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FILED
JUL 18 2005

DEPARTMENT OF REAL ESTATE

By *Jean Brunt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-3155 SAC
)	
DIONISIO JOHNNY MENDAROS,)	
)	
)	
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On November 26, 1996 an Order was rendered revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on February 14, 1997.

On September 30, 2003, 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 failed to demonstrate to my satisfaction that Respondent has undergone

1 sufficient rehabilitation to warrant the reinstatement of
2 Respondent's real estate broker license.

3 The burden of proving rehabilitation rests with the
4 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
5 petitioner is required to show greater proof of honesty and
6 integrity than an applicant for first time licensure. The proof
7 must be sufficient to overcome the prior adverse judgment on the
8 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
9 395).

10 The Department has developed criteria in Section 2911
11 of Title 10, California Code of Regulations (Regulations) to
12 assist in evaluating the rehabilitation of an applicant for
13 reinstatement of a license. Among the criteria relevant in this
14 proceeding are:

15 (n) Change in attitude from that which existed at the
16 time of the conduct in question as evidenced by any or all of the
17 following:

18 (1) Testimony of applicant.

19 (2) Evidence from family members, friends or other
20 persons familiar with applicant's previous conduct and with his
21 subsequent attitudes and behavioral patterns.

22 (3) Evidence from probation or parole officers or law
23 enforcement officials competent to testify as to applicant's
24 social adjustments.

25 (4) Evidence from psychiatrists or other persons
26 competent to testify with regard to neuropsychiatric or emotional
27 disturbances.

1 Respondent continues to minimize the nature of the
2 conduct that led to the disciplinary action in this matter and
3 denies that he has done anything wrong. Respondent's continued
4 assertion of a lack of wrongdoing demonstrates that Respondent
5 has not changed his attitude from that which existed at the time
6 the grounds for disciplinary action occurred.

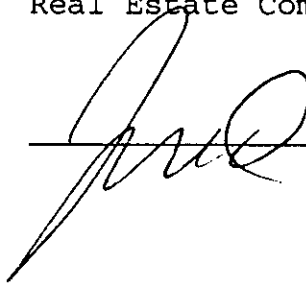
7 Since Respondent has not established that he has
8 complied with Section 2911(n) of Title 10, California Code of
9 Regulations, I am not satisfied that Respondent is sufficiently
10 rehabilitated to receive a real estate broker license.

11 NOW, THEREFORE, IT IS ORDERED that Respondent's
12 petition for reinstatement of his real estate broker license is
13 denied.

14 This Order shall become effective at 12 o'clock
15 noon AUG 08 2005, 2005.

16 Dated: 7-12-05, 2005.

17 JEFF DAVI
18 Real Estate Commissioner

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1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
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5 Telephone: (916) 227-0789
6

FILED
DEC - 9 1996
DEPARTMENT OF REAL ESTATE

Laurie A. Zain

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11 DIONISIO JOHNNY MENDAROS,) NO. H-3155 SAC
12 DJM MANAGEMENT, INC.,) STIPULATION AND
13 Respondents.) AGREEMENT IN SETTLEMENT
) AND ORDER

14 It is hereby stipulated by and between DIONISIO JOHNNY
15 MENDAROS (hereinafter "Respondent MENDAROS") and DJM MANAGEMENT,
16 INC. (hereinafter "Respondent DJM"), and their attorney of record,
17 Stephen W. Thomas, and the Complainant, acting by and through
18 David A. Peters, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing of the
20 Accusation filed on August 4, 1995 in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondents
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement in Settlement.

FILE NO. H-3155 SAC

- 1 -

STIPULATION OF
DIONISIO JOHNNY MENDAROS,
DJM MANAGEMENT, INC.

1 2. Respondents have received, read and understand the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On September 5, 1995, Respondents filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondents hereby freely and voluntarily withdraw
9 said Notice of Defense. Respondents acknowledge that they
10 understand that by withdrawing said Notice of Defense they will
11 thereby waive their right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that they will waive
14 other rights afforded to them in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. Respondent, pursuant to the limitations set forth
18 below, hereby agree that this matter shall be submitted on the
19 pleadings filed in these proceedings as described herein below
20 without admitting any of the allegations contained therein. The
21 Real Estate Commissioner shall not be required to provide further
22 evidence to prove such allegations.

23 5. It is understood by the parties that the Real Estate
24 Commissioner may adopt the Stipulation and Agreement as his
25 decision in this matter thereby imposing the penalty and sanctions
26 on Respondents' real estate licenses and license rights as set
27 forth in the below "Order". In the event that the Commissioner in



I

The acts and/or omissions of Respondents as described in Paragraphs I through XII of the First Cause of Accusation violate Sections 10176(a), 10176(i) and 10137 of the Business and Professions Code, and Paragraphs XXI through XXII of the Third Cause of Accusation violate Sections 10176(a) and 10176(i) of the Business and Professions Code and are grounds for the suspension or revocation of the real estate licenses and all license rights of Respondents under the provisions of the Real Estate Law.

ORDER

I

A. The real estate broker license and all license rights of Respondent DJM MANAGEMENT, INC. under the Real Estate Law are revoked.

B. The real estate broker license and all license rights of Respondent MENDAROS under the Real Estate Law are revoked; however, a restricted real estate salesperson license shall be issued to Respondent MENDAROS 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 the restricted license within ninety (90) days from the effective date of this Decision. 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 that Code:

///

1 1. The restricted license issued to Respondent
2 MENDAROS may be suspended prior to hearing by Order of the Real
3 Estate Commissioner in the event of Respondent's conviction or
4 plea of nolo contendere to a crime which is substantially related
5 to Respondent's fitness or capacity as a real estate licensee.

6 2. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that the
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

12 3. Respondent shall submit with any application for
13 license under an employing broker, or any application for transfer
14 to a new employing broker, a statement signed by the prospective
15 employing real estate broker on a form approved by the Department
16 of Real Estate which shall certify:

17 (a) That the employing broker has read the Decision
18 of the Commissioner which granted the right to a
19 restricted license; and

20 (b) That the employing broker will exercise close
21 supervision over the performance by the
22 restricted licensee relating to activities for
23 which a real estate license is required.

24 4. Respondent shall, as a condition of the issuance of
25 said restricted real estate salesperson license, pay to
26 Eleuteria A. Abara the total amount of \$75,000.00 as follows:

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(a) Respondent shall, on or before the effective date
of the Commissioner's Decision, submit proof
satisfactory to the Commissioner of payment to
Eleuteria A. Abara the sum of \$10,000.00, in
partial payment of the total amount described
above; and

(b) Beginning the first day of the first full
month following the effective date of the Decision
and continuing on the first day of each month
thereafter, Respondent shall pay to Eleuteria A.
Abara the sum of \$1,500.00 until the total amount
of \$75,000.00 has been paid to Eleuteria A. Abara.

(c) If Respondent fails to make any said monthly
payments to Eleuteria A. Abara, the Commissioner
may order the suspension of the restricted license
until Respondent provides evidence satisfactory
to the Commissioner that said monthly payments
have been made.

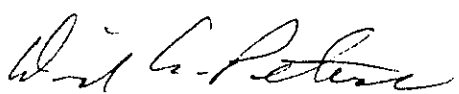
5. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor for the
removal of any of the conditions, limitations or restrictions of a
restricted license until Respondent has satisfied the conditions
described in Paragraph 4, above.

6. Any restricted real estate salesperson license
issued to Respondent may be suspended or revoked for a violation
by Respondent of any of the conditions attaching to the restricted
license.

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6/12/96

DATED




DAVID A. PETERS, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

10/30/96

DATED



DJM MANAGEMENT, INC.
Respondent
By: Dionisio Johnny Mendaros

10/30/96

DATED

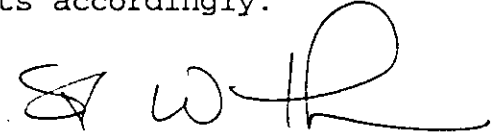


DIONISIO JOHNNY MENDAROS
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

Oct 31, 1996

DATED



STEPHEN W. THOMAS
Attorney for Respondents

///

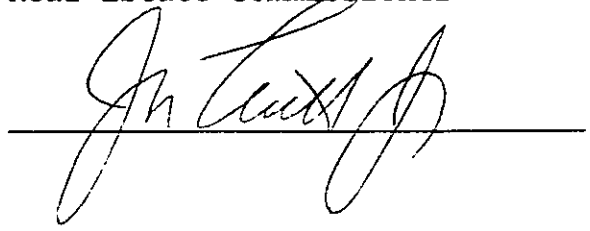
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* * *

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as Decision and
Order and shall become effective at 12 o'clock noon on
December 30, 1996.

IT IS SO ORDERED 11-26, 1996.

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zain

In the Matter of the Accusation of
DIONISIO JOHNNY MENDAROS,
DJM MANAGEMENT, INC.,

Case No. H-3155 SAC
OAH No. N9509121

Respondent

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 the
Office of Administrative Hearings, World Savings Tower, 1970
Broadway, Second Floor, Oakland, CA 94612

on June 3 through 5, 1996, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal 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.

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 Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 4, 1995

By David A. Peters
DAVID A. PETERS Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
AUG - 4 1995
DEPARTMENT OF REAL ESTATE

By *Luisie A. Zia*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 DIONISIO JOHNNY MENDAROS,) No. H-3155 SAC
13 DJM MANAGEMENT, INC.,) ACCUSATION
14 Respondents.)

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against DIONISIO JOHNNY MENDAROS (hereinafter "Respondent
18 MENDAROS") and DJM MANAGEMENT, INC. (hereinafter "Respondent
19 DJM"), is informed and alleges as follows:

20 FIRST CAUSE OF ACCUSATION

21 I

22 The Complainant, Charles W. Koenig, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 against Respondents MENDAROS and DJM in his official capacity.

25 II

26 Respondents MENDAROS and DJM are licensed and/or have
27 license rights under the Real Estate Law (Part 1 of Division 4 of

1 the Business and Professions Code) (hereinafter "the Code") as
2 follows:

3 DIONISIO JOHNNY MENDAROS - as a real estate broker and
4 as designated broker-officer of Respondent DJM.

5 DJM MANAGEMENT, INC. - as a real estate broker
6 corporation acting by and through Respondent MENDAROS as
7 designated broker-officer.

8 III

9 Whenever reference is made in an allegation in this
10 Accusation to an act or omission of "Respondents", such
11 allegations shall be deemed to mean the act or omission of each of
12 the Respondents named in the caption hereof, acting individually,
13 jointly, and severally.

14 IV

15 At various times herein mentioned, Respondents were
16 performing acts requiring a real estate license for or in
17 expectation of a compensation.

18 V

19 On or about August 5, 1992, Respondents, by and through
20 Nenerondolf Gonzales, a person employed by Respondents, but
21 unlicensed by the Department of Real Estate, caused a written
22 purchase offer from Policarpio and Myrnalyn Vergara (hereinafter
23 "the Buyers") to be submitted to Eleuteria A. Abara (hereinafter
24 "the Seller") on the purchase of real property owned by the Seller
25 commonly known as 3636 San Bruno Avenue, San Francisco, California
26 (hereinafter "the Subject Property").

27 ///

VI

The Buyers' offer described in Paragraph V above, included the following terms among others:

- (1) Purchase price of \$190,000.00;
- (2) A good faith deposit of \$1,000.00 in the form of a personal check from the Buyers made payable to Fidelity Title Co.;
- (3) The good faith deposit of \$1,000.00 to be deposited into escrow upon acceptance of the offer;
- (4) Seller to obtain a refinance loan on the Subject Property in the amount of \$152,000.00 secured by a first deed of trust;
- (5) Seller to carry back a second deed of trust in the amount of \$38,000.00; and
- (6) Seller to carry back a third deed of trust in the amount of \$11,780.00.

VII

On or about August 5, 1992, the Seller in reliance on the representations of Respondents including the terms and conditions contained in the offer described in Paragraphs V and VI above, agreed to sell the Subject Property.

VIII

On or about August 5, 1992 and continuing thereafter, in connection with the good faith deposit described in Paragraph VI above, Respondents did not then or at any other time hold said good faith deposit. Respondents failed to disclose to the Seller the material fact that Respondents did not in fact receive and hold said good faith deposit.

IX

1
2 On or about August 5, 1992 and continuing thereafter,
3 Respondents failed to disclose to the Seller the material fact
4 well known to Respondents, but unknown to the Seller that
5 Respondents did not open an escrow into which the good faith
6 deposit was to be placed as described in Paragraph VI above.

X

7
8 Beginning on or before August 5, 1992 and continuing
9 thereafter, Respondents, in order to induce the Seller into
10 accepting the Buyers' offer and into selling the Subject Property
11 to the Buyers, failed to disclose to Seller the material fact well
12 known to Respondents, but unknown to the Seller that pursuant to
13 the sales contract the Subject Property was encumbered in excess
14 of its fair market value.

XI

15
16 Beginning on or before August 5, 1992 and continuing
17 thereafter, Respondents failed to advise the Seller of her best
18 interest in the transaction, as to the inherent risks and
19 potential problems with protecting her equity in the Subject
20 Property.

XII

21
22 Beginning on or before August 5, 1992 and continuing
23 thereafter, Respondents employed and/or compensated, directly or
24 indirectly, Nenerondolf Gonzales (a person unlicensed by the
25 Department of Real Estate), to perform acts for which a real
26 estate license is required including, but not limited to, the
27 above described transaction concerning the Subject Property.

XIII

1
2 The acts and or omissions described above are grounds
3 for the suspension or revocation of the licenses and/or license
4 rights of Respondents under the following sections of the Code:

5 (1) As to Paragraphs VII through XI, under Sections
6 10176(a) and 10176(i) of the Code, or in the alternative, under
7 Section 10177(g) of the Code.

8 (2) As to Paragraph XII, under Section 10137 of the
9 Code.

10 SECOND CAUSE OF ACCUSATION

11 XIV

12 There is hereby incorporated in this second, separate
13 and distinct cause of Accusation, all of the allegations contained
14 in Paragraphs I through IV of the First Cause of Accusation with
15 the same force and effect as if herein fully set forth.

16 XV

17 On or after August 5, 1992, in connection with the sale
18 of the Subject Property described in Paragraphs V, VI, and VII
19 above, Respondents caused or assisted the Seller in applying for a
20 refinance loan in the amount of \$152,000.00 to be secured by the
21 Subject Property from Liberty American Mortgage, Campbell,
22 California (hereinafter "the Lender").

23 XVI

24 On or after August 5, 1992, in connection with the loan
25 application described in Paragraph XV above, Respondents
26 represented or caused to be represented to the Lender that:

27 ///

1 are cause under Sections 10176(a) and 10176(i) of the Code for
2 suspension or revocation of all licenses and/or license rights of
3 Respondents under the Real Estate Law.

4 WHEREFORE, Complainant prays that a hearing be conducted
5 on the allegations of this Accusation and that upon proof thereof
6 a decision be rendered imposing disciplinary action against all
7 licenses and license rights of Respondents, under the Real Estate
8 Law (Part 1 of Division 4 of the Business and Professions Code)
9 and for such other and further relief as may be proper under other
10 provisions of law.

11
12 
13 CHARLES W. KOENIG
14 Deputy Real Estate Commissioner

14 Dated at Sacramento, California,
15 this 3rd day of August, 1995.

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