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FILED

JAN 25 2005

DEPARTMENT OF REAL ESTATE

By *John Alamo*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-7555 SF
	)	H-6466 SF
RICHARD CARROLL REBOL,	)	
	)	
	)	
	)	
Respondent.	)	

ORDER DENYING REINSTATEMENT OF LICENSE

On October 21, 1991, a Decision was rendered in H-6466 SF revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on December 1, 1991. On June 24, 1999, a Decision in H-7555 SF was rendered revoking the restricted real estate broker license of Respondent.

On July 28, 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.

///

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

6 The burden of proving rehabilitation rests with the
7 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
8 petitioner is required to show greater proof of honesty and
9 integrity than an applicant for first time licensure. The proof
10 must be sufficient to overcome the prior adverse judgment on the
11 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
12 395).

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

18 (j) Discharge of, or bona fide efforts toward
19 discharging, adjudicated debts or monetary obligations to others.

20 Respondent has failed to present evidence of
21 discharging the following adjudicated debts: \$4,890 Judgment in
22 Quigley v. Rebol, Santa Clara County Municipal Court No.
23 AS947234874, \$4,533.45 Judgment in Burbank Press v. Rebol, Santa
24 Clara County Municipal Court No. AS98239381.

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

1 (1) Testimony of applicant.

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

5 (3) Evidence from probation or parole officers or law
6 enforcement officials competent to testify as to applicant's
7 social adjustments.

8 (4) Evidence from psychiatrists or other persons competent
9 to testify with regard to neuropsychiatric or emotional
10 disturbances.

11 In response to a question in the petition application,
12 "Have you ever been a defendant in any civil court litigation,
13 including small claims court?", Respondent answered "No" to the
14 question and failed to disclose in his petition the following
15 civil litigation: *Quigley v. Rebol*, Santa Clara County Municipal
16 Court No. AS947234874, *Burbank Press v. Rebol*, Santa Clara County
17 Municipal Court No. AS98239381, *Myers v. Rebol*, Santa Clara
18 County Municipal Court No. AS93192141 and *Kelly v. Rebol*, Santa
19 Clara County Municipal Court No. AS94200682. In response to a
20 question in the petition application, "Do you have any past
21 debts, outstanding judgments, or have you filed bankruptcy?",
22 Respondent answered "No" to the question and failed to disclose
23 in his petition the following debts: a tax lien in favor of Santa
24 Clara County, a \$4,890 Judgment in *Quigley v. Rebol*, Santa Clara
25 County Municipal Court No. AS947234874, and a \$4,533.45 Judgment
26 in *Burbank Press v. Rebol*, Santa Clara County Municipal Court No.
27 AS98239381.

1 Respondent's concealment of facts and lack of candor,
2 demonstrate that Respondent has not changed his attitude from
3 that which existed at the time the grounds for disciplinary
4 action occurred.

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

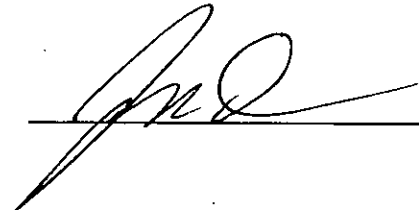
10 NOW, THEREFORE, IT IS ORDERED that Respondent's
11 petition for reinstatement of his real estate broker license is
12 denied.

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

15 Dated: 1-19-, 2005.

16 JEFF DAVI
17 Real Estate Commissioner

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27



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 9 1999

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

* * *

In the Matter of the Accusation of)
RICHARD CARROLL REBOL,)
Respondent.)

NO. H-7555 SF

OAH NO. N-1999020139

DECISION

The Proposed Decision dated June 9, 1999, 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 July 30, 1999.

IT IS SO ORDERED June 24, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

RICHARD CARROLL REBOL,

Respondent.

Case No. H-7555 SF

OAH No. N 1999020139

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on May 12, 1999.

James L. Beaver, Counsel, represented the complainant Deputy Real Estate Commissioner Les R. Bettencourt.

Respondent Richard Carroll Rebol represented himself.

The matter was submitted on May 12, 1999.

FACTUAL FINDINGS

1. The accusation was made and filed by Les R. Bettencourt, in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California.

2. Respondent Richard Carroll Rebol (respondent) is presently licensed and/or has licensing rights under the Real Estate Law, Part 1 of Division Four of the Business and Professions Code, as a restricted real estate broker. The Commissioner suspended the restricted license pursuant to section 10156.7 of the Business and Professions Code pending final determination of this matter. The restricted license will expire, if not renewed, on March 13, 2000.

3. On or about July 11, 1997, in the Superior Court of California, County of Santa Clara, respondent was convicted on his plea of nolo contendere of violating Penal

Code section 136.1, subdivision (b)(1),¹ intimidation of a witness, a misdemeanor. The offense involves moral turpitude and is substantially related to the qualifications, functions, and duties of a real estate licensee.

4. As a result of the conviction, respondent was placed on probation for one year, with conditions that he serve 100 hours of community service, and pay various fines and assessments. Respondent has paid the fines and performed the community service. Probation has been terminated, but the conviction has not been expunged.

5. The circumstances surrounding the offense are that on or about April 20, 1996, respondent agreed to help a friend/former employee, Amar Walia, who was being accused of "sexual harassment"² by two women. Respondent agreed to contact the women and to offer them a sum of money for agreeing not to file criminal charges against Walia.³ Over the next few days, respondent telephoned the victim, went to the victim's home on a number of occasions, spoke with the victim's boyfriend, and offered remuneration for dropping the charges.

6. At the time of the offense, respondent did not feel he had done anything wrong or illegal. He was surprised by his arrest and by being charged with three felony offenses. He views his actions as those of someone trying to help a friend. Respondent never anticipated that his conduct would have ramifications in his professional life.

Respondent was less than forthright at the hearing regarding the nature of his participation in the scheme. For example, respondent did not initially explain that he received money and lunches from Walia in return for his assistance and expected that he would receive an additional "couple of thousand dollars" when the matter was completed.

Prior Discipline

7. Effective November 14, 1991, in Case No. H-6466 SF, the Real Estate Commissioner revoked the real estate broker license of respondent and granted the right to a restricted broker license pursuant to sections 490 and 10177, subdivision (b) of the Business and Professions Code.

¹ There is an apparent clerical error on the record of conviction. It lists the offense as a violation of subdivision (b)(1) of Penal Code section 136. Penal Code section 136 defines the term malice, and does not have a subdivision (b)(1). The appropriate citation is to subdivision (b)(1) of Penal Code section 136.1.

² The nature of the women's allegations against respondent's friend was not clearly spelled out.

³ It appears that unbeknownst to respondent, criminal charges had already been filed at this time. Respondent learned that charges had been filed a few days into the scheme.

8. Respondent obtained his real estate broker's license in 1984. Since that time he has worked as a mortgage broker and been an instructor of real estate courses at both private schools and public universities. Respondent did not present any evidence from former employers or employees regarding his character or his honesty or integrity as a real estate licensee.

Respondent is 48 years old. He is single and has custody of a son whom he financially supports. Since the suspension of his license, respondent has been doing various jobs including working in construction and automobile sales. Respondent professes that he never truly appreciated his real estate broker license until it was suspended.

If the license is restored, respondent plans to return to mortgage brokering with James Sarver, a real estate salesman. Sarver has known respondent since 1992. Sarver testified that respondent is a man of highest integrity and honesty and has a good reputation among real estate agents. Sarver has taken real estate courses from respondent, but has no personal knowledge regarding respondent's accomplishments.

9. Respondent was forthright and cooperative with the Department in its investigation of this matter.

LEGAL CONCLUSIONS

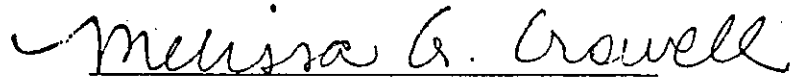
1. By reason of the matters set forth in Factual Finding 3, cause for suspension or revocation of all license and license rights of respondent under the Real Estate Law exists pursuant to sections 490 and 10177, subdivision, (b) of the Business and Professions Code. The offense involves moral turpitude and is substantially related to the qualifications, functions or duties of a licensee within the meaning of section 2910 of Title 10 of the California Code of Regulations in that it involved the employment of bribery to achieve an end. (*Id.*, subd. (a)(4).)

2. Respondent's lack of candor about his involvement in the scheme coupled with his lack of insight regarding the extremely poor judgment he exercised in participating in the scheme raises serious questions about whether respondent has the ability to perform the duties and obligations of a real estate broker consistent with the requirements of the law. The conviction is less than two years old. Respondent has not demonstrated that the public interest would be protected by his continued licensure even on a restricted basis.

ORDER

All licenses and licensing rights of respondent Richard Carroll Rebol under the
Real Estate Law are revoked.

DATED: June 9, 1999



MELISSA G. CROWELL

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB - 4 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Centeno

In the Matter of the Accusation of

RICHARD CARROLL REBOL,

Case No. H-7555 SF

OAH No. _____

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, the Elihu Harris State

Building, 1515 Clay Street, Suite 206, Oakland, California 94612

on May 12, 1999, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: February 3, 1999

By

JAMES L. BEAVER

Counsel

FILED

FEB - 1 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
RICHARD CARROLL REBOL,)
Respondent.)

No. H-7555 SF

ORDER GRANTING RECONSIDERATION

On November 22, 1998, a Decision was rendered in the above-entitled matter. The Decision is to become effective on February 1, 1999.

On December 29, 1998, Respondent petitioned for reconsideration of the Decision of November 22, 1998. I find that there is good cause to reconsider said Decision.

Reconsideration is hereby granted and pursuant to Section 11521(b) of the Government Code, the matter is reassigned to an Administrative Law Judge of the Office of Administrative Hearings for hearing.

IT IS SO ORDERED January 29, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

FILED

DEC 30 1998

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

RICHARD CARROLL REBOL,)

NO. H-7555 SF

Respondent.)

ORDER STAYING EFFECTIVE DATE

On November 22, 1998, a Decision was rendered in the above-entitled matter to become effective December 31, 1998. On December 29, 1998, Respondent petitioned for reconsideration of the Decision of November 22, 1998.

IT IS HEREBY ORDERED that the effective date of the Order of the Commissioner of November 22, 1998, is stayed for a period of thirty (30) days.

The Order of the Commissioner of November 22, 1998, shall become effective at 12 o'clock noon on February 1, 1999.

DATED: December 30, 1998.

Real Estate Commissioner

By:

Betty R. Ludeman
BETTY R. LUDEMAN
Assistant Commissioner

FILED
DEC 11 1998
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

RICHARD CARROLL REBOL,

Respondent.

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on July 28, 1998. The findings of fact set forth herein are based on one or more of the following:

- (1) Respondent's express admissions; (2) affidavits; and/or,
- (3) other evidence.

This Decision revokes a real estate license on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

I

On February 24, 1998, Les R. Bettencourt made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department, and other addresses

known to the Department, on March 4, 1998; and were mailed again on June 16, 1998, by regular mail.

On July 28, 1998, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

Respondent RICHARD CARROLL REBOL is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code as a restricted real estate broker. On or about March 4, 1998, an Order Suspending Restricted License was filed suspending Respondent's restricted license pending final determination made in the matter of the above-captioned Accusation.

III

On or about July 11, 1997, in the Superior Court of California, County of Santa Clara, Respondent was convicted of violation of Section 136.1(b)(1) of the California Penal Code (INTIMIDATION OF WITNESS).

IV

The evidence established that the crime of which Respondent was convicted is a misdemeanor, involves moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee.

V

Effective November 14, 1991, in Case No. H-6466 SF, the Real Estate Commissioner revoked the real estate broker license of Respondent and granted the right to a restricted real estate broker license for violation of Sections 490 and 10177(b) of the California Business and Professions Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent's license and license rights exists pursuant to Business and Professions Code Sections 490 and 10177(b).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

III

The prior disciplinary action as found in Paragraph V above was taken into consideration in making the following Oder.

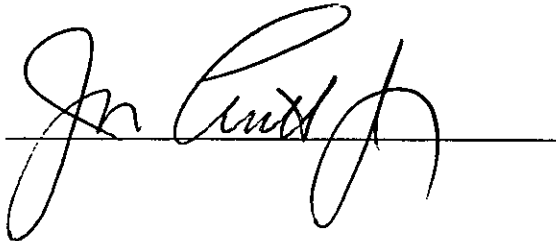
ORDER

The license(s) and license rights of Respondent RICHARD CARROLL REBOL under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on December 31, 1998.

DATED: 11/22, 1998.

JAMES ANTT, JR.
Real Estate Commissioner

A handwritten signature in cursive script, appearing to read "James Antt, Jr.", is written over a horizontal line.

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789
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FILED
JUL 28 1998

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA
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* * *

12 In the Matter of the Accusation of)
13 RICHARD CARROLL REBOL,)
14 Respondent.)
15

NO. H-7555 SF

DEFAULT ORDER

16 Respondent, RICHARD CARROLL REBOL, having failed to file
17 a Notice of Defense within the time required by Section 11506 of
18 the Government Code, is now in default. It is, therefore, ordered
19 that a default be entered on the record in this matter as to
20 RICHARD CARROLL REBOL.

21 IT IS SO ORDERED July 28, 1998.

22 JIM ANTT, JR.
23 Real Estate Commissioner

24
25 By: Steven J. Ellis
26 STEVEN J. ELLIS
27 Regional Manager



1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789
8

FILED
FEB 25 1998
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of)
14)
15 RICHARD CARROLL REBOL,)
16)
17 Respondent.)
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NO. H-7555 SF
ACCUSATION

17 The Complainant, Les R. Bettencourt, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against RICHARD CARROLL REBOL, is informed and alleges
20 as follows:

21 I

22 RICHARD CARROLL REBOL (hereafter Respondent) is
23 presently licensed and/or has license rights under the Real
24 Estate Law, Part 1 of Division 4 of the California Business and
25 Professions Code (hereafter the Code) as a restricted real estate
26 broker.

27 ///



1 II

2 The Complainant, Les R. Bettencourt, a Deputy Real
3 Estate Commissioner of the State of California, makes this
4 Accusation against Respondent in his official capacity and not
5 otherwise.

6 III

7 On or about July 11, 1997, in the Superior Court of
8 California, County of Santa Clara, Respondent was convicted of
9 violation of Section 136.1(b)(1) of the California Penal Code
10 (INTIMIDATION OF WITNESS) as a misdemeanor, a crime involving
11 moral turpitude and which is substantially related under Section
12 2910, Title 10, California Code of Regulations to the
13 qualifications, functions or duties of a real estate licensee.

14 IV

15 The facts alleged above constitute cause under Sections
16 490 and 10177(b) of the Code for suspension or revocation of all
17 license(s) and license rights of Respondent under the Real Estate
18 Law.

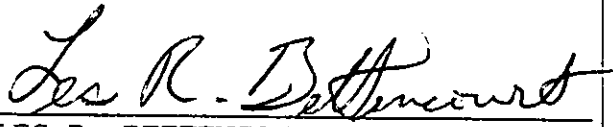
19 PRIOR DISCIPLINARY ACTION

20 Effective November 14, 1991, in Case No. H-6466 SF, the
21 Real Estate Commissioner revoked the real estate broker license of
22 Respondent and granted the right to a restricted broker license
23 pursuant to Sections 490 and 10177(b) of the California Business
24 and Professions Code.

25 WHEREFORE, Complainant prays that a hearing be conducted
26 on the allegations of this Accusation and that upon proof thereof
27 a decision be rendered imposing disciplinary action against all



1 licenses and license rights of Respondent, under the Real Estate
2 Law (Part 1 of Division 4 of the Business and Professions Code)
3 and for such other and further relief as may be proper under other
4 provisions of law.
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LES R. BETTENCOURT
Deputy Real Estate Commissioner

13 Dated at San Francisco, California,
14 this 24th day of February, 1998.
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