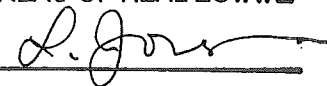


FILED

APR 16 2014

Bureau of Real Estate
P. O. Box 137007
Sacramento, CA 95813-7007

BUREAU OF REAL ESTATE

By 

Telephone: (916) 263-8670

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

VICTOR BAYUDAN BUMANGLAG,

Respondent.

No. H-11567 SF

OAH No. 2013080597

ORDER DENYING RECONSIDERATION

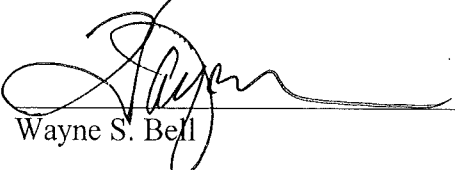
On February 14, 2014, a Decision was rendered in the above-entitled matter to become effective on March 17, 2014.

On February 27, 2014, an Order Staying Effective Date of the Decision of February 14, 2014, was filed by the Bureau thereby staying the Commissioner's Decision until April 16, 2014.

I have given due consideration to this matter, and I find no good cause to reconsider the Decision. Reconsideration is hereby denied.

IT IS HEREBY ORDERED 4/16/2014

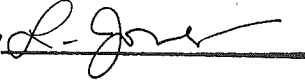
REAL ESTATE COMMISSIONER


Wayne S. Bell

FILED

MAR 07 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

VICTOR BAYUDAN BUMANGLAG,

Respondent.

No. H-11567 SF

ORDER STAYING EFFECTIVE DATE

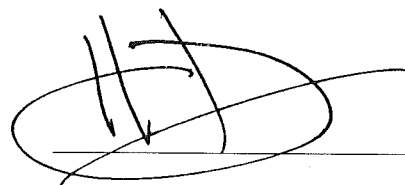
On February 14, 2014, a Decision was rendered in the above-entitled matter to become effective on March 17, 2014.

On February 27, 2014, Respondent filed a petition for reconsideration of the Decision of February 14, 2014.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed for a period of thirty (30) days. The Decision of February 14, 2014, shall become effective at 12 o'clock noon on April 16, 2014.

DATED: MAR 07 2014

REAL ESTATE COMMISSIONER

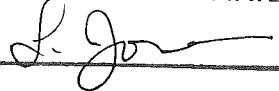


By: **JEFFREY MASON**
Chief Deputy Commissioner

FILED

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

FEB 24 2014
BUREAU OF REAL ESTATE

By 

* * *

In the Matter of the Accusation of)	
)	NO. H-11567 SF
VICTOR BAYUDAN BUMANGLAG,)	
)	OAH NO. 2013080597
Respondent.)	
_____)	

DECISION

The Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings dated January 28, 2014, 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.

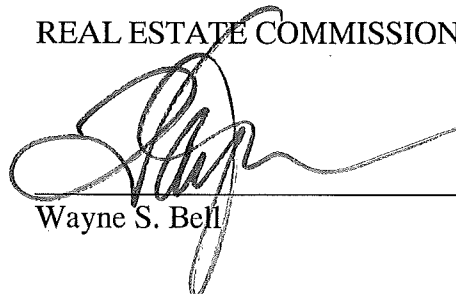
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are enclosed for the information of respondent.

This Decision shall become effective at 12 o'clock noon on MAR 17 2014.

IT IS SO ORDERED

2/14/2014

REAL ESTATE COMMISSIONER



Wayne S. Bell

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

VICTOR BAYUDAN BUMANGLAG,

Respondent.

Case No. H-11567 SF

OAH No. 2013080597

PROPOSED DECISION

Administrative Law Judge Adrienne J. Miller, State of California, Office of Administrative Hearings, heard this matter on January 6, 2014, in Oakland, California.

Truly A. Sughrue, Counsel, represented complainant, Robin S. Tanner, a Deputy Real Estate Commissioner of the State of California.

Frank M. Buda, Attorney at Law, represented respondent Victor Bayudan Bumanglag, who was present throughout the administrative hearing.

The matter was submitted on January 6, 2014.

FACTUAL FINDINGS

1. Robin S. Tanner made the accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

License History and Background

2. The Bureau of Real Estate (bureau) issued Victor Bayudan Bumanglag (respondent) a real estate salesperson license on August 11, 1990. The bureau issued respondent a real estate broker license on May 5, 2002. The real estate broker license expires on May 19, 2014. The Bureau issued an individual mortgage loan originator license endorsement and company mortgage loan originator license endorsement on January 10, 2011. Both mortgage loan originator license endorsements were terminated for failure to renew as of January 1, 2013.

Criminal Conviction and Violation of Probation

3. On April 17, 2012, respondent was convicted in the United States District Court, Northern District of California on his plea of guilty for violating Title 18 of the United States Code section 1349 (conspiracy to commit mail fraud), a felony.

4. Conspiracy to commit mail fraud is a crime that bears a substantial relationship under Section 2910, title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

5. The consequences of the conviction included three years formal probation on special conditions that included serving eight months home detention, with monitoring technology at the discretion of a probation officer, completing 50 hours of community service, paying a special assessment of \$100, paying a fine of \$5,000, and paying a forfeiture money judgment in the amount of \$31,736, which represented respondent's commission.

6. On April 19, 2012, respondent's probation officer specialist met with the respondent to explain the rules regarding home detention and to attach a transmitting device. Respondent agreed not to remove or tamper with the transmitter device except in a life-threatening emergency or without prior permission of the probation officer.

On April 24, 2012, respondent was given permission to remove the transmitter device on the morning of April 26, 2012, prior to a medical appointment, after which he would meet with the probation officer to have it reattached. On April 24, 2012, at 11:30 p.m., upon receiving an alert message from the electronic monitoring vendor, it was determined that respondent had tampered with the transmitter device by cutting the strap and removing it from his ankle. On April 25, 2012, the court took judicial notice that respondent violated his probation and modified the conditions of his probation to include one month residency at a Residential Reentry Center, Halfway House and then seven months home detention.

7. Respondent completed his one-month residency at a Residential Reentry Center, Halfway House and seven months home detention on December 17, 2012. Respondent paid his special assessment fine of \$100 on April 17, 2012, the fine of \$5,000 on June 22, 2012, and paid the forfeiture money judgment of \$31,736 by December 30, 2013.

8. The facts and circumstances of this conviction are that on August 25, 2005, respondent did knowingly conspire with others to defraud a mortgage lender, Fremont Investment & Loan (Fremont), by submitting fraudulent pay stubs and W2 forms for three of his real estate clients to obtain mortgage loans. An employee in respondent's real estate business introduced him to an individual, known as D.G., who created the fake W2's and pay stubs and respondent submitted those fake documents to Fremont, as proof of income, for the purpose of obtaining a mortgage loan.

The Plea Agreement, signed by respondent on September 20, 2011, stated the following:

I instructed D.G. to create false and fraudulent documents, including W-2's and pay stubs, to reflect substantially inflated incomes for the co-borrowers. I knew that the false documents I had D.G. create reflected that the borrowers earned significantly more income than they truly did. I also knew that these false documents would be, and indeed were, forwarded to Fremont in an effort to convince the lender that it should extend mortgage loans to the co-borrowers.

After receiving the fraudulent documents, Fremont funded the mortgage loans, totaling approximately \$789,000. In addition, I received a total of not more than \$31,736.00 in fees and commissions for my role in brokering this transaction. The Deed of Trust was recorded on or about August 25, 2005, and subsequently mailed from the San Mateo Recorder's Office.

9. Respondent is a 65-year old married man with three adult children. Respondent was a real estate salesperson for 11 years prior to acquiring his real estate broker's license, which he has held for the last 12 years. Respondent began his career in real estate by handling land transactions and then in 2003 he started handling residential sales. Respondent owns and operates his own real estate firm, doing business as Prima Realty Mortgage Company Realty World--Splendid Homes, located in Daly City, California. Respondent employs five active real estate salespersons and two real estate brokers. Since his conviction respondent's office has completed over 30 sales transactions. Respondent has individually completed approximately five sales transactions since his conviction.

10. In addition to respondent's real estate business, respondent and his wife own three adult care facilities (two in San Francisco since 1982, and one in Daly City) and two elder care facilities (one in Redwood City since 2002, and one in Millbrae.) All five of respondent's facilities are licensed by the Department of Social Services (DSS). Respondent's license with DSS is active. Respondent does not remember if he notified DSS of his conviction when he renewed his license. Respondent denies any suspensions or restrictions on his license; however he admits to having had a few disciplinary actions, but nothing serious.

11. Respondent holds an insurance license from the Department of Insurance. Respondent confirms that he notified the Department of Insurance of his conviction when he renewed his license.

12. Respondent's real estate broker's license is important to him as a means to support himself and his family. Respondent has not taken any educational courses since 2010 when he last renewed his license, but will do so if his license is not revoked.

13. Respondent is sorry and ashamed for his actions resulting in his conviction for conspiracy to commit mail fraud. However, respondent is adamant that his clients' incomes were not inflated by the fraudulent documents (W2's and pay stubs) submitted to the lender. This statement contradicts the Plea Agreement respondent signed in his criminal prosecution, as set forth in Factual Finding 7. Respondent believes that his clients could have received a "stated income loan" mortgage based upon their actual income. However, respondent explained that a "stated income loan" is considered riskier to lenders and therefore the interest rates for such loans are higher. Respondent further explained that he submitted fraudulent income documents to help his clients obtain a "full document loan" because such a loan is considered less of a risk to the lender and the interest rate would be lower. Respondent is aware that as a loan officer he has an obligation to be honest. Respondent informed his clients that he was using false documents on their behalf and they were happy that they would be paying less for their mortgage. Respondent is also aware that he owed a duty to the mortgage lender to be honest. Respondent stated that he "made a big mistake," but he insists that he "made sure that the mortgage lender would get paid."

14. As a special condition to his probation, as asserted with the federal court conviction, respondent is not to maintain a position of fiduciary capacity without the prior permission of his probation officer. Respondent admits that he does not know what a fiduciary is and he has not asked his probation officer permission to continue his real estate business as a real estate broker. However, respondent's probation officer has visited his real estate business at least twice during his probation and has visited one of his licensed care facilities at least once. Respondent has not been cited for any violation of probation for acting as a fiduciary in any of his businesses. Respondent's probation will end on April 17, 2015.

15. Two of respondent's adult children provided reference letters and testified on behalf of respondent. Vanessa Bumanglag is a nurse for Linda Mar Rehabilitation in Pacifica, California. Vanessa stated that her father confided in her that he was ashamed and sorry for his actions and that he promised never to make the same mistakes. Vanessa confirmed that her father has always been honest with her family and a good father. Mark Bumanglag is an Occupation User Experience Designer and employed with Awasu Design in San Francisco, California. Mark stated that his father is very sorry for what he has done and he knows what he did was wrong. Mark confirmed that his father has tried to be truthful and is an honest worker doing the best for his clients. Mark also stated that he was surprised by his father's actions and he knows that his father is a hard worker and is an ethical and honest person. He said that his father always taught him to be honest and ethical; not just through his words, but through his actions. In conclusion, Mark described his father as being a good father and he has good relationships with his children and his wife.

16. Respondent provided six additional reference letters.

The first letter is from respondent's pastor, Rev. Eugene D. Tungol of the Church of the Epiphany of San Francisco, California. Rev. Tungol states in his letter, dated December

27, 2013, that respondent and his family have been long-time parishioners of his church. Rev. Tungol is aware of respondent's conviction and confirms that respondent sought advice, counseling, and spiritual direction from him. He confirms that respondent completed his community service at the church and continues to volunteer to maintain the cleanliness of the church's facilities. Rev. Tungol is aware that respondent "... is doing everything at his best to recover and show to the whole world that he is not a bad person and trying his best to restore his good reputation and honor."

The second letter is from respondent's eldest daughter, Mariane Bumanglag. Mariane's states in her letter, dated December 16, 2013, that respondent "... has always supported, provided, and been honest to the family." She further states that respondent "... has learned his lesson and has undergone changes in his life and attitude. Respondent owns several care homes where he devotes more time tending to the care homes and to things that matter to him. Respondent positively contributes to the community, his company, his businesses, and his family.

The third letter is from Alexander Bonifacio, a handyman for respondent at his various home care facilities since 2006. Bonifacio states in his letter, dated January 2, 2014, that respondent is "... a good, honest, hardworking, considerate and God fearing person."

The fourth letter is from Leticia A. Cabreros, a friend and business colleague for over two decades from the insurance industry. Cabreros states in her letter, dated January 1, 2014, that respondent is "... a good man, honest and respectful, helping and giving back as much as allowed of his time. With his calm demeanor and easy smile, he is easy to like. Likewise, he is very trusting of other people. Cabreros further states that she believes that respondent "... became a victim of his own goodness and trusting ways. In his propensity to help other people, he forgets to ask questions: important questions."

The fifth letter is from Maria Rosalyn Dayao, respondent's recent real estate client. Dayao states in her letter, dated January 1, 2014, that she was shocked to hear of respondent's conviction and that in the short time she has known him, "... he has always been an honest man. He has also served his community in helping many families find their dreams homes."

The sixth letter is from Ortencia Wingender, an employee in respondent's real estate business. Wingender states in her letter, dated December 16, 2013, that she has known respondent since 2005 and that respondent is "... very supportive and he always guides me right in handling my real estate transactions."

Costs

17. The bureau incurred \$1,274 in investigation costs and \$756.50 in legal fees in this matter. The total costs of investigation and enforcement are \$2,030.50. The costs of enforcement are supported by a declaration, dated October 14, 2013, and is accompanied by a document describing the general tasks performed, the time spent on each task and the

method of calculating the costs. The investigative costs are also supported by a declaration, dated October 29, 2013, and is accompanied by a document describing the general tasks performed, the time spent on each task, and the method of calculating the costs. In the absence of evidence to the contrary, the bureau's costs are found to be reasonable.

LEGAL CONCLUSIONS

Standard of Proof

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence that respondent's licenses should be suspended or revoked. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

Causes for Discipline

2. Pursuant to Business and Professions Code Section 490, subdivision (a), and 10177, subdivision (b), together provide that the holder of a real estate license may be disciplined if the licensee has been convicted of a felony or a crime that is substantially related to the qualifications, functions, or duties of a real estate licensee. Based upon the matters set forth in Findings 3 and 4, cause for discipline exists pursuant to the above-described Business and Professions Code sections.

3. In California Code of Regulations, title 10, section 2910, the Bureau has established criteria for determining whether a crime is substantially related. Respondent's conviction for conspiracy to commit mail fraud meets the criterion set forth in subdivision (a)(1), which is the fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person, subdivision (a)(4), which is the employment of fraud, deceit, falsehood or misrepresentation to achieve an end, and subdivision (a)(8), which is doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another. Cause to revoke respondent's license therefore exists based upon the matters set forth in Findings 3, and 8.

4. Pursuant to Business and Professions Code Section 480, subdivision (a), and 10166.05, subdivision (b), together provide that the holder of a mortgage loan originator license endorsement may be revoked if the holder has been convicted of a felony that involved an act of fraud, dishonesty, a breach of trust, or money laundering. Cause to revoke respondent's mortgage loan originator license endorsement therefore exists based upon the matters set forth in Findings 3 and 8.

5. Pursuant to Business and Professions Code Section 10103, the expiration of respondent's mortgage loan originator endorsement does not deprive the bureau of jurisdiction to proceed with this disciplinary proceeding, or render a decision suspending or revoking his license.

Disciplinary Considerations

6. In determining the appropriate level of discipline, the issue is whether respondent is substantially rehabilitated following his misconduct and conviction. Respondent bears the burden of demonstrating rehabilitation. The criteria used by the bureau in evaluating a licensee's rehabilitation are set forth in California Code of Regulations, title 10, section 2912. These criteria have been considered.

In this matter, respondent has completed his community service, paid his fines, and paid his forfeiture money judgment. Respondent has also shown that, but for this one conviction, he has led a law-abiding life and has been an honest and trustworthy husband and father to his family. Respondent has shown remorse for his previous behavior, however it is disturbing that he currently fails to understand what a fiduciary is, and that even if he was upfront with his clients about submitting fraudulent documents on their behalf, and trying to benefit his clients, he was breaching his fiduciary duties to the lender and his clients when he submitted fraudulent documents. Real estate brokers are fiduciaries and it is very important that they be honest persons of integrity. It is essential that real estate licensees understand and appreciate the significance of an official document signed under penalty of perjury and submitting documents, which are known to be false. Respondent's explanation that his clients' incomes were not inflated, even though he submitted fraudulent documents regarding their incomes, is very disturbing and reflects on his lack of rehabilitation as set forth in Finding 13.

In addition to the foregoing, too little time has elapsed for the bureau to accurately assess respondent's progress towards rehabilitation. Respondent remains on probation due to the conviction for conspiracy to commit mail fraud. *In re Gossage* (2000) 23 Cal.4th 1080, 1104-1105, establishes, among other things, that from the standpoint of a licensing agency's consideration of application for licensure, rehabilitation of an applicant cannot begin to be accurately assessed until the applicant, who has been convicted of a crime, is beyond the restrictions of criminal probation and the prospect of incarceration no longer looms over the head of the license applicant. In this matter, respondent will not be released from the three year term of probation due to his conviction until at least April 17, 2015. Hence, a correct appraisal or analysis of respondent's progress towards full rehabilitation cannot take place by the bureau until a point in the distant future. Respondent bears the burden of proof in these proceedings and it is determined that he did not meet this burden. The public interest therefore requires that his licenses be revoked at this time.

Costs

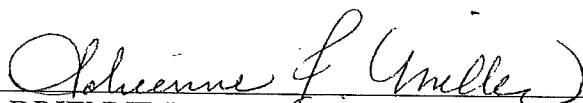
7. Code section 10106 provides, in pertinent part, that the bureau may request that the licensee be ordered to pay a sum not exceeding the reasonable costs of investigation and enforcement upon a finding that the licensee violated the Real Estate Law. The bureau requests reimbursement of fees and costs in the amount of \$2,030.50. The bureau's fees and costs were reasonable. (Factual Finding 17.)

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth guidelines for determining whether the costs should be assessed in the particular circumstances of each case. Respondent has not established a basis to reduce or eliminate the costs in this matter.

ORDER

1. All licenses and licensing rights of respondent Victor Bayudan Bamanglag under the Real Estate Law are revoked.
2. Respondent shall pay the Bureau of Real Estate, Department of Consumer of Affairs, the costs associated with its investigation and enforcement pursuant to Business and Professions Code section 10106 in the amount \$2,030.50 within 60 days of the effective date of this decision.

DATED: 1-28-14


ADRIENNE J. MILLER
Administrative Law Judge
Office of Administrative Hearings