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DEPARTMENT OF REAL ESTATE

SEP-6 1991

STATE OF CALIFORNIA

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Laura B. Chua

In the Matter of the Application of)
JAVIER LEON CASTILLO,)
Respondent.)

No. H- 1201 SA
L-54358

DECISION

The Proposed Decision dated August 13, 1991 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 application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on September 26, 1991.

IT IS SO ORDERED September 3, 1991.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
by: JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of)
Issues Against:)

JAVIER LEON CASTILLO,)

Respondent.)

Case No. H-1201 LA

OAH No. L-54358

PROPOSED DECISION

This matter came on regularly for hearing before W.F. Byrnes, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on August 8, 1991. Elliott MacLennan, Counsel, represented the complainant. The respondent represented himself. Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds the following facts:

I

A. Respondent was issued a real estate salesperson's license on March 26, 1991, following his application filed on or about March 14, 1991.

B. On June 21, 1991, the pending Statement of Issues was filed charging respondent with having procured a real estate license by fraud, misrepresentation, or deceit, and with knowingly having made a false statement of fact required to be revealed in the application for such license.

C. On June 24, 1991, upon the above-described grounds and pursuant to section 10177.1 of the Business and Professions Code, respondent's license was suspended pending final determination made after a hearing on the Statement of Issues.

II

On July 25, 1985, in the Municipal Court of the Whittier Judicial District, County of Los Angeles, State of California, respondent was convicted on his plea of guilty of violating section 459 of the Penal Code (burglary), a felony and a crime involving moral turpitude, and one which is substantially related to the qualifications, functions, and duties of a real

estate licensee. On August 30, 1985, in the Southeast Branch of the Los Angeles Superior Court, respondent was sentenced on the conviction to four years in state prison, of which he actually served about twenty-five months in custody.

III

In response to Question 25 on his application for licensure, "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 answered "No."

* * * * *

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

Cause exists for the denial of respondent's application, as follows:

A. Pursuant to sections 480(a) and 10177(b) of the Business and Professions Code, by reason of Finding II; and,

B. Pursuant to sections 480(c) and 10177(a) of the Business and Professions Code, by reason of Finding III.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's application for a real estate salesperson's license is denied.

Dated: August 13, 1991



W.F. BYRNES
Administrative Law Judge
Office of Administrative Hearings

WFB:lf

5-120.1
Hase

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

JUL 18 1991

DEPARTMENT OF REAL ESTATE

BY *[Signature]*

In the Matter of the Application of

JAVIER LEON CASTILLO

Respondent

Case No. H-1201 SA

OAH No. L-54358

NOTICE OF HEARING ON APPLICATION

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 West First Street, Los Angeles, CA,

on the 8th day of August, 19 91, at the hour of 1:30 p.m., or as soon thereafter
as the matter can be heard, upon the Statement of Issues 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 based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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

Dated: July 18, 1991

By *[Signature]*
Elliott MacLennan, Counsel

cc: Javier Leon Castillo
National Pacific Mortgage Corp.
Sacto.

OAH/DA
RE 500 (Rev. 8/87) vj

SACD
6/10/91

FILED
JUN 24 1991

DEPARTMENT OF REAL ESTATE

By Emily J. Jekka

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of) No. H-1201 SA
JAVIER LEON CASTILLO,)
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

TO: Javier Leon Castillo, Respondent
2150 Towne Centre Pl., #300
Anaheim, California 92806

On March 14, 1991, the above-named respondent filed with the Department of Real Estate of the State of California (Department) an application for a real estate salesperson license. In response to a question in 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".

1
2 On March 26, 1991, the Department issued a real estate
3 salesperson license to respondent in reliance upon the aforesaid
4 answer of respondent.

5 On June 21, 1991, in case No. H-1201 SA, a Statement of
6 Issues signed by a Deputy Real Estate Commissioner of the State of
7 California was filed charging respondent with having procured a
8 real estate license by fraud, misrepresentation or deceit and with
9 knowingly having made a false statement of fact required to be
10 revealed in the application for such license.

11 NOW, THEREFORE, IT IS ORDERED under authority of Section
12 10177.1 of the Business and Professions Code of the State of
13 California that the real estate salesperson license heretofore
14 issued to respondent and the exercise of any privileges thereunder
15 is hereby suspended pending final determination made after a
16 hearing of the aforesaid Statement of Issues, a copy of which is
17 attached hereto.

18 IT IS FURTHER ORDERED that all license certificates and
19 identification cards used by the Department which are in the
20 possession of respondent be immediately surrendered by personal
21 delivery or by mailing in the enclosed self-addressed envelope to
22 "Dept. of Real Estate, P.O.Box 187003, Sacramento, CA 95818-7003."

23 This Order shall be effective immediately.

24 DATED: June 24, 1991.

25
26 CLARK WALLACE

Real Estate Commissioner
By Robin T. Wilson, Chief Counsel

27 Robin T. Wilson

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 620-4790

FILED

JUN 21 1991

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Application of)	No. H-1201 SA
JAVIER LEON CASTILLO,)	<u>STATEMENT OF ISSUES</u>
)	
Respondent.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against JAVIER LEON CASTILLO (respondent) is informed and alleges in his official capacity as follows:

I

Respondent was issued a real estate salesperson license on March 26, 1991, following respondent's application therefor filed on or about March 14, 1991.

II

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 with the knowledge and

1 /
2 understanding that any license issued as a result of said
3 application would be subject to the conditions of Section 10153.4
4 of the Business and Professions Code.

5 III

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

11 IV

12 On or about August 30, 1985 in the Superior Court of
13 California, Norwalk, Southeast Judicial District, Los Angeles
14 County, respondent was convicted on a plea of guilty to one count
15 of California Penal Code Section 459 (1st Degree Burglary of an
16 Occupied Dwelling), a felony crime involving moral turpitude which
17 is substantially related under Section 2910, Title 10, California
18 Code of Regulations, to the qualifications, functions or duties of
19 a real estate licensee.

20 V

21 Respondent's failure to reveal the conviction against
22 him as set forth in Paragraph IV in said application constitutes
23 the procurement of a real estate license by fraud,
24 misrepresentation or deceit, or by making a material misstatement
25 of fact in said application, which failure is cause for denial of
26 respondent's application for a real estate license under Sections
27 480(c) and 10177(a) of the Business and Professions Code.

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VI

Respondent's criminal conviction, as alleged in Paragraph IV above, constitutes cause under Sections 480(a) and 10177(b) of the Business and Professions Code, for suspension or revocation of all licenses and license rights of respondent under the Real Estate Law.

WHEREFORE, Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to respondent and for such other and further relief as may be proper in the premises.

Dated at Santa Ana, California
this 21st day of June, 1991.

THOMAS McCRADY
Deputy Real Estate Commissioner

cc: Javier Leon Castillo
National Pacific Mortgage Corporation
Sacto.
DA