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FILED
OCT 19 2007

DEPARTMENT OF REAL ESTATE

By *Juan Acuna*

BEFORE THE DEPARTMENT OF REAL ESTATE
OF THE STATE OF CALIFORNIA

* * *

In the Matter of the Application of) Case No. H-4186 SAC
REYNALDO ESGUERRA URBINO,)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On June 20, 2005, a Decision was rendered herein
revoking the real estate broker license of Respondent effective
July 20, 2005.

On January 16, 2007, 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.

The burden of proving rehabilitation rests with the
petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
petitioner is required to show greater proof of honesty and
integrity than an applicant for first time licensure. The proof

1 must be sufficient to overcome the prior adverse judgment on the
2 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
3 395).

4 I have considered Respondent's petition and the
5 evidence and arguments in support thereof. Respondent has failed
6 to demonstrate to my satisfaction that Respondent has undergone
7 sufficient rehabilitation to warrant the reinstatement of
8 Respondent's unrestricted real estate broker license.

9 The Department has developed criteria in Section 2911
10 of Chapter 6, Title 10, California Code of Regulations (herein
11 "the Regulations") to assist in evaluating the rehabilitation of
12 an applicant for reinstatement of a license. Among the criteria
13 relevant in this proceeding are:

14 Section 2911(k). Correction of business practices
15 resulting in injury to others or with the potential to cause such
16 injury.

17 Between July 1, 2003 and August 31, 2003, while
18 Respondent was a real estate salesperson employed as a loan agent
19 for a mortgage loan brokerage, Respondent induced an
20 institutional lender to make a \$194,000.00 mortgage loan secured
21 by real property in Hercules, California, by submitting a false
22 pay stub and Form W-2 "Wage And Tax Statement" that had been
23 fabricated by Respondent to inflate the borrower's income from
24 \$3,666.66 per month to \$6,536.33 per month. On October 20, 2003,
25 Respondent's employer was notified by the lender that the fraud
26 had been detected. On May 7, 2004, Respondent was licensed by the
27 Department as a real estate broker. In a declaration under

1 penalty of perjury dated August 18, 2004, Respondent attempted to
2 blame the fraud on a fictitious loan processor, "Robert Santos".
3 On September 2, 2004, after being contacted concerning the loan
4 by the Department's investigator, Respondent executed a
5 declaration under penalty of perjury unqualifiedly admitting that
6 Respondent had perpetrated the fraud and expressing remorse for
7 Respondent's misconduct. On May 26, 2005, Respondent executed a
8 stipulation providing for outright revocation of Respondent's
9 license as a real estate broker.

10 Given the violation found and the fact that Respondent
11 has not engaged as a broker in the operation of a real estate
12 brokerage business or otherwise acted in a fiduciary capacity
13 since revocation of Respondent's license, Respondent has not
14 established that Respondent has complied with Section 2911(k),
15 Title 10, California Code of Regulations.

16 Section 2911(m). New and different social and business
17 relationships from those which existed at the time of the conduct
18 that is the basis for denial of the departmental action sought.

19 Respondent has submitted no evidence of new or
20 different social or business relationships from those which
21 existed at the time of the conduct resulting in revocation of
22 Respondent's license.

23 Consequently, I am not satisfied that Respondent is
24 sufficiently rehabilitated to receive an unrestricted real estate
25 broker license. Additional time and evidence of correction as a
26 restricted real estate salesperson is necessary to establish that
27 Respondent is rehabilitated.

1 Notwithstanding the above, I am satisfied that it will
2 not be against the public interest to issue a restricted real
3 estate salesperson license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement of Respondent's real estate broker
6 license is denied.

7 A restricted real estate salesperson license shall be
8 issued to Respondent pursuant to Section 10156.5 of the Business
9 and Professions Code, if Respondent satisfies the following
10 conditions prior to and as a condition of obtaining a restricted
11 real estate salesperson license within nine (9) months from the
12 date of this Order:

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

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 The restricted license issued to Respondent shall be
21 subject to all of the provisions of Section 10156.7 of the
22 Business and Professions Code and to the following limitations,
23 conditions and restrictions imposed under authority of Section
24 10156.6 of that Code:

25 A. The restricted license issued to Respondent may be
26 suspended prior to hearing by Order of the Real Estate

27 ///

1 Commissioner in the event of Respondent's conviction or plea of
2 nolo contendere to a crime which is substantially related to
3 Respondent's fitness or capacity as a real estate licensee.

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

10 C. Respondent shall not be eligible to apply for the
11 issuance of an unrestricted real estate license nor the removal
12 of any of the limitations, conditions or restrictions of a
13 restricted license until two (2) years have elapsed from the date
14 of the issuance of the restricted license to respondent.

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

20 1. That the employing broker has read the Decision of
21 the Commissioner which granted the right to a restricted license;
22 and

23 2. That the employing broker will exercise close
24 supervision over the performance by the restricted licensee
25 relating to activities for which a real estate license is
26 required.

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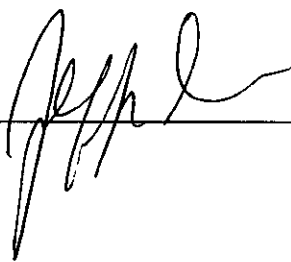
This Order shall become effective at 12 o'clock

noon NOV 09 2007

DATED: 10/12, 2007.

JEFF DAVI

Real Estate Commissioner

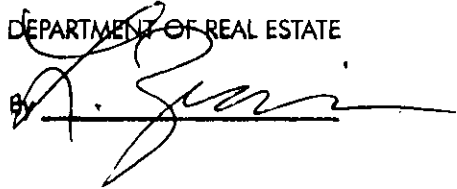


DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
JUN 29 2005

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-4186 SAC
REYNALDO ESGUERRA URBINO,)	OAH No. N-2005020421
Respondent.)	<u>STIPULATION AND AGREEMENT</u>

It is hereby stipulated by and between Respondent REYNALDO ESGUERRA URBINO ("URBINO"), individually and by and through Brett Lytle, Esq., Respondent's attorney of record herein, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate ("the Department"), as follows for the purpose of settling and disposing of the Accusation filed on January 3, 2005 in this matter ("the Accusation"):

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DRE No. H-4186 SAC

REYNALDO ESGUERRA URBINO

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 MACHADO ("Respondent") at a formal hearing on the Accusation,
4 which hearing was to be held in accordance with the provisions of
5 the Administrative Procedure Act (APA), shall instead and in
6 place thereof be submitted solely on the basis of the provisions
7 of this Stipulation and Agreement.

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department in this proceeding.

11 3. On January 19, 2005, Respondent filed a Notice of
12 Defense pursuant to Section 11505 of the Government Code for the
13 purpose of requesting a hearing on the allegations in the
14 Accusation. Respondent hereby freely and voluntarily withdraws
15 said Notice of Defense. Respondent acknowledges that Respondent
16 understands that by withdrawing said Notice of Defense Respondent
17 will thereby waive Respondent's right to require the Real Estate
18 Commissioner ("the Commissioner") to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that Respondent will waive other rights
21 afforded to Respondent in connection with the hearing such as the
22 right to present evidence in defense of the allegations in the
23 Accusation and the right to cross-examine witnesses.

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26
27 DRE No. H-4186 SAC

REYNALDO ESGUERRA URBINO

1 4. Subject to the limitations set forth below,
2 Respondent hereby admits that the factual allegations in the
3 Accusation are true and correct and that the Real Estate
4 Commissioner shall not be required to provide further evidence to
5 prove such allegations. Respondent's Statement In Mitigation is
6 attached hereto and incorporated herein by this reference.

7 5. It is understood by the parties that the
8 Commissioner may adopt the Stipulation and Agreement as his
9 decision in this matter, thereby imposing the penalty and
10 sanctions on Respondent's real estate license and license rights
11 as set forth in the "Order" below. In the event that the
12 Commissioner in his discretion does not adopt the Stipulation and
13 Agreement, it shall be void and of no effect, and Respondent
14 shall retain the right to a hearing and proceeding on the
15 Accusation under all the provisions of the APA and shall not be
16 bound by any admission or waiver made herein.

17 6. This Stipulation and Agreement shall not
18 constitute an estoppel, merger or bar to any further
19 administrative or civil proceedings by the Department with
20 respect to any matters which were not specifically alleged to be
21 causes for accusation in this proceeding.

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27 DRE No. H-4186 SAC

REYNALDO ESGUERRA URBINO

DETERMINATION OF ISSUES

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By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

I

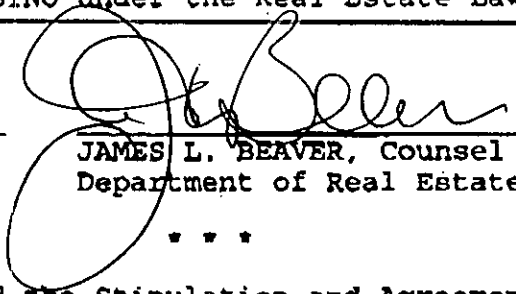
The acts and omissions of Respondent REYNALDO ESGUERRA URBINO as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent URBINO under the provisions of Sections 10176(a) and 10176(i) of the California Business and Professions Code.

ORDER

I

All licenses and licensing rights of Respondent REYNALDO ESGUERRA URBINO under the Real Estate Law are revoked.

5-27-05
DATED


JAMES L. BEAVER, Counsel
Department of Real Estate

* * *

I have read the Stipulation and Agreement and discussed it with my attorney 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,

DRE No. H-4186 SAC

REYNALDO ESGUERRA URBINO

1 and voluntarily waive those rights, including the right of
 2 requiring the Commissioner to prove the allegations in the
 3 Accusation at a hearing at which I would have the right to cross-
 4 examine witnesses against me and to present evidence in defense
 5 and mitigation of the charges.

MAY 26 2005

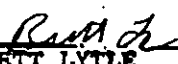
DATED


 REYNALDO ESGUERRA URBINO
 Respondent

9 I have reviewed the Stipulation and Agreement as to
 10 form and content and have advised my client accordingly.

5-26-05

DATED


 BRETT LYTLE
 Attorney for Respondent

14 The foregoing Stipulation and Agreement is hereby
 15 adopted by me as my Decision in this matter as to Respondent
 16 REYNALDO ESGUERRA URBINO and shall become effective at 12 o'clock
 17 noon on JULY 20, 2005.

IT IS SO ORDERED June 20, 2005.

JEFF DAVI
 Real Estate Commissioner


 BY: John R. Liberator
 Chief Deputy Commissioner

DRE No. H-4106 SAC

REYNALDO ESGUERRA URBINO

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
JAN - 3 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 REYNALDO ESGUERRA URBINO,) No. H-4186 SAC
13 Respondent.) ACCUSATION
14)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against REYNALDO ESGUERRA URBINO (herein "URBINO"),
18 is informed and alleges as follows:

19 I

20 The Complainant, Charles W. Koenig, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

24 At all times herein mentioned, Respondent URBINO was
25 and now is licensed or has license rights under the Real Estate
26 Law (Part 1 of Division 4 of the Business and Professions Code)
27 (herein "the Code").

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III

At all times herein mentioned to and until May 6, 2004, Respondent URBINO was licensed by the Department as a real estate salesperson. At all times herein mentioned from and after May 7, 2004, Respondent URBINO was and now is licensed by the Department as a real estate broker.

IV

At all times herein mentioned, Galaxy Financial Investments, Inc. a licensed corporate real estate broker doing business as Mortgage Galaxy (herein "Galaxy"), engaged in the business of, acted in the capacity of, advertised, and/or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the California Business and Professions Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Galaxy solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Galaxy arranged, negotiated, processed, and consummated such loans.

IV

At all times mentioned herein to and until on or about October 31, 2003, Respondent URBINO was employed by Galaxy as a real estate salesperson performing the acts and conducting the activities described in Paragraph III, above.

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///

1 V

2 Between on or about July 1, 2003 and on or about
3 August 31, 2003, in course of the activities and employment
4 described in Paragraph IV, above, Respondent URBINO solicited,
5 and induced and caused Galaxy to solicit, Mortgage Lenders
6 Network USA (herein "Network") to make, a \$194,400 loan to
7 Vladimir X. Raguindin (herein "Raguindin") to be secured by a
8 first deed of trust encumbering residential real property at 110
9 Bristol, Hercules, California, for the purpose of financing the
10 purchase of said real property by Raguindin.

11 VI

12 In order to induce Network to make the loan described
13 in Paragraph V, above, and in order to induce Galaxy to solicit
14 Network to make said loans, Respondent URBINO represented to
15 Network and Galaxy that:

16 (a) Raguindin's income from employment by Kaiser
17 Permanente equaled approximately \$6,536.33 in July, 2003 and
18 approximately \$75,370.84 in calendar year 2002;

19 (b) On August 2, 2003 Kaiser Permanente had issued to
20 Raguindin its authentic pay stub for July, 2003 stating that
21 Raguindin earned \$6,536.33 compensation from his employment by
22 Kaiser Permanente during July, 2003; and

23 (c) Kaiser Permanente had issued to Raguindin its
24 authentic Form W-2 "Wage And Tax Statement" for calendar year
25 2002 stating that Raguindin earned \$75,370.84 compensation from
26 his employment by Kaiser Permanente during 2002.

27 ///

1 VII

2 Each and every representation described in Paragraph
3 VI, above, was false when made, as Respondent URBINO well and
4 truly knew at the time he made each such representation. In
5 truth and fact, as URBINO well and truly knew at the time:

6 (a) Raguindin's income from employment by Kaiser
7 Permanente equaled approximately \$3,666.66 in July, 2003 and
8 approximately \$33,139.62 in calendar year 2002; and

9 (b) The Form W-2 "Wage And Tax Statement" and pay
10 stub described in Paragraph VI were entirely false and had been
11 fabricated or caused to be fabricated by Respondent.

12 VIII

13 On or about August 21, 2003, Network made the loan
14 described above in Paragraph V, above, in reliance on the
15 representation described in Paragraph VI, above.

16 IX

17 The acts and omissions of Respondent URBINO described
18 above constitute the substantial misrepresentation of material
19 facts and fraud and dishonest dealing.

20 X

21 The facts alleged above are grounds for the suspension
22 or revocation of all Respondent's license and license rights
23 under Sections 10176(a) and 10176(i) of the California Business
24 and Professions Code.

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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 of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.



CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 31st day of December, 2004.