

FILED

JAN 26 2015

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

By S. Black

* * * *

In the Matter of the Accusation of)	CalBRE No. H-11700 SF
CHRISTOPHER C. HUANG,)	OAH No. 2014070796
Respondent.)	

DECISION

The Proposed Decision dated January 6, 2015, 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.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty 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 FEB 16 2015.

IT IS SO ORDERED

11/23/2015
REAL ESTATE COMMISSIONER


WAYNE S. BELL

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

CHRISTOPHER C. HUANG,

Respondent.

Case No. H -11700 SF

OAH No. 2014070796

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter on December 8, 2014, in Oakland, California.

Richard K. Uno, Counsel, represented complainant Robin S. Tanner, a Deputy Real Estate Commissioner of the State of California.

Christopher C. Huang represented himself and was present throughout the administrative hearing.

The matter was submitted for decision on December 8, 2014.

This matter also included an accusation against Josie Ugalde Mongi. Ms. Mongi settled her matter with the Bureau prior to the commencement of this hearing.

FACTUAL FINDINGS

1. Robin S. Tanner (complainant) made the accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.
2. The Department of Real Estate (department)¹ issued Christopher C. Huang (respondent) a real estate salesperson license on July 5, 1985. The department issued respondent a real estate broker license on April 22, 1988.

¹ Effective July 1, 2013, the Department of Real Estate became known as the Bureau of Real Estate, Department of Consumer Affairs.

3. At all times herein, respondent engaged in the business of and acted in the capacity of a real estate broker in the State of California within the meaning of the law, for or in expectation of compensation.

4. As a follow-up to a previous audit, on February 20, 2014, the Bureau held a Broker Office Survey (BOS) of Huang's real estate business at the office located at 500 E. Calaveras Blvd, Suite 200, Milpitas, California. During the BOS, respondent stated that he did business under the fictitious name of Imperial Real Estate & Financial Services (Imperial). A fictitious business name statement for Imperial had been filed by respondent. It had expired on March 3, 2011.

5. During the BOS, respondent admitted that Ms. Mongi (a licensed real estate agent) ran the business due to her 100 per cent ownership of Imperial and that he failed to execute a broker-salesperson agreement as required by regulations. Respondent further admitted that he did not supervise Ms. Mongi's licensed activities and did not supervise the daily operations of Imperial.

6. During the BOS, Ms. Mongi admitted that she had been running Imperial by herself and engaged in real estate activities, which included activities relating to the purchase and sale of real property. On March 3, 2014, Ms. Mongi provided three months of bank statements and account documents. The signature card showed that Ms. Mongi, not respondent was the sole signatory on the business account.

7. On March 20, 2014, a check of the Bureau's records revealed that Imperial had not corrected its address of record after moving 18 months before, as required by law.

8. At all times herein, respondent was responsible, as the employing broker of Ms. Mongi, for the supervision and control of the activities conducted by Ms. Mongi. Respondent failed to exercise reasonable supervision and control of Ms. Mongi's activities in running Imperial. Respondent failed to take reasonable steps, including the supervision of employees, and the implementation of policies, rules, procedures, and systems to ensure the compliance of his employees with the Real Estate Law and the Regulations.

9. Ms. Mongi testified at hearing. She admitted that she was engaging in broker activities and that she was not supervised by respondent.

Respondent's Evidence

10. Respondent admitted that he did not supervise Ms. Mongi after he retired. He made very little money from his arrangement with Ms. Mongi. His health has been deteriorating. Driving is a problem for him because of poor vision. He lives on his Social Security. Respondent has been licensed by the Bureau for 30 years without any prior disciplinary action. He does not use his license, but would like to keep it.

Costs

11. The Bureau incurred costs of investigation of this matter in the amount of \$1,816. The department incurred costs of enforcement of this matter in the amount of \$2,883.60. Some of the costs were incurred in pursuing the matter against Ms. Mongi. The total amount requested is \$4,699.60. That amount is reduced to \$2,349.80.

LEGAL CONCLUSIONS

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence that respondent's license 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 10177, subdivisions (d), the commissioner is authorized to suspend or revoke the license of a real estate licensee who has willfully disregarded or violated the Real Estate Law, or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law, (g) (negligence/incompetence), and 10159.5 (fictitious business name). (Factual Findings 3 through 10.)

3. California Code of Regulations, title 10, section 2725, and Business and Professions Code section 10177, subdivision (h), require a broker to supervise the activities of any salesperson operating under his license. Respondent did not supervise the activities of the salesperson operating under his license. (Factual Finding 6 through 10.)

4. California Code of Regulations, title 10, section 2726 (broker-salesperson agreement) requires a written agreement. No such agreement existed. (Factual Findings 5.)

5. By reason of the matters set forth in Finding 7, cause for disciplinary action exists pursuant to Business and Professions Code section 10163 (branch office requirements).

Level of Discipline

Respondent bears the burden of demonstrating his 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 include whether restitution has been paid to anyone who has suffered monetary losses through the acts or omissions of the licensee; the correction of business practices responsible to some degree for the misconduct; the creation of new business relationships; and, a change in attitude from that which existed at the commission of the misconduct.

6. In this matter, respondent has permitted a salesperson to conduct business which required a broker's license. Respondent did not demonstrate that this is unlikely to happen in the future. Under these circumstances, protection of the public requires revocation of respondent's license.

Costs

7. Complainant requests reimbursement of the costs of investigation and enforcement pursuant to Business and Professions Code section 10106. Section 10106 provides that in any order issued in resolution of a disciplinary proceeding, the commissioner may ask the administrative law judge to direct a licensee found to have committed a violation to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. The costs of investigation and enforcement in the total amount of \$4,699.60 are reduced to \$2,349.80 pursuant to Business and Professions Code section 10106. (Factual Finding 11.)

ORDER

1. All licenses and licensing rights of respondent Christopher C. Huang under the Real Estate Law are revoked.

2. Respondent shall pay to the Bureau of Real Estate, Department of Consumer Affairs, the costs associated with its investigation and enforcement pursuant to Business and Professions Code section 10106, in the amount of \$2,349.80 within 60 days of the effective date of the Decision.

DATED:

1/6/15



RUTH S. ASTLE

Administrative Law Judge

Office of Administrative Hearings