

By Laura B. Stone

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ORDER GRANTING REINSTATEMENT OF LICENSE

On March 15, 1999, Respondent again petitioned for reinstatement of said real estate salesperson license (two previous petitions having been granted and not acted upon by Respondent) and the Attorney General of the State of California has been given notice of the filing of said

1 petition.

2 I have considered Respondent's petition and the evidence
3 and arguments in support thereof. Respondent has demonstrated to
4 my satisfaction that grounds do not presently exist to deny the
5 issuance of an unrestricted real estate salesperson license to
6 Respondent.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
8 for reinstatement is granted and that an unrestricted real estate
9 salesperson license be issued to Respondent, ROBERT LARRY GARCIA,
10 JR., after Respondent satisfies the following conditions within one
11 year from the date of this Order:

12 a. Submit a completed application and payment of the fee
13 for a real estate salesperson license.

14 b. Submit evidence satisfactory to the Real Estate
15 Commissioner that Respondent has, since his license was revoked,
16 taken and successfully passed the test given by the Department of
17 Real Estate to qualify as a real estate salesperson.

18 c. Submit evidence of successful completion at an
19 accredited institution of two of the courses listed in Section
20 10153.2 of the Code other than real estate principles, advanced
21 legal aspects of real estate, advanced real estate finance or
22 advanced real estate appraisal.

23 d. Upon renewal of the license issued pursuant to this
24 Order, Respondent shall submit evidence of having taken and
25 successfully completed the courses specified in subdivisions (a)
26 paragraphs (1) to (4) and (b) of Section 10170.5 of the Real Estate
27 Law for renewal of a real estate license.

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This Order shall become effective immediately.

DATED: May 20, 1999.

JOHN R. LIBERATOR
Acting Commissioner

John R. Liberator

cc: Robert Larry Garcia Jr.
3531 Hilton Head Way
Pico Rivera, CA 90660

CLERK OF DISTRICT COURT
James B. Cagney

* * * *

In the Matter of the Accusation of) NO. H-24721 LA
) L-55022
 ROBERT LARRY GARCIA JR.)
)
 Respondent.)

On March 18, 1993, 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.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that grounds do not presently
4 exist to deny the issuance of an unrestricted real estate
5 salesperson license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement is granted and that an
8 unrestricted real estate salesperson license be issued to
9 Respondent, ROBERT LARRY GARCIA JR. after Respondent
10 satisfies the following conditions within one (1) year from
11 the date of this Order:

12 1. Submittal of a completed application and
13 payment of the fee for a real estate salesperson license.

14 2. Submittal of evidence satisfactory to the Real
15 Estate Commissioner that Respondent has, since his original
16 real estate salesperson license was issued, taken and
17 successfully completed, at an accredited institution, two of
18 the courses listed in Section 10153.2 of the Business and
19 Professions Code, other than real estate principles, advanced
20 legal aspects of real estate, advanced real estate finance or
21 advanced real estate appraisal.

22 3. Submittal of evidence that Respondent has, since
23 his real estate salesperson was revoked, taken and
24 successfully completed the Professional Responsibility
25 Examination administered by the Department including the
26 payment of the appropriate examination fee.

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This Order shall become effective immediately.

DATED: 1/24/74

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

ROBERT LARRY GARCIA JR.
1431 Bunbury Drive
Whittier, California 90601

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FILED

FEB-3 1992

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)

No. H- 24721 LA

ROBERT LARRY GARCIA JR.,)

L- 55022

Respondent.)

DECISION

The Proposed Decision dated December 31, 1991 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 on grounds of the conviction of a crime and knowingly making a false statement of fact required to be revealed in an application for license.

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 attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on February 24, 1992.

IT IS SO ORDERED

January 24, 1992

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	)	
	)	
	)	
ROBERT LARRY GARCIA Jr.,	)	No. H-24721 LA
	)	
	)	OAH No. L-55022
	)	
Respondent.	)	
	)	
	)	

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on December 17, 1991. Complainant was represented by James Peel, Staff Counsel. Respondent appeared personally and represented himself.

Oral and documentary evidence was received and the matter was submitted. The Administrative Law Judge finds the following facts:

I

Steven J. Ellis made the Accusation in his official capacity as Deputy Real Estate Commissioner of the State of California.

II

Respondent Robert Larry Garcia filed an application with the Department of Real Estate for a real estate salesperson license on March 26, 1991.

On March 28, 1991, respondent was issued a real estate salesperson license by the Department of Real Estate. Said license remains in full force and effect.

III

Respondent has licensing rights as a real estate salesperson subject to section 10153.4(c) of the Business and Professions Code.

IV

On May 14, 1990, in the Municipal Court of the Desert Judicial District, County of Riverside, State of California, (Case No. 106406) respondent pleaded guilty to a charge of violating Penal Code section 148.9 (giving false information to a police officer), a crime involving moral turpitude and substantially related to the duties, functions and qualifications of a departmental licensee.

Respondent was placed on summary probation for three years on the condition that he pay a fine of \$180.00.

On July 12, 1991, the court granted respondent's petition to set aside his guilty plea, enter a new plea of not guilty and dismiss the charge pursuant to Penal Code section 1203.4.

V

The facts and circumstances surrounding the conviction were that respondent gave a false name to a police officer after respondent had been stopped for a minor traffic violation.

VI

Question 25 of respondent's application for a real estate salesperson license asked, "Have you ever been convicted of any violation of the law?", the box denoting "No" was marked. This answer was not correct.

Respondent did not read the question carefully and did not realize that he was required to divulge this conviction because he felt that the offense was a minor violation of the law.

Therefore, it was not established that respondent knowingly made a false statement in his application or intended to deceive the Department by not divulging his conviction.

VII

Respondent is remorseful for having committed the offense and is now determined to improve his life and start a career as a real estate salesperson.

Respondent currently works part time for Century 21 in Hacienda Heights and has enrolled for the spring semester at Fullerton Community College.

Based on the demeanor and comportment of respondent at the hearing, it is clear that respondent can function well in a properly structured professional environment.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Grounds for disciplinary action against respondent's license and licensing rights exist under the provisions of Business and Professions Code sections 490 and 10177(b) for the conviction set forth in finding IV.

II

Grounds for disciplinary action against respondent's license and licensing rights do not exist under the provisions of Business and Professions Code sections 490 and 10177(a) for failing to reveal his conviction.

III

Respondent has established rehabilitation to the extent that it would not be contrary to the public interest to allow respondent to work as a real estate salesperson under a restricted license.

* * * * *

WHEREFORE THE FOLLOWING ORDER is hereby made:

The real estate salesperson license and licensing rights previously issued to the respondent, Robert Larry Garcia Jr., are revoked; provided, however, that a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefore and pays to the Department the appropriate fee for said license within ninety (90) days from the effective date of the decision herein.

The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under the authority of section 10156.6 of said Code:

1. Respondent shall not be eligible to apply for the issuance of an unrestricted license, until two years have elapsed from the date of the issuance of the restricted license to respondent.

2. Respondent shall obey all laws of the United States, the State of California and all its political subdivisions, and all the rules and regulations of the Department of Real Estate.

3. Respondent shall submit with his application for license under his employing broker, and with any subsequent application or transfer to a new employing broker, a statement signed by said employing broker which shall certify:

(a) That said broker has read the decision of the Commissioner which granted the right to a restricted license; and

(b) That said broker will exercise close supervision over the performance of the restricted licensee of activities for which a real estate license is required.

4. Respondent shall, within eighteen (18) months from the issuance of respondent's original real estate salesperson license, under the provisions of Business and Professions Code section 10153.4, submit evidence to the Real Estate Commissioner of successful completion, at an accredited institution, of two of the courses listed in section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If respondent fails to present satisfactory evidence of successful completion of said courses, the restricted license shall be automatically suspended effective eighteen (18) months after the issuance of respondent's original real estate salesperson license. Said suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to the respondent of lifting of the suspension.

5. Respondent shall, within six months of the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent passes the examination.

6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct, such information concerning respondent's activities for which a real estate license is required.

7. If the Commissioner determines, after giving
respondent notice and an opportunity to be heard, that a
violation of the conditions has occurred, the Commissioner may
suspend or revoke the restricted license.

DATED: December 31, 1991

Humberto Flores

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

OCT 28 1991

DEPARTMENT OF REAL ESTATE

BY Sybil Williams

In the Matter of the Accusation of

ROBERT LARRY GARCIA, JR.,

Case No. H-24721 LA

OAH No. L-55022

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, 314 West First Street, Los Angeles, CA

on the 17th day of December, 1991, at the hour of 2:30 p.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 28, 1991

By

James R. Peel
JAMES R. PEEL, Counsel

cc: Robert Larry Garcia, Jr.
Nick Michael Casabona

OAH

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MS

1 JAMES R. PEEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 620-4790

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8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-24721 LA
12 ROBERT LARRY GARCIA, JR.,)
13 Respondent.)
14 _____)
15)

A C C U S A T I O N

15 The Complainant, Steven J. Ellis, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against ROBERT LARRY GARCIA, JR., alleges as follows:

18 I

19 The Complainant, Steven J. Ellis, a Deputy Real Estate
20 Commissioner of the State of California, makes this accusation in
21 his official capacity.

22 II

23 ROBERT LARRY GARCIA, JR. (hereinafter referred to as
24 respondent) is presently licensed and/or has license rights as
25 a real estate salesperson subject to Section 10153.4(c) of the
26 Business and Professions Code (hereinafter Code).

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III

On or about March 28, 1991, respondent was issued a real estate salesperson license by the Department of Real Estate of the State of California, following respondent's application therefor filed on or about March 26, 1991, and has continuously thereafter been so licensed.

IV

On or about May 14, 1990, in the Municipal Court, County of Riverside, State of California, respondent was convicted of the crime of violating Penal Code Section 148.9(a) (False identification to a police officer), a crime involving moral turpitude.

V

The crime of which respondent was convicted bears a substantial relationship to the qualifications, functions or duties of a real estate licensee and is cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of all licenses and license rights of respondent under the Real Estate Law.

VI

In response to Question 25 of said license application, to wit: "Have you ever been convicted of any violation of law?", respondent marked the box denoting "No".

VII

In truth, respondent had previously been convicted of the crime alleged in paragraph IV above.

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VIII

Respondent's failure to reveal the criminal matter as set forth in Paragraph IV, above, in said application, constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for suspension or revocation of respondent's real estate salesperson license under Sections 490 and 10177(a) of the Business and Professions Code of the State of California.

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 ROBERT LARRY GARCIA, JR., 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 other applicable provisions of law.
Dated at Los Angeles, California
this 16th day of August, 1991.

STEVEN J. ELLIS
Deputy Real Estate Commissioner

cc: Robert Larry Garcia, Jr.
Nick Michael Casabona
Sacto
MS