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AUG 04 2011

DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

JULIEN ANDRE VEGA,

No. H-1948 FR

Respondent.

ORDER GRANTING REINSTATEMENT OF LICENSE

On November 6, 2006, in Case No. H-1948 FR, a Decision was rendered revoking the real estate salesperson license of Respondent effective December 4, 2006. On June 11, 2008 an order was entered herein denying Respondent's petition for reinstatement of Respondent's real estate salesperson license, but granting Respondent the right to issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on August 20, 2008, and Respondent has operated as a restricted licensee since that time.

On March 18, 2011, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

///

1 I have considered Respondent's petition and the evidence and arguments in
2 support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the
3 requirements of law for the issuance to Respondent of an unrestricted real estate salesperson
4 license and that it would not be against the public interest to issue said license to Respondent.

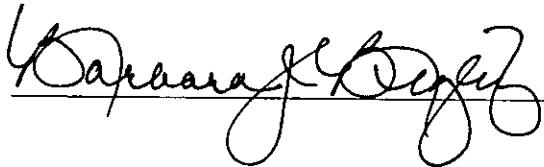
5 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
6 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
7 Respondent satisfies the following requirements:

- 8 1. Submits a completed application and pays the fee for a real estate
9 salesperson license within the 12 month period following the date of this Order; and
10 2. Submits proof that Respondent has completed the continuing education
11 requirements for renewal of the license sought. The continuing education courses must be
12 completed either (i) within the 12 month period preceding the filing of the completed
13 application, or (ii) within the 12 month period following the date of this Order.

14 This Order shall become effective immediately.

15 DATED: 7/5/11

16 BARBARA J. BIGBY
17 Acting Real Estate Commissioner

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FLAG

FILED

JUN 16 2008

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
JULIEN ANDRE VEGA,)
Respondent.)

No. H-1948 FRESNO

ORDER DENYING REINSTATEMENT OF LICENSE BUT GRANTING THE RIGHT
TO A RESTRICTED LICENSE

On November 6, 2006, a Decision was rendered herein
revoking the real estate salesperson license of Respondent.

On December 4, 2007, Respondent petitioned for
reinstatement of said real estate salesperson license, and the
Attorney General of the State of California has been given notice
of the filing of said petition.

I have considered the petition of Respondent and the
evidence and arguments in support. Respondent has failed to
demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's unrestricted real estate salesperson license.

1 The burden of proving rehabilitation rests with the
2 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
3 petitioner is required to show greater proof of honesty and
4 integrity than an applicant for first time licensure. The proof
5 must be sufficient to overcome the prior adverse judgment on the
6 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
7 395).

8 The Department has developed criteria in Section 2911
9 of Title 10 California Code of Regulations to assist in
10 evaluating the rehabilitation of an applicant for reinstatement
11 of a license. The basis for disciplinary action in this matter is
12 Respondent's criminal conviction. It has been slightly more than
13 eighteen months since the effective date of the Decision rendered
14 in this matter. Respondent has no experience acting in a
15 fiduciary or licensed capacity since the effective date of the
16 Decision in this matter. Respondent, therefore, has not
17 demonstrated full compliance with Section 2911, Title 10,
18 California Code of Regulations. Additional time in a supervised
19 setting is required to establish that Respondent is
20 rehabilitated.

21 Respondent has completed probation on March 5, 2007 and
22 has had his conviction expunged, pursuant to Section 1203.4 of
23 the Penal Code on May 17, 2007. Respondent has made progress in
24 establishing his rehabilitation. Consequently, I am satisfied
25 that it will not be against the public interest to issue a
26 restricted real estate salesperson license to Respondent in order
27 to allow Respondent to further demonstrate his rehabilitation.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of his real estate salesperson license
3 is denied.

4 A restricted real estate salesperson license shall be
5 issued to Respondent pursuant to Section 10156.5 of the Business
6 and Professions Code, if Respondent satisfies the following
7 conditions within nine (9) months from the date of this Order:

8 1. Submittal of a completed application and payment of
9 the fee for a real estate salesperson license.

10 2. Submittal of evidence of having, since the most
11 recent issuance of an original or renewal real estate license,
12 taken and successfully completed the continuing education
13 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
14 for renewal of a real estate license.

15 The restricted license issued to Respondent shall be
16 subject to all of the provisions of Section 10156.7 of the
17 Business and Professions Code and to the following limitations,
18 conditions and restrictions imposed under authority of Section
19 10156.6 of that Code.

20 A. The restricted license issued to Respondent may be
21 suspended prior to hearing by Order of the Real Estate
22 Commissioner in the event of Respondent's conviction or plea of
23 nolo contendere to a crime which is substantially related to
24 Respondent's fitness or capacity as a real estate licensee.

25 B. The restricted license issued to Respondent may be
26 suspended prior to hearing by Order of the Real Estate
27 Commissioner on evidence satisfactory to the Commissioner that

1 Respondent has violated provisions of the California Real Estate
2 Law, the Subdivided Lands Law, Regulations of the Real Estate
3 Commissioner or conditions attaching to the restricted license.

4 C. Respondent shall submit with any application for
5 license under an employing broker, or any application for
6 transfer to a new employing broker, a statement signed by the
7 prospective employing broker on a form approved by the Department
8 of Real Estate which shall certify:

9 (1) That the employing broker has read the Decision of
10 the Commissioner which granted the right to a
11 restricted license; and

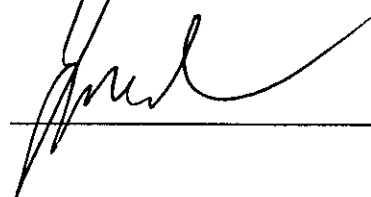
12 (2) That the employing broker will exercise close
13 supervision over the performance by the restricted
14 licensee relating to activities for which a real
15 estate license is required.

16 D. Respondent shall not be eligible to apply for the
17 issuance of an unrestricted real estate license nor the removal
18 of any of the limitations, conditions or restrictions of a
19 restricted license until two (2) years have elapsed from the date
20 of the issuance of the restricted license to respondent.

21 This Order shall become effective at 12 o'clock
22 noon on JUL -7 2008.

23 DATED: 6-11-08.

24 JEFF DAVI
25 Real Estate Commissioner

26 
27

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
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DEPARTMENT OF REAL ESTATE

* * *

In the Matter of the Accusation of)
JULIEN ANDRE VEGA,) NO. H-1948 FRESNO
Respondent.) OAH NO. N-2006080694

DECISION

The Proposed Decision dated October 25, 2006, 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.

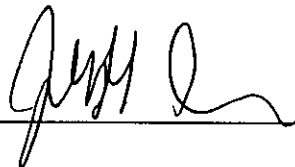
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon
on DEC - 4 2006.

IT IS SO ORDERED

11.6.06

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JULIEN ANDRE VEGA,

Respondent.

Case No. H-1948 Fresno

OAH No. N2006080694

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter in Sacramento, California, on September 25, 2006.

David B. Seals, Counsel, Department of Real Estate, represented Complainant John Sweeney, Deputy Real Estate Commissioner.

Respondent Julien Andre Vega represented himself.

The record closed on September 25, 2006.

FACTUAL FINDINGS

1. Complainant John Sweeney filed the Accusation in his official capacity as a deputy real estate commissioner for the Department of Real Estate, State of California.

2. Julien Andre Vega (Respondent) is either licensed and/or has license rights under the Real Estate Law as a real estate salesperson. He was initially licensed on September 27, 2004. As of August 24, 2006, his salesperson license was scheduled to expire on September 26, 2008.

3. On May 10, 2005, in the Kern County Superior Court, Respondent was convicted by his plea of nolo contendere of a felony violation of Health and Safety Code section 11359, possession for sale of marijuana/concentrated cannabis. As a result, he was placed on probation for three years, ordered to pay fines and fees totaling approximately \$800, register as a narcotics offender and seek drug counseling. Respondent was also ordered to serve one year in county jail.

4. Respondent's conviction originated from his arrest on April 18, 2005, by the Bakersfield Police Department's Narcotics Unit acting with agents from the federal Drug Enforcement Administration. Officers conducted a surveillance of Respondent and obtained

a search warrant for his residence. After Respondent left the Remax Realty office where he was working, officers stopped his vehicle. Respondent initially denied involvement with narcotics and gave false information regarding his residence. When confronted with the results of the search, Respondent admitted that he lived at the address being searched and that he possessed marijuana but claimed that he did not own it and was not involved in sales. Eventually, Respondent said the drugs did belong to him and that he possessed them with the intent to sell.

Police found marijuana in three locations in Respondent's residence, including a large freezer chest in the garage. The total amount seized was approximately 27,000 grams. In addition, scales, other indicia of sales and a loaded 38-caliber pistol were found on the premises.

Respondent's evidence

5. Respondent is currently 24 years of age. After graduating from high school in 2000, he held an assortment of jobs, lived at home and attended community college. Respondent became involved in drug sales when he was about 22 years old. He planned to use his real estate license, obtained in 2004, to help him to stop selling drugs, but had not yet done so when he was arrested. Respondent estimated the value of the marijuana that was seized at about \$30,000. He said that no one else was involved in his operation, and that he was careful to keep it separate from his life with his fiancée and now eight-year-old daughter. The reason he gave for the criminal enterprise was difficulty supporting his family.

Respondent obtained 31 character letters, which are in evidence in this matter, to show to the sentencing judge in his criminal case. He served just four months of his twelve-month sentence. Since his release, he has married his fiancée, bought a house and sold 40 properties. He has about 15 listings presently and 16 open escrows.

6. While in jail, Respondent thought about the things that were really important to him. He realized that he would never want to put his family through anything like that again. Respondent asserts that he has "learned his lesson." He did not understand that selling drugs would affect his real estate license as he does not see the connection with real estate. Before this matter arose, Respondent thought that a person had to do "something wrong under the real estate law to lose a license." Respondent is very embarrassed about his criminal acts and regrets them.

7. As referenced above, Respondent submitted 31 letters of reference. In many instances, it is unclear whether the writer is aware of Respondent's conviction. The letters are complimentary of Respondent and praise his character and other good qualities.

Respondent also submitted seven certificates of completion of various real estate courses.

LEGAL CONCLUSIONS

1. Complainant asserts that cause for license discipline exists pursuant to two sections of the Business and Professions Code. The first, section 490, provides that a real estate license may be suspended or revoked if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the profession. The recent case of *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, 567, held that Business and Professions Code "section 490 does not provide independent statutory authorization for [the Department] to suspend or revoke the license of a person based on his or her conviction of a crime. Only section 10177, subdivision (b), grants [the Department] that authority." Hence, no cause for discipline exists pursuant to Business and Professions Code section 490.

2. Business and Professions Code section 10177, subdivision (b), provides that a real estate license may be disciplined if the licensee has been convicted of a felony or a crime of moral turpitude. The offense of possession of marijuana for sale is both a felony and a crime of moral turpitude. Hence, there is no question that Respondent's conviction for that offense gives cause to discipline his license.

3. A primary purpose of the licensing scheme for real estate professionals is to protect the public from dishonest and unscrupulous licensees. Real estate licensees are fiduciaries, and it is particularly important that salespersons possess the character traits of honesty and integrity. They owe a duty of honest conduct not only to their clients, but also to lenders, other parties and the public at large. Respondent was engaged in a large-scale illegal drug sales operation for at least two years. This is very strong evidence of lack of integrity.

In California Code of Regulations, title 10, section 2911, the Department has established criteria to guide the analysis of whether a licensee with a criminal conviction is sufficiently rehabilitated to be safe to practice as a real estate licensee. Respondent meets few of the criteria. A major stumbling block is that his conviction is still quite recent. He is still on criminal probation. It is also unclear whether Respondent understands the connection between his criminal acts and his responsibilities as a real estate licensee. All things considered, it is too soon to conclude that Respondent has been rehabilitated sufficiently to retain his license, even on a restricted basis. The public interest requires revocation.

ORDER

All licenses and licensing rights of Respondent Julien Andre Vega under the Real Estate Law are revoked.

DATED: October 25, 2006


MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED
JUL -6 2006

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-1948 FRESNO

12 JULIEN ANDRE VEGA,)

ACCUSATION

13 Respondent.)
14

15 The Complainant, John Sweeney, a Deputy Real Estate
16 Commissioner of the State of California for cause of Accusation
17 against JULIEN ANDRE VEGA (hereinafter "Respondent") is informed
18 and alleges as follows:

19 I

20 The Complainant, John Sweeney, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 in his official capacity and not otherwise.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the
26 Business and Professions Code (hereinafter "Code") as a real
27 estate salesperson.

1 III

2 On or about July 13, 2005, in the Superior Court of
3 the California, County of Kern, Respondent was convicted of
4 violation of California Health and Safety Code Section 11359
5 (Possession For Sale of Marijuana/Concentrated Cannabis), a
6 felony and a crime involving moral turpitude and/or which bears
7 a substantial relationship under Section 2910, Title 10,
8 California Code of Regulations (hereinafter the "Regulations"),
9 to the qualifications, functions, or duties of a real estate
10 licensee.

11 IV

12 The facts alleged above constitute cause under
13 Sections 490 and 10177(b) of the Code for suspension or
14 revocation of all licenses and license rights of Respondent
15 under the Real Estate Law.

16 WHEREFORE, Complainant prays that a hearing be
17 conducted on the allegations of this Accusation and that upon
18 proof thereof, a decision be rendered imposing disciplinary
19 action against all licenses and license rights of Respondent
20 under the Real Estate Law (Part 1 of Division 4 of the Business
21 and Professions Code), and for such other and further relief as
22 may be proper under other provisions of law.

23
24 
25 JOHN SWEENEY
Deputy Real Estate Commissioner

26 Dated at Fresno, California,
27 this 27th day of June, 2006.