FEB 2 2 2007
DEPARTMENT OF REAL ESTATE
BY S. EE

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of )

NO. H-9450 SF

NICHOLAS ABEL RODRIGUEZ,

Respondent.

## **DECISION**

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Sections 11505 and 11509 of the Government Code and pursuant to the Order of Default filed on January 26, 2007, 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 <u>Criteria of Rehabilitation</u> are attached hereto for the information of Respondent.

## FINDINGS OF FACT

Ι

On November 18, 2005, E. J. Haberer II, made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and form for the Notice of Defense were mailed, by certified and regular mail, to Respondent's last known mailing address on file with the Department on November 23, 2005. On March 23, 2006, a Notice of Defense was received from the Respondent. The Notice of Hearing was mailed to Respondent on December 22, 2006.

On January 23, 2007, no appearance being made by Respondent at the time and place set for hearing and upon evidence of compliance with the provisions of Sections 11506 and 11509 of the Government Code, Respondent's default was entered herein.

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 salesperson.

III

On or about December 3, 2004, in the Superior Court, County of Santa Clara, State of California, case number CC352675, Respondent was convicted of a violation of Section 20001 California Vehicle Code (Leave scene of collision resulting in injury), a felony involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

## DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent 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.

## ORDER

All licenses and licensing rights of Respondent
NICHOLAS ABEL RODRIGUEZ, under the provisions of Part I of Division 4
of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on

MAR 14

, 2007.

DATED: 2007.

JEFF DAVI Real Estate Commissioner

Department of Real Estate P. O. Box 187007 Sacramento, CA 95818-7007

Telephone: (916) 227-0789

DEPARTMENT OF KEAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation of )

NICHOLAS ABEL RODRIGUEZ,

Respondent.

NO. H-9450 SF

DEFAULT ORDER

Respondent, NICHOLAS ABEL RODRIGUEZ, having failed to appear at the duly noticed administrative hearing scheduled for January 23, 2007, in conformity with Section 11509 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED

JEFF DAVI Real Estate Commissioner

Regional Manager

MICHAEL B. RICH, Counsel State Bar No. 84257 Department of Real Estate P.O. Box 187007 Sacramento, CA 95818-7007

Telephone: (916) 227-0789

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of )  $${\rm NO.\ H-9450\ SF}$$ 

NICHOLAS ABEL RODRIGUEZ,

<u>ACCUSATION</u>

The Complainant, E.J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against NICHOLAS ABEL RODRIGUEZ (hereinafter referred to as Respondent), is informed and alleges as follows:

Ι

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

ΙI

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

III

On or about December 3, 2004, in the Superior Court, County of Santa Clara, State of California, case number CC352675, Respondent was convicted of a violation of Section 20001 California Vehicle Code (Leave scene of collision resulting in injury), a felony involving moral turpitude and/or a crime which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged in Paragraph III, above, constitute cause under Sections 490 and/or 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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 the provisions of law.

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E. J./HABERER II

Deputy Real Estate Commissioner

Dated at Oakland, California,

this 18th day of Morentey 2005.