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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of:)	DRE No. H-41985 LA
)	
ROBERTO GONZALEZ VIRAMONTES)	OAH No. 2021060574
)	
Respondent.)	

DECISION

The Proposed Decision dated August 11, 2021 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 corrections are made to the Proposed Decision.

Page 2, Paragraph 2 reads as, "...March 15, 2021..." corrected as, "...May 11, 2021..."

Page 2, Paragraph 3 reads as, "...March 30, 2021..." corrected as, "...May 24, 2021..."

Page 3, Paragraph 9 reads as, "...June 17, 2017..." corrected as, "...June 7, 2021..."

The application for a real estate salesperson license is denied. The earliest date on which the applicant may reapply for a license is one year from the effective date of this Decision. If and when application is again made for this license, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or

analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 OCT 25 2021.

IT IS SO ORDERED 9-28-21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

In the Matter of the Statement of Issues against:

ROBERTO GONZALEZ VIRAMONTES, Respondent

Agency Case No. H-41985

OAH No. 2021060574

PROPOSED DECISION

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on July 12, 2021.

Andrea Bentler, Counsel for the Department of Real Estate (Department), represented Maria Suarez (Complainant), a Supervising Special Investigator of the State of California.

Roberto Gonzalez Viramontes (Respondent), also known as Robert Gonzalez Jr., Roberto Gonzalez Viramontes Jr., Robert Gonzalez Viramontes Jr., and Robert Gonzalez-Viramontes, represented himself.

Testimony and exhibits were received as evidence. The record was closed and the matter was submitted on July 12, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On August 26, 2019, Respondent filed an application for real estate salesperson license with the Department. Respondent's application was denied after a background investigation was performed.
2. On March 15, 2021, Complainant filed the Statement of Issues in her official capacity.
3. On March 30, 2021, respondent filed a Notice of Defense, which requested a hearing on the allegations stated in the Statement of Issues.
4. All jurisdictional requirements have been met.

Prior Real Estate Broker license

5. The Department previously issued real estate broker license number 01107842 to Respondent.
6. On August 16, 2016, an administrative hearing was held regarding Respondent's real estate broker license (Agency Case No. H-40061 LA, OAH No. 2016010248). Respondent was found to have violated Business and Professions Code sections 10148, subdivision (a), for failure to maintain records pertaining to real estate transactions and for failure to produce records and make them available to the Department; sections 10145, 10176 subdivision (a), 10176, subdivisions (e) and (i), 10177, and subdivisions (d) and (g), for failure to pay over loan proceeds and other monies entrusted to Respondent or a corporate broker for which he was the designated officer, and his use of the loan proceeds for other purposes, constituting

conversion; sections 10085.5, 10145, 10176, subdivisions (a), (e), and (i), 10177, subdivisions (d) and (g), for taking an advanced fee when he had no approved advanced fee agreement, and by his failure to refund such fees on demand, constituting a conversion of those funds.

7. On October 13, 2016, the Department revoked Respondent's real estate broker license.

Prior Mortgage Loan Originator License

8. After Respondent's real estate broker license was revoked, respondent applied for a Mortgage Loan Originator (MLO) license with the California Department of Financial Protection and Innovation (DFPI), State of California. Respondent did not disclose the revocation of his real estate broker license in his MLO license application.

9. On June 17, 2017, the DFPI issued Respondent a Mortgage Loan Originator (MLO) license.

10. On December 20, 2019, in Case No. 60DBO072891, OAH No. 2020010980, DFPI brought an administrative action against Respondent's Mortgage Loan Originator (MLO) license.

11. On July 13, 2020, respondent did not appear at a properly noticed administrative hearing regarding his MLO license.

12. On November 19, 2020, the DFPI issued a Decision which revoked Respondent's Mortgage Loan Originator (MLO) license. The Decision made express findings, at stated in Factual Findings 13-15.

13. The DFPI found that cause existed to revoke Respondent's MLO license for violating California Code of Regulations (CCR), sections 1422.6, 1409.1, subdivisions (a) and (c), for the reasons set forth in Findings 14-15.

14. The DFPI found that the DRE Decision was a disciplinary order under Financial Code section 22705.1, subdivision (a), and constituted a fact or condition that, had it existed at the time of the original MLO license application, reasonably would have warranted the Commissioner's denial of the application, and was therefore grounds for revocation under Financial Code section 22714, subdivision (a)(3).

15. The DFPI found that cause existed under Financial Code section 22169 to bar Respondent from any position of employment, management, or control of any finance lender, broker, or mortgage loan originator. The DFPI found that the prior Department Decision, dated October 13, 2016, established that Respondent committed acts involving dishonesty, fraud, or deceit reasonably related to the qualifications, functions, or duties of a person engaged in the real estate business.

Respondent's Testimony

16. Respondent did not take responsibility for his past misconduct. He testified that his real estate broker license was revoked because of missing paperwork, which was caused by a fire, and because the ALJ "did not consider his explanation." Further, Respondent denied ever taking any advance fees and he denied failing to disclose the revocation of his broker license in his application to the DFPI. Respondent also stated that, even if he did not include information regarding the revocation of his real estate broker license, the Department and DFPI "know about each" and therefore his failure to disclose information should not have been an issue.

17. Respondent's testimony established that he mistakenly believes that the prior revocations of his real estate broker license and MLO license should not prevent him from obtaining a real estate salesperson license. However, CCR, title 10, section 2911, describes the criteria to be considered when evaluating whether or not an applicant is rehabilitated for purposes of issuance, or for reinstatement of, a license.

18. Respondent did not offer any evidence of rehabilitation.

LEGAL CONCLUSIONS

1. Cause exists, pursuant to Code section 10177, subdivisions (f) and (j), to deny respondent's application for licensure because Respondent's MLO license was recently revoked by the DFPI, which made express findings regarding respondent's violations of law, and because respondent engaged in fraud or dishonest dealing as a real estate broker.

2. Respondent did not establish that he is rehabilitated and qualified for licensure, as set forth in CCR, title 10, section 2911.

ORDER

Respondent Roberto Gonzalez Viramontes' application for licensure as a real estate salesperson is denied.

DATE: Aug 11, 2021


Christopher Ruiz (Aug 11, 2021 16:40 PDT)

CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings