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DEPARTMENT OF REAL ESTATE

By Juan Armenta

BEFORE THE DEPARTMENT OF REAL ESTATE  
OF THE STATE OF CALIFORNIA

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In the Matter of the Accusation of )  
RICHARD ROYCE GOLD, )  
Respondent. )

No. H-10035 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 22, 2008, a Decision was entered herein revoking Respondent's real estate salesperson license effective February 13, 2008.

On March 23, 2009, Respondent petitioned for reinstatement of said real estate salesperson 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 sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real estate salesperson license.

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

1 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the  
2 prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

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

6 Section 2911 (a) The passage of not less than two years since the most recent  
7 criminal conviction or act of the applicant that is a basis to deny the departmental action sought.  
8 (A longer period will be required if there is a history of acts or conduct substantially related to  
9 the qualifications, functions or duties of a licensee of the department.)

10 On January 22, 2008, a Decision was entered herein revoking Respondent's real  
11 estate salesperson license pursuant to the provisions of Section 10176(i) (fraud and/or dishonest  
12 dealing) of the Business and Professions Code on the ground that on July 8, 2005, in the course  
13 of Respondent's handling of the purchase of real property, Respondent forged the name of his  
14 client on escrow documents that released contingencies to buyer's obligation to complete the  
15 purchase.

16 Section 2911 (i) Completion of, or sustained enrollment in, formal educational or  
17 vocational training courses for economic self-improvement.

18 Respondent has provided no evidence of qualifying educational activities.

19 Section 2911 (j) Discharge of, or bona fide efforts toward discharging,  
20 adjudicated debts or monetary obligations to others.

21 In response to item 4A in the petition ("Do you have any past debts, judgments, or  
22 have you filed bankruptcy?") Respondent said "yes" and, "IRS back taxes, 5K judgment also.  
23 Due to the fact I have not made more than \$10 m. to survive I am petitioning to get my license  
24 back to earn more to repay." This is incomplete, unreliable and inaccurate. A State of California  
25 tax lien in the amount of \$1,017.00 was recorded against Respondent in Sacramento County on  
26 01/24/08. A federal tax lien in the amount of \$13,741.00 was recorded in San Francisco on

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04/09/07. A Judgment Lien was filed 02/28/07 in San Francisco in the amount of \$5,000.00 in favor of Capitol One Bank and against Respondent. A Judgment Lien was filed 01/09/07 in San Francisco in the amount of \$3,546.00 in favor of Capitol One Bank and against Respondent. A Judgment Lien was filed 02/06/06 in San Francisco in the amount of \$5,000.00 in favor of Beja J. Carreira and against Respondent. A Judgment Lien was filed in San Francisco in the amount of \$100,446.49.00 in favor of Pacific Union Real Estate Group and against Respondent.

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

Given the violations found and the fact that Respondent has not engaged as a salesperson in the conduct of a real estate business or otherwise acted in a fiduciary capacity, Respondent has not established that he has complied with Section 2911(k).

Section 2911 (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

Respondent has provided no evidence of qualifying community service activities.

Section 2911 (n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant. As indicated above Respondent's response to item 4A in the petition was incomplete, inaccurate and unreliable. Respondent's answer to item 3 ("Have you ever been convicted of any violation of law?") was also incomplete, inaccurate and unreliable. Respondent answered "no" but in fact, on 10/22/03 in United States District Court, Northern District of California, Respondent was convicted of Driving under The Influence, a misdemeanor violation of Title 36, United States Code, Section 1004.23. Respondent also failed to answer item 4 in the petition ("Have you ever been a defendant in any civil court litigation, including small claims court?) thereby concealing and failing to disclose the civil actions described above. This reflects unfavorably on a change in the attitude that resulted in license discipline.

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

3           (3) Evidence from probation or parole officers or law enforcement officials  
4 competent to testify as to applicant's social adjustments. Respondent provided no such  
5 information.

6           (4) Evidence from psychiatrists or other persons competent to testify with regard  
7 to neuropsychiatric or emotional disturbances. Respondent provided no such information.

8           (5) Absence of subsequent felony or misdemeanor convictions that are reflective  
9 of an inability to conform to societal rules when considered in light of the conduct in question.

10           Consequently, I am not satisfied that Respondent is sufficiently rehabilitated to  
11 receive any real estate salesperson license.

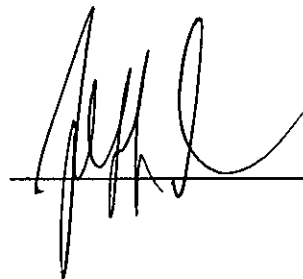
12           NOW, THEREFORE, IT IS SO ORDERED that Respondent's petition for  
13 reinstatement of his real estate salesperson license is denied.

14           This Order shall become effective at 12 o'clock noon on JUL 22 2009.

15           DATED: 6-23, 2009.

16                           JEFF DAVI  
17                           Real Estate Commissioner

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JAN 2-3 2008

By K. Mar

\* \* \*

DECISION

This Decision shall become effective at 12 o'clock noon  
on FEB 13 2008

IT IS SO ORDERED 1-22-08

JEFF DAVI  
Real Estate Commissioner

Real Estate Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RICHARD ROYCE GOLD,

Respondent.

Case No. H-10035 SF

OAH No. 2007070342

**PROPOSED DECISION**

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on November 30, 2007.

Jeanine K. Clasen, Counsel, represented complainant E.J. Haberer II, Deputy Real Estate Commissioner, State of California.

Respondent Richard Royce Gold was present and represented himself.

The matter was submitted on November 30, 2007.

**FACTUAL FINDINGS**

1. Complainant E.J. Haberer II, Deputy Real Estate Commissioner, issued the accusation in his official capacity.

2. Respondent Richard Royce Gold holds a real estate salesperson license issued by the department. Respondent's license expires on March 20, 2010.

3. In 2004 and 2005, respondent was employed as a licensed real estate salesperson to act as an agent by Pacific Union Real Estate Group, Ltd. (PUREG).

4. From May 2005 to July 2005, in the course of his employment with PUREG, respondent negotiated and arranged a contract for the purchase and sale of real property located at 3730 Mission Street, San Francisco, from Clifford P. Servetti and Custom Engine Shop Inc. as sellers, to Nancy A. Mattingly and Ronald Hugh Thompson as buyers.

5. Under the terms of the sales agreement, the buyers' obligation to complete the purchase was contingent upon an appraisal qualifying the 3730 Mission Street property for purchase money financing and upon the buyers obtaining such financing. The agreement also provided that the buyers would make a \$57,000 earnest money deposit into escrow as

designated liquidated damages to be paid to the sellers in the event that the buyers became unconditionally obligated to complete the purchase and thereafter failed to timely complete the purchase.

6. By a check dated May 13, 2005, buyer Thompson deposited \$28,500 into escrow with the Old Republic Title Company. By a check dated May 14, 2005, buyer Mattingly deposited \$28,500 into the same escrow account. These deposits were pursuant to the terms of the agreement for the 3730 Mission Street property.

7. Respondent's efforts to secure financing and his dealings with the sellers did not go smoothly. Respondent introduced potential investors and a potential contractor to Mattingly and Thompson; Mattingly and Thompson were not comfortable with them. Around July 1, 2005, buyers Mattingly and Thompson delivered to respondent written cancellation instructions directing the Old Republic Title Company to cancel the escrow and recover their \$57,000 earnest money deposit.

Respondent failed to implement the cancellation instructions. Instead, on or about July 8, 2005, respondent prepared and delivered to the sellers of the 3730 Mission Street property a "RECEIPT FOR REPORTS and ACTIVE CONTINGENCY REMOVAL." The receipt waived and released the appraisal and purchase money financing contingencies in the sales agreement and made the buyers unconditionally obligated to timely complete the purchase of the property. The document purported to bear the signature of Nancy A. Mattingly. In fact, respondent had falsified Mattingly's signature, without Mattingly's knowledge or consent. In so doing, respondent engaged in fraudulent and dishonest dealing.

8. Respondent had worked with Mattingly in previous real estate transactions. In some of those transactions, respondent had entered Mattingly's initials on various documents, with Mattingly's knowledge and consent.

9. Mattingly and Thompson were eventually able to recover their \$57,000, but only after hiring an attorney and enduring delays and frustrations in their dealings with respondent and PUREG.

10. Respondent does not dispute the allegations in complainant's accusation. He regrets his conduct and acknowledges that he made a "big mistake" in falsifying Mattingly's signature. He asserts he did so with Mattingly's and Thompson's interests in mind and that he did not mean to harm them, yet also acknowledges he placed them at risk of losing the \$57,000.

11. Respondent is not practicing real estate at this time. He returned for a time to his previous career selling shoes. He is now living in Las Vegas with his parents.

12. Respondent submitted four letters from former customers attesting to his customer service, knowledge, professionalism, and helpfulness. Each of the letters was written prior to the events at issue in this case.

## LEGAL CONCLUSIONS


1. Under Business and Professions Code section 10176, subdivision (i), the commissioner may suspend or revoke the license of a real estate licensee who has engaged in fraud or dishonest dealing. Pursuant to Factual Finding 7, cause exists to suspend or revoke respondent's license pursuant to section 10176, subdivision (i).

2. Respondent's falsification of Mattingly's signature without Mattingly's knowledge and consent, and in contravention of Mattingly's and Thompson's instruction to cancel the escrow and recover the \$57,000, goes to the heart of the duties and responsibilities of a real estate licensee. Although respondent appears sincerely remorseful, his conduct raises serious doubts about his honesty and trustworthiness. It would be contrary to the public interest to allow him to retain his real estate license.

## ORDER

All licenses and licensing rights of respondent Richard Royce Gold are revoked.

DATED: December 21, 2007

  
STEVEN C. OWYANG  
Administrative Law Judge  
Office of Administrative Hearings



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

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FILED  
JUN 20 2007

DEPARTMENT OF REAL ESTATE

By K. Mar

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 RICHARD ROYCE GOLD, )  
13 Respondent. )

No. H-10035 SF

ACCUSATION

14  
15 The Complainant, E. J. HABERER II, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Accusation against RICHARD ROYCE GOLD (herein "Respondent GOLD"),  
18 is informed and alleges as follows:

19 I

20 The Complainant, E. J. HABERER II, 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 GOLD was and  
25 now is licensed and/or has license rights as a real estate  
26 salesperson under the Real Estate Law, Part 1 of Division 4 of  
27 the Business and Professions Code (herein "the Code").

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III

At all times herein mentioned, Pacific Union Real Estate Group, Ltd. ("PUREG"), was a licensed corporate real estate broker engaged in the business of, acted in the capacity of, advertised and assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein; on behalf of others, for compensation and in expectation of compensation, PUREG sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and sale of real property.

IV

At all times herein mentioned, between on or about April 8, 2004 and on or about August 4, 2005, Respondent GOLD was employed by PUREG as a licensed real estate salesperson to act as the agent of PUREG in conducting the real estate resale brokerage activities described in Paragraph III, above, for and on behalf of PUREG.

V

Between on or about May 10, 2005 and on or about July 5, 2005, in the course of the agency and employment described in Paragraph IV, above, Respondent GOLD negotiated and arranged a contract (herein "Sales Agreement"), for the purchase and sale from Clifford P. Servetti and Custom Engine Shop Inc. as sellers (herein "Sellers"), to Nancy A. Mattingly and Ronald Hugh

1 Thompson as buyers (herein "Buyers"), of real property located  
2 at 3730 Mission Street, San Francisco, California (herein "the  
3 Subject Property.")

4 VI

5 Under the terms of the Sales Agreement:

- 6 (a) Buyers' obligation to complete the purchase was  
7 contingent upon an appraisal qualifying the Subject  
8 Property for purchase money financing, and upon Buyers  
9 obtaining such financing;
- 10 (a) An earnest money deposit into escrow of \$57,000 was  
11 designated liquidated damages to be paid to Sellers in  
12 the event that Buyers became unconditionally obligated  
13 to complete the purchase and thereafter failed to  
14 timely complete the purchase.

15 VII

16 On or about May 16, 2005, Respondent GOLD solicited  
17 and obtained a \$57,000 earnest money deposit by Buyers into an  
18 escrow established to consummate said purchase and sale.

19 VIII

20 Between on or about July 1, 2005, Buyers instructed  
21 Respondent GOLD to cancel said escrow and recover the earnest  
22 money deposit, and in support thereof delivered to Respondent  
23 GOLD written Cancellation Instructions signed by Buyers  
24 directing the escrow holder to cancel the escrow and to release  
25 the \$57,000 earnest money deposit to Buyers.

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IX

Respondent GOLD failed to cancel said escrow and implement the Cancellation Instructions described in Paragraph VIII, above, but instead, on or about July 8, 2005, Respondent GOLD prepared and delivered to Sellers a "Receipt For Reports And Active Contingency Removal," ostensibly signed by Nancy A. Mattingly, which waived and released the appraisal and purchase money financing contingencies in the sales agreement, and made Buyers unconditionally obligated to timely complete the purchase of the Subject Property.

X

Respondent GOLD acted as described in Paragraph IX, above, without the knowledge or consent of Buyers, or either of them.

XI

Between on or about July 8, 2005 and July 30, 2005, Buyers failed to timely complete the purchase and Buyers' \$57,000 earnest money deposit was claimed by, and released to, Sellers as liquidated damages under the Sales Agreement.

XII


The acts and omissions of Respondent GOLD described above constitute fraud and/or dishonest dealing and are cause for the suspension or revocation of the licenses and license rights of Respondent GOLD under Section 10176(i) of the Code.

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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 a disciplinary  
4 action against all licenses and license rights of Respondent  
5 GOLD under the Real Estate Law (Part 1 of Division 4 of the  
6 Business and Professions Code), and for such other and further  
7 relief as may be proper under other applicable provisions of  
8 law.

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11 E. J. HABERER II  
Deputy Real Estate Commissioner

12 Dated at Oakland, California  
13 this 18<sup>th</sup> day of June, 2007.  
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