

504/614

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 12 1989

DEPARTMENT OF REAL ESTATE
BY *C. Long*

In the Matter of the Accusation of

DAVID L. ABU, aka
David Lawrence Abu,

Respondent.

No. H- 810 SA

L- 45348

DECISION

The Proposed Decision dated June 8, 1989
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/knowingly
making a false statement of fact required to be revealed in an
application for license).

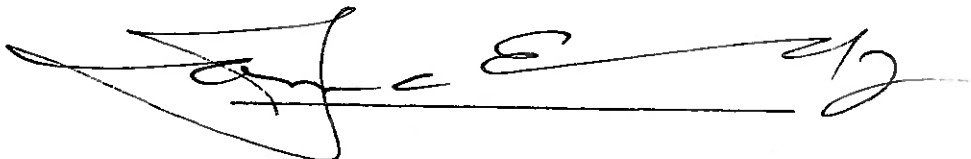
The right to reinstatement of a revoked real estate
license or to the reduction of a suspension is controlled by
Section 11522 of the Government Code. A copy of Section 11522
and a copy of the Commissioner's Criteria of Rehabilitation
are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock
noon on August 1, 1989.

IT IS SO ORDERED

6-28-89

JAMES A. EDMONDS, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
of:	)	
	)	
	)	No. H-810 SA
DAVID L. ABU, aka	)	
David Lawrence Abu,	)	
	)	
	)	L-45348
	)	
Respondent.	)	
_____	)	

PROPOSED DECISION

This matter came on regularly for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings at Los Angeles, California, on May 19, 1989.

Frank M. Buda, Staff Counsel, represented the complainant.

Respondent appeared in person and represented himself.

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

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

FINDINGS OF FACT

RE: PARTIES AND JURISDICTION

1.

Complainant herein, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, brought subject accusation in said official capacity.

2.

David L. Abu, aka David Lawrence Abu, (respondent herein), was issued a real estate salesperson license on or about September 8, 1988, following respondent's application therefor, on or about August 22, 1988, and has continuously thereafter been and is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

3.

Respondent, pursuant to the provisions of Section 10153.3 of the Business and Professions Code, made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about August 22, 1988, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section 10153.4 of the Business and Professions Code.

FINDINGS OF FACT

RE: ACCUSATION

4.

On October 15, 1987, in the Municipal Court Harbor Judicial District, County of Orange, State of California, respondent was convicted of violating Vehicle Code Section 4463(a)(1) (alteration or falsification of evidence of ownership, registration, or identification; possession or sale of identification number plate), a crime involving moral turpitude.

5.

The crime set forth in Finding 5 bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

6.

(A) In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law? (you may omit any traffic violation where the disposition was a fine and the amount was \$100 or less)", respondent marked the answer box denoting "No".

(B) As a result of the conviction set forth in Finding 5 respondent's sole court-imposed penalty was the payment of a \$100 fine which respondent promptly paid.

(C) It was not established that respondent's failure to reveal the conviction in said application, constitutes the procurement of a real estate license by knowingly making a false statement of fact required to be revealed in said application, in that it was established that respondent, erroneously, but in good faith, relied on that portion of the application ". . . \$100 or less" in omitting the conviction.

FINDINGS OF FACT

RE: MITIGATION

7.

The conduct leading to the conviction occurred in the winter of 1986 when respondent had recently relocated from Boston and was in a period of economic duress. At the suggestion of a co-worker the registration of his vehicle was altered. Other than subject conduct respondent has no record of deceptive or dishonest practices. Under his licensure he has engaged in approximately four transactions, commercial in nature and has done so in a professional manner.

* * * * *

DETERMINATION OF ISSUES

I

Cause exists for discipline of all licenses and license rights of respondent pursuant to Business and Professions Code Sections 490 and 10177(b) and by reason of Findings 4 and 5, collectively.

II

No other cause exists for discipline by reason of Finding 6.

III

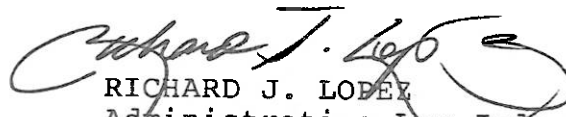
The objective of an administrative proceeding relating to licensing privileges is to protect the public. Such proceedings are not for the primary purpose of punishing an individual. Camacho v. Youde (1979) 95 Cal.App.3d 161, 165. In light of the foregoing and by reason of Finding 7, the order which follows hereinafter is not adverse to the public interest.

* * * * *

ORDER

All license and license rights of respondent David L. Abu under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are hereby suspended for forty-five (45) days; provided, however, that all forty-five (45) days of such suspension shall be stayed on condition that no cause for disciplinary action shall occur within 90 days from the effective date of this decision. Should the Department determine upon evidence satisfactory to it, and after notice to respondent and an opportunity to defend, that such cause for disciplinary action has occurred during the said 90-day period it may in its discretion vacate the stay order, and reimpose the stayed portion of the suspension; otherwise, the stay shall become permanent.

DATED: 8 June 1989


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:hk

into

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

FEB -3 1989

DEPARTMENT OF REAL ESTATE

BY C. Berry

In the Matter of the Accusation of

DAVID L. ABU,

Case No. H-810 SA

OAH No. L-45348

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of
Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012

on the 19th day of May, 1989, at the hour of 9:00a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

By

James R. Burton

Counsel

Dated: February 3, 1989

cc: David L. Abu
Commercial Brokers, Inc.
Floratos, Loll & Devine
Sacto.
OAH
RM
RE 501 (Rev. 7/87)

500 to

1 FRANK M. BUDA, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012
5 (213) 620-4790

DEC 19 1988

DEPARTMENT OF REAL ESTATE
BY C. B. G.

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-810 SA
12 DAVID L. ABU, aka)
13 David Lawrence Abu,) A C C U S A T I O N
14)
15 Respondent.)

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against DAVID L. ABU, aka David Lawrence Abu, alleges as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate
21 Commissioner of the State of California, makes this accusation
22 in his official capacity.

23 II

24 DAVID L. ABU, aka David Lawrence Abu (hereinafter
25 referred to as respondent), was issued a real estate salesperson
26 license on or about September 8, 1988, following respondent's
27 application therefor, on or about August 22, 1988, and has

1 continuously thereafter been and is presently licensed and/or has
2 license rights under the Real Estate Law (Part 1 of Division 4 of
3 the Business and Professions Code).

4 III

5 Respondent, pursuant to the provisions of Section
6 10153.3 of the Business and Professions Code, made application
7 to the Department of Real Estate of the State of California for a
8 real estate salesperson license on or about August 22, 1988, with
9 the knowledge and understanding that any license issued as a
10 result of said application would be subject to the conditions of
11 Section 10153.4 of the Business and Professions Code.

12 IV

13 In response to Question 25 of said application, to wit:
14 "Have you ever been convicted of any violation of law? (you may
15 omit any traffic violation where the disposition was a fine and
16 the amount was \$100 or less)", respondent marked the answer box
17 denoting "No".

18 V

19 On or about October 15, 1987, in the Municipal Court
20 Harbor Judicial District, County of Orange, State of California,
21 respondent was convicted of violating Vehicle Code Section
22 4463(a)(1) (alteration or falsification of evidence of ownership,
23 registration, or identification; possession or sale of identifica-
24 tion number plate), a crime involving moral turpitude.

25 VI

26 The crime of which respondent was convicted bears a
27 substantial relationship to the qualifications, functions or

1 duties of a real estate licensee.

2 VII

3 Respondent's failure to reveal the conviction against
4 him as set forth in Paragraphs IV and V, above, in said applica-
5 tion, constitutes the procurement of a real estate license by
6 knowingly making a false statement of fact required to be
7 revealed in said application, which failure is cause under
8 Sections 490 and/or 10177(a) of the Business and Professions Code
9 for suspension or revocation of all licenses and license rights of
10 respondent under the Real Estate Law.

11 VIII

12 Respondent's criminal conviction, as alleged above, is
13 cause under Sections 490 and/or 10177(b) of the Business and
14 Professions Code for suspension or revocation of all licenses and
15 license rights of respondent under the Real Estate Law.

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1 WHEREFORE, complainant prays that a hearing be conducted
2 on the allegations of this Accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against all
4 licenses and license rights of respondent DAVID L. ABU, aka David
5 Lawrence Abu under the Real Estate Law (Part 1 of Division 4 of
6 the Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.
8 Dated at Santa Ana, California
9 this 19th day of December, 1988.

10
11
12 THOMAS MCCRADY
13 Deputy Real Estate Commissioner
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25

26 cc: David L. Abu
27 Commercial Brokers, Inc.
 ~~Sacto.~~
 RM

ceb