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FILED

APR -6 1994

DEPARTMENT OF REAL ESTATE
[Signature]

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-1185 SD
)
PHILIP MICHAEL CHODUR)
)
Respondent.)
_____)

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 27, 1984, a Decision was rendered herein revoking the real estate broker license of Respondent, PHILIP MICHAEL CHODUR (hereinafter "Respondent"), effective February 22, 1984, but granting Respondent the right to apply for and be issued a restricted real estate broker license. Said restricted license was issued on or about February 24, 1984.

On October 7, 1992, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has

1 demonstrated to my satisfaction that grounds do not presently
2 exist to deny the issuance of an unrestricted real estate
3 broker license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that an
6 unrestricted real estate broker license be issued to
7 Respondent, PHILIP MICHAEL CHODUR, after Respondent satisfies
8 the following conditions within one (1) year from the date of
9 this Order:

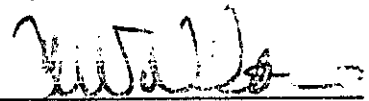
10 1. Submittal of a completed application and
11 payment of the fee for a real estate broker license.

12 2. Submittal of evidence satisfactory to the Real
13 Estate Commissioner that Respondent has, during the last four
14 years, taken and successfully completed the continuing
15 education requirements of Article 2.5 of Chapter 3 of the
16 Real Estate Law for renewal of a real estate license.

17 This Order shall become effective immediately.

18 DATED: 3/29/94

19
20 CLARK WALLACE
Real Estate Commissioner

21 

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23
24 PHILIP MICHAEL CHODUR
966 Felspar
25 San Diego, California 92109
26
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Accts

BEFORE THE DEPARTMENT OF REAL ESTATE

FEB -2 1984

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Ch. P. Presson

* * *

In the Matter of the Accusation of)
PHILIP MICHAEL CHODUR,)
Respondent.)

No. H-1185 SD

L-29382

DECISION

The Proposed Decision dated January 19, 1984, of the Administrative Law Judge of the Office of Administrative Hearings has been considered by me.

Pursuant to Section 11517(b) of the Government Code of the State of California, the disciplinary action imposed upon respondent is reduced by modifying the Order of the Proposed Decision to be as follows:

1. The real estate broker license of respondent Philip Michael Chodur is hereby revoked.

2. A restricted real estate broker license shall be issued to respondent 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 said license within 90 days from the effective date of the Decision herein.

3. 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 said code.

A. Said restricted license 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee.

B. Said restricted license 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 this restricted license.

C. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

Except as hereby modified and amended, the Proposed Decision dated January 19, 1984, is hereby adopted as the Decision of the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on February 22, 1984.

IT IS SO ORDERED January 27, 1984.



JAMES A. EDMONDS, JR.
Real Estate Commissioner

IV

A. On August 11, 1980, Mr. and Mrs. Wallace Van Pelt (hereinafter referred to as "Purchasers"), agreed to buy real property (hereinafter referred to as the "Property") located at 10311 Del Rio Road, San Diego from respondent Chodur.

B. Purchasers agreed on a price of \$93,500 with respondent Chodur carrying back an all inclusive trust deed whose payments were \$900 for the first few months and \$967 a month thereafter. Respondent Chodur represented to Purchasers that he would make the payments on the first trust deed of \$63,000 and on the second trust deed of \$27,059.88.

V

Respondent did act as a principal in said transaction. Purchasers were aware that respondent owned the property and that he was a real estate licensee.

VI

Escrow opened August 18, 1980 on the proposed sale and closed August 25, 1980.

VII

Respondent Chodur collected monthly payments on the all inclusive deed of trust from the Purchasers starting on or about September 25, 1980 and continuing through June 28, 1982. The last payment from Purchasers included the June and July, 1982 payments. Respondent paid each monthly payment to the lienholders, with the exception of the June and July, 1982 payments on the second trust deed. Payments on the second trust deed came to \$400 a month.

VIII

Respondent used the June and July, 1982 second trust deed payments for his own purposes without the knowledge and consent of the Purchasers. Respondent, then engaged in the construction of houses, diverted the Purchasers' June and July, 1982 payments by using them to pay bills incurred in his construction business. Such conduct constitutes dishonest dealings.

IX

When advised by the second trust deed holder of his intention to foreclose, respondent attempted to dissuade him by showing him the construction project, which was about one week

away from qualifying for a Notice of Completion, and represented that within a few weeks, he would have sufficient funds to bring the payments current. Said second trust deed holder was not persuaded and told respondent he was proceeding with his foreclosure plans.

X

Purchasers first became aware of respondent's failure to make the payments on the second trust deed when the holder of said trust deed advised them he was foreclosing on the Property. Thereafter, Purchasers received a Notice of Default through the mail.

XI

Purchasers were required to spend approximately \$3,000 for delinquent payments and legal fees to prevent their Property from going into foreclosure. A full settlement was subsequently reached between respondent and Purchasers.

XII

Respondent's contention that the Department lacks jurisdiction to proceed against him on the grounds that he acted in the capacity of a principal, and not as a real estate licensee is without merit.

XIII

All motions and arguments not affirmed or denied herein, or on the record, are found not to be established by the facts or law and are accordingly denied. All factual allegations of the parties not hereinabove found to be true are found to be unproved.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Grounds for the suspension or revocation of respondent's real estate license exist pursuant to the provisions of Section 10177(j) of the Business and Professions Code by reason of respondent's dishonest dealings as set forth in Findings VII and VIII, hereinabove.

II

Respondent's evidence failed to establish the existence of any mitigation.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

modified } The real estate broker's license heretofore issued to Philip Michael Chodur by the Registrar and all rights under the Real Estate Law are hereby revoked.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter, as a result of the hearing had before me on November 30, 1983, at San Diego, California, and recommend its adoption as the decision of the Real Estate Commissioner.

DATED: *January 9, 1984*

Marguerite C. Geftakis
MARGUERITE C. GEFTAKIS
Administrative Law Judge
Office of Administrative Hearings

MCG:th

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

AUG -2 1983

DEPARTMENT OF REAL ESTATE
BY Ch. P. Mersel

In the Matter of the Accusation of

PHILIP MICHAEL CHODUR,

Case No. H-1185 SD
L-29382

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 _____

1350 Front St., Rm. B-103, San Diego, California 92101

on the 30th day of November, 1983, at the hour of 9:00 a.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.

DATED: August 2, 1983

cc: Philip Michael Chodur
William L. Fischbeck, Esq.
Sacto
OAH
PJS

JAMES A. EDMONDS, JR.
DEPARTMENT OF REAL ESTATE

By

Marysue P. Mersel
Counsel

Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE

MAY -3 1983

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
of Ch. Oressor

In the Matter of the Accusation of

PHILIP MICHAEL CHODUR,

Case No. H-1185 SD
L-29382

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 1350 Front Street, Room B-107, San Diego, California 92101

on the 28th day of September, 1983, at the hour of 9:00 a.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.

DATED: May 3, 1983

cc: Philip Michael Chodur
William E. Fischbeck, Esq.
Sacto
OAH
PJS

JAMES A. EDMONDS, JR.
DEPARTMENT OF REAL ESTATE

By

Marjorie P. Messer
Counsel

*Suits
2/20/75*

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

17 11
BY *Laura B. O'Neil*

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) NO. H-1185 SD
12 PHILIP MICHAEL CHODUR,) A C C U S A T I O N
13 Respondent.)
14)

15 The complainant, Carl Lewis, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against PHILIP MICHAEL CHODUR, alleges as follows:

18 I

19 The complainant, Carl Lewis, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation
21 in his official capacity.

22 II

23 PHILIP MICHAEL CHODUR, has license rights under the
24 Real Estate Law (Part 1 of Division 4 of the Business and
25 Professions Code).

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III

At all times herein mentioned respondent was licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

On or about August 11, 1980, Mr. & Mrs. Wallace Van Pelt (hereinafter referred to as Purchasers), agreed to buy real property located at 10311 Del Rio Road, San Diego from respondent CHODUR. Purchasers agreed on a price of \$93,500 with respondent CHODUR carrying back an all inclusive trust deed whose payments were \$967 a month. Respondent CHODUR represented to Purchasers that he would make the payments on the first trust deed of \$63,000 and on the second trust deed of \$27,059.88.

V

Escrow opened August 18, 1980 on the proposed sale and closed August 25, 1980.

VI

Respondent CHODUR collected monthly payments on the all inclusive deed of trust from the Purchasers starting on or about September 25, 1980 and each month paid the lien holders. Respondent CHODUR collected his last payment from the Purchasers on June 28, 1982. As of June 28, 1982 respondent had collected the June and July, 1982 payments from the Purchasers, however, respondent made the payments on only the first trust deed.

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VII

Payments on the second trust deed came to \$400 a month. Although respondent CHODUR had collected said payments from Purchasers for June, 1982 and July, 1982 he did not make the payments on the second trust deed, but used the money for his own purpose instead.

VIII

The conduct of respondent CHODUR as alleged hereinabove constitutes fraud or dishonest dealing, and is grounds for the suspension or revocation of his real estate license and/or license rights under the provisions of Section 10177(j) of the Business and Professions Code.

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 licenses and license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) of respondent PHILIP MICHAEL CHODUR and for such other and further relief as may be proper under other applicable provisions of law. Dated at San Diego, California this 17th day of March, 1983.

CARL LEWIS
Deputy Real Estate Commissioner

cc: Philip Michael Chodur
Sacto.
PJS