never supervised her. The fact that he "hoped" Hernandez would show up "someday" and they would be able to do business, reveals that he does not understand his duties as a broker. It was his responsibility to supervise Hernandez, and when he could not locate Hernandez, he should have requested that the Department remove her name from being listed as working under his broker's license. To compound matters, Respondent also knew that H&R was not licensed by the Department, and yet he remained as an officer and a director, and he failed to determine what Martinez was doing under the name of the corporation, such as collecting advance fees without following the Department's requirements.

LEGAL CONCLUSIONS AND DISCUSSION

1. Cause exists to suspend or revoke Respondent's real estate broker's license pursuant to Business and Professions Code section 10085 and 10146 for failure to deposit advance fees in a trust account.
2. Cause exists to suspend or revoke Respondent's real estate broker's license pursuant to Business and Professions Code section 10130 (unlicensed activity) and 10159.5 (unlicensed use of a fictitious business name), and 10177, subdivision (h), and California Code of Regulations 2725 (failure to exercise reasonable supervision of a salesperson).

3. Respondent did not have any disciplinary problems during his 15 years licensed as a real estate salesperson. While the evidence established he is not qualified to remain a broker, it was not established that he poses a risk as a real estate salesperson. Thus, the following order will adequately protect the public.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Carlos Angel Galvan under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Carlos Angel Galvan pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor 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 one year has 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:

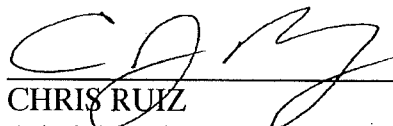
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating 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. Respondent shall also take an "Ethics" class if so ordered by the Department. 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.

6. Within 11 months of the effective date of this decision, Respondent shall pay the following amounts: \$2,500 to Rosa Perez and \$4,750 to Rosa Mendoza as restitution, and \$1,063.25 to the Department for costs. The Department will notify Respondent if these payments will be in a lump sum, or in monthly payments.

DATED: May 30, 2013

A handwritten signature in black ink, appearing to read "CRUZ", is written over a horizontal line.

CHRIS RUIZ
Administrative Law Judge
Office of Administrative Hearings