

FILED
JUL 16 2003

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * *

Lauria B. [Signature]

In the Matter of the Accusation of)
MICHAEL J. AMAYA,)
Respondent.)

NO. H-8381 SF

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 June 24, 2003, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (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 April 8, 2003, 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, on April 14, 2003.

On June 24, 2003, 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.

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II

Respondent 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 (hereinafter "Code") as a real estate broker.

III

On January 28, 2002, in the Superior Court of California, County of Santa Clara, Respondent was convicted of two counts of the crime of Defrauding Providers of Food, Fuel, Services or Accommodations in violation of Penal Code Section 537(a)(1), each a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

PRIOR DISCIPLINE

Effective May 10, 2000, in Case No. H-7771 SF, before the Department of Real Estate of the State of California, Respondent's real estate broker license was suspended for a period of ten (10) days upon an express finding by the Real Estate Commissioner that Respondent violated Section 10177(h) of the Code, but said suspension was wholly stayed upon payment of a monetary penalty in lieu of suspension pursuant to Section 10175.2 of the Code, with the stay to become permanent if no further cause for disciplinary action against the real estate license of Respondent occurred within one year from May 10, 2000.

DETERMINATION OF ISSUES

I

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

II

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

ORDER

All licenses and licensing rights of Respondent MICHAEL J. AMAYA, under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

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This Decision shall become effective at 12 o'clock noon on
AUGUST 6, 2003.

DATED:

July 8, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
JUN 24 2003

DEPARTMENT OF REAL ESTATE

By 

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

11 * * *

12 In the Matter of the Accusation of) No. H-8381 SF
13 MICHAEL J. AMAYA,) DEFAULT ORDER
14 Respondent.)
15

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

20 IT IS SO ORDERED June 24, 2003.

21 PAULA REDDISH ZINNEMANN
22 Real Estate Commissioner

23
24 By: 

25 STEVEN J. ELLIS
26 Regional Manager
27

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
APR 11 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MICHAEL J. AMAYA,) No. H-8381 SF
13 Respondent.) ACCUSATION
14)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against MICHAEL J. AMAYA (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code") as a real
23 estate broker.

24 II

25 The Complainant, Les R. Bettencourt, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity.

1 III

2 On or about January 28, 2002, in the Superior Court of
3 the State of California, County of Santa Clara, Respondent was
4 convicted of two counts of the crime of Defrauding Providers Of
5 Food, Fuel, Services Or Accommodations in violation of Penal Code
6 Section 537(a)(1), each a misdemeanor and a crime involving moral
7 turpitude which bears a substantial relationship under Section
8 2910, Title 10, California Code of Regulations (herein "the
9 Regulations"), to the qualifications, functions or duties of a
10 real estate licensee.

11 IV

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

16 PRIOR DISCIPLINE

17 Effective May 10, 2000, in Case No. H-7771 SF, before
18 the Department of Real Estate of the State of California,
19 Respondent's real estate broker license was suspended for a
20 period of ten (10) days upon an express finding by the Real
21 Estate Commissioner that Respondent violated Section 10177(h) of
22 the Code, but said suspension was wholly stayed upon payment of a
23 monetary penalty in lieu of suspension pursuant to Section
24 10175.2 of the Code.

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26 ///

27 ///

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

8
9 

10 LES R. BETTENCOURT
11 Deputy Real Estate Commissioner

12 Dated at Oakland, California,
13 this 8th day of April, 2003.