

**FILED**

OCT 13 2014

**BUREAU OF REAL ESTATE**

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	CalBRE No. H-39228 LA
	)	OAH No. 2014030245
GEORGE BOLIVAR IZQUIERDO,	)	
	)	
	)	
Respondent.	)	

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DECISION

The Proposed Decision dated September 21, 2014, 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, 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 NOV 03 2014

IT IS SO ORDERED 10/5/2014

REAL ESTATE COMMISSIONER

  
\_\_\_\_\_  
WAYNE BELL

BEFORE THE BUREAU OF REAL ESTATE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGE BOLIVAR IZQUIERDO,

Respondent.

Case No. H-39228 LA

OAH No. 2014030245

**PROPOSED DECISION**

Administrative Law Judge Gloria A. Barrios heard this matter on August 5, 2014, in Los Angeles, California.

James R. Peel, Counsel for the Bureau of Real Estate (Bureau) represented Robin Trujillo (Complainant), Deputy Real Estate Commissioner.

Riza Gonzales, Attorney at Law, represented George Bolivar Izquierdo (Respondent) who was present at the hearing.

Oral and documentary evidence was received, and the matter was submitted for decision on August 5, 2014.

**FACTUAL FINDINGS**

1. Complainant brought the Accusation in her official capacity.
2. Respondent has been licensed as a real estate broker since April 8, 1980. The license has been renewed through September 7, 2018. There was no evidence of any prior discipline imposed against the license.
3. On May 22, 2012, Respondent was convicted, after his plea of nolo contendere, of violating Penal Code section 182, subdivision (a)(5), (conspiracy to commit an act injurious to the public/obstruction of justice), a felony (*People v. George Bolivar Izquierdo*, Superior Court of the State of California, County of Los Angeles, case number BA3303907.) Imposition of sentence suspended, and Respondent was sentenced to formal probation for three years. Respondent was also ordered to pay restitution, fines and fees totaling \$5,070 and to complete 300 hours of community service. On August 1, 2014, the

court, pursuant to Penal Code section 17, subdivision (b), reduced the felony to a misdemeanor conviction. Respondent completed probation, including payment of all restitution, fines and fees on August 1, 2014.

4. The facts and circumstances underlying Respondent's criminal conviction are that he and a private investigator bribed a witness who was to testify against Respondent's son in his rape trial.

5. According to Respondent, in 2003 he hired criminal defense attorney, Mark Geragos to defend his son on rape charges. Geragos employed a private investigator, Bradley Miller. Miller complained to Respondent that Geragos was not paying him. In 2005, Respondent began to pay Miller in an effort to help his son's case. Miller gave Respondent updates on his investigation. Miller bribed the rape victim so that she would not testify against Respondent's son. Respondent was implicated in the criminal conspiracy because at the time he was paying Miller. Eventually, Respondent's son was convicted of sexual assault and is currently in prison. Respondent argued all he did wrong was pay Miller.

6. Respondent was born in Ecuador in 1948. He immigrated to the United States in 1964, when he was 16 years old. Respondent graduated from Glendale High School in 1968. He received his Associate of Arts degree from Los Angeles City College. Respondent served in the United States Army. After leaving the service, Respondent was employed in the loan departments at different banks. He obtained his real estate salesperson's license in 1973 and his broker's license in 1980.

7. Respondent first worked as real estate agent in Glendale. In 1978, he opened Las Casas Realty Inc., located in Highland Park. Respondent is president of Las Casas. Las Casas specializes in selling single-family residences. Las Casas primarily serves the Hispanic community, especially first time buyers in northeast Los Angeles.

8. Las Casas is very involved in the community it serves. The office holds annual Toys for Tots drives during the Christmas holidays. Respondent holds fund-raisers periodically for the American Cancer Society and the Lymphoma/Leukemia Organization. Las Casas operates an internship program. Students from Franklin High School in Los Angeles train at Las Casas mentored by Respondent and his agents to work in real estate. The program is highly successful. It has trained many students for careers in the real estate field. Currently, approximately five or six agents working at Las Casas came through the internship program. Las Casas employs 14 real estate agents. Throughout his career as a broker, Respondent has supervised and trained hundreds of real estate agents.

9. Respondent has received recognition from political leaders for his many civic contributions. Rocky Delgadillo, Los Angeles City Attorney, Richard Polanco, state senator and Antonio Villaraigosa, assemblyman, have all recognized Respondent's community contributions. (Respondent's Exhibit H.)

10. Cesar Cervantes is a real estate broker. He has also been a real estate salesperson. Cervantes has been in the real estate field for the past 20 years. He worked as a real estate salesperson for Respondent from 1994 through 1999. Cervantes left Las Casas, but when the real estate market fell, Cervantes returned to work for Respondent. Cervantes testified that Respondent taught him how to practice real estate. Respondent helped him and many others have a career in real estate. Cervantes stated that Respondent is "an honest man and there is nothing bad I can say about him." Cervantes has participated in the Las Casas' internship program and other civic activities. Respondent's conviction does not change Cervantes' opinion of him. Cervantes explained that Respondent helps the community and the real estate field. He wrote two letters on Respondent's behalf. (Part of Respondent's Exhibits E and I.)

11. Arlen Perla, is a real estate salesperson at Las Casas. She began working at Las Casas when she was a student at Glendale College. Respondent accommodated her college schedule. She received her Associate of Arts degree in Child Development. Perla became a licensed real estate salesperson in 2003. Respondent has been a mentor to Perla. She graduated from Franklin High School, but did not participate in the internship program. She testified that the school has a high drop out rate and graduates often cannot find a job. Perla is aware of Respondent's conviction, but it does not change her high opinion of him. She also wrote two letters on Respondent's behalf. (Part of Respondent's Exhibits E and I.)

12. Carole G. Chaingan is an escrow officer and vice president at Las Casas. She has worked there since 1986. Chaingan is an employee as well as a friend to Respondent and his family. She testified that Respondent is sincere, honest and helpful to others. Chaingan stated that Respondent should be allowed to continue his licensure as a broker, despite his criminal conviction. She wrote two letters in support of Respondent. (Part of Respondent's Exhibits D and I.)

13. Jaime F. Naranjo, real estate broker and Eddy Chavarra, real estate salesperson, also testified on Respondent's behalf. Chavarra is an agent at Las Casas. In addition, Chavarra wrote two letters in support of Respondent. (Part of Respondent's Exhibits F and I.) Both praised Respondent's integrity, generosity and value to the community.

14. Respondent offered several character reference letters from Las Casas' employees, family members, business associates and friends. These letters were received in evidence as administrative hearsay.<sup>1</sup> These letters confirmed the opinions expressed by

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<sup>1</sup> The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a factual finding. It may be combined with other evidence to provide substantial evidence sufficient to support a finding. (*Komizu v. Gourley* (2002) 103 Cap.App.4th 1001.)

Cervantes, Perla, Chaingan, Naranjo and Chavarra that Respondent is honest, professional, giving and trustworthy. (Respondent's Exhibits C and G, and Parts of Exhibits D, E, F and I.)

15. Respondent has been married 25 years. Respondent's wife, Myriam Izquierdo, is the current broker at Las Casas. He has three adult children, ages 40, 37 and 35. Respondent has six grandchildren. He also provides for his 92 year-old mother.

### LEGAL CONCLUSIONS AND DISCUSSION

1. The standard of proof for the Bureau to prevail on the Accusation is clear and convincing evidence to a reasonable certainty. (See *Borror v. Dept. of Real Estate* (1971) 15 Cal.App.3d 531; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means the burden rests with Complainant to offer proof that is clear, explicit and unequivocal—so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

2. Under Business and Professions Code section 10177, subdivision (b), a real estate licensee may have his license disciplined for conviction of a crime if it is substantially related to the qualifications, functions, or duties of a real estate licensee.

3. Under Business and Professions Code section 490, the Bureau 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."

4. Under California Code of Regulations (CCR), title 10, section 2910, subdivisions, (a)(4), "the employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end," and (b), "the conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the Bureau," bears a substantial relationship to the functions, duties and qualifications of a Bureau licensee.

5. The act for which Respondent was convicted (conspiracy to commit an act injurious to the public/obstruction of justice) is a crime which falls under CCR, title 10, section 2910, subdivisions (a)(4) and (b). The bribing of a witness is particularly egregious as it interferes with the administration of justice.

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6. Cause exists to impose discipline on Respondent's real estate broker's license pursuant to Business and Professions Code section 490 and section 10177, subdivision (b), because Respondent has been convicted of a crime which is substantially related to the qualifications, functions, or duties of a real estate broker, as set forth in Factual Findings 3 through 5 and Legal Conclusions 2 through 5.

7. Although cause for discipline exists, it is necessary to determine whether Respondent has been sufficiently rehabilitated to warrant his continued licensure. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)

8. The Bureau has established criteria for determining rehabilitation from a conviction of a crime sufficient to warrant continued licensure. The criteria, found at CCR, title 10, section 2912, are summarized as follows:

- Subdivision (a), passage of at least 2 years since the conviction or the underlying acts;
- Subdivision (b), restitution;
- Subdivision (c), expungement of the conviction;
- Subdivision (d), expungement of the requirement to register as a sex offender;
- Subdivision (e), completion of, or early discharge from, the criminal probation;
- Subdivision (f), abstinence from drugs or alcohol that contributed to the crime;
- Subdivision (g), payment of any criminal fines or penalties;
- Subdivision (h), correction of business practices causing injury;
- Subdivision (i), new and different social and business relationships;
- Subdivision (j), stability of family life;
- Subdivision (k), enrollment in or completion of educational or training courses;
- Subdivision (l), significant involvement in community, church or private programs for social betterment; and
- Subdivision (m), change in attitude from the time of conviction to the present, evidenced by: testimony of the licensee and others, including family members, friends or others familiar with her previous conduct and subsequent attitudes and behavior patterns, or probation or parole officers or law enforcement officials; psychiatric or therapeutic evidence; and absence of subsequent convictions.

9. Respondent provided substantial evidence of rehabilitation. Two years have passed since he was convicted. Respondent has completed his probation early and paid all court ordered restitution, fines and fees. He has fulfilled his community service. Respondent's conviction was reduced to a misdemeanor. He is very involved in the community raising money and awareness for worthy causes. Respondent's internship program has helped several high school students find a career in real estate. He received letters of support attesting to his good character and generosity. Respondent has a stable family life. Although Respondent established formidable mitigation, he was convicted of a serious crime. He has attempted to minimize his role in the conspiracy. Respondent has not acknowledged the wrongfulness of his actions, which is an essential step toward

rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933.) On balance, the public will be best protected if Respondent is not allowed to retain his real estate broker's license, but instead be issued a restricted real estate salesperson's license.

## ORDER

All licenses and licensing rights of Respondent George Bolivar Izquierdo under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Business and Professions Code section 10156.5, if Respondent makes application therefore and pays to the Bureau 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 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 license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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.

2. 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 date of issuance of the restricted license to Respondent.

3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: September 21, 2014



GLORIA A. BARRIOS  
Administrative Law Judge  
Office of Administrative Hearings