

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
JUL -2 1993

DEPARTMENT OF REAL ESTATE
BY *Laura B. Crona*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
)	No. H-25068 LA
MANUEL THEMO COTTGIAS)	
)	L-57393
Respondent.)	
<hr/>		

DECISION AFTER REJECTION

This matter came on for hearing before Milford A. Maron, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on February 5, 1993.

V. Ahda Sands, Counsel, represented the Complainant.

The respondent appeared in person and represented himself.

Evidence was received, the hearing was closed and the matter was submitted.

On February 22, 1993, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government Code of the State of California, respondent was served with

1 notice of my determination not to adopt the decision of the
2 Administrative Law Judge along with a copy of said Proposed
3 Decision. Respondent was notified that the case would be
4 decided by me upon the record, the transcript of proceedings
5 held on February, and upon any written argument offered by
6 respondent. Respondent submitted three additional letters of
7 recommendation.

8 I have given careful consideration to the record in
9 this case including the transcript of proceedings of February 5,
10 1993. I have also given careful consideration to the three
11 additional letters of recommendation submitted by respondent.

12 The following shall constitute the Decision of the
13 Real Estate Commissioner in this proceeding:

14 FINDINGS OF FACT

15 I have determined that the Determination of Issues in
16 the Proposed Decision of the Administrative Law Judge, dated
17 February 22, 1993 are appropriate in all respects and they are
18 adopted as the Findings of Fact of the Real Estate Commissioner
19 in this proceeding.

20 DETERMINATION OF ISSUES

21 I have determined that the Determination of Issues in
22 the Proposed Decision of the Administrative Law Judge, dated
23 February 22, 1993, are appropriated in all respects and they are
24 adopted as the Determination of Issues of the Real Estate
25 Commissioner in this proceeding.

26 \

27 \

1 a restricted license until three and one half years has elapsed
2 from the effective date of this Decision.

3 4. Respondent shall submit with any application for
4 license under an employing broker, or any application for
5 transfer to a new employing broker, a statement signed by the
6 prospective employing real estate broker on a form approved by
7 the Department of Real Estate which shall certify.

8 (a) That the employing broker has read the
9 Decision of the Commissioner which
10 granted the right to a restricted
11 license; and

12 (b) That the employing broker will exercise
13 close supervision over the performance by
14 the restricted licensee relating to
15 activities for which a real estate
16 license is required.

17 5. Respondent shall, within nine months from the
18 effective date of this Decision, present evidence satisfactory
19 to the Real Estate Commissioner that respondent has, since the
20 most recent issuance of an original or renewal real estate
21 license, taken and successfully completed the continuing
22 education requirements of Article 2.5 of Chapter 3 of the Real
23 Estate Law for renewal of a real estate license. If Respondent
24 fails to satisfy this condition, the Commissioner may order the
25 suspension of the restricted license until the Respondent
26 presents which evidence. The Commissioner shall afford
27

1 Respondent the opportunity for a hearing pursuant to the
2 Administrative Procedure Act to present such evidence.

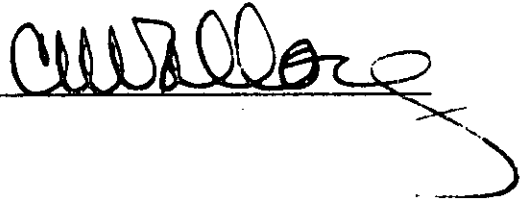
3 6. Respondent shall, within six months from the
4 effective date of this Decision, take and pass the Professional
5 Responsibility Examination administered by the Department
6 including the payment of the appropriate examination fee. If
7 Respondent fails to satisfy this condition, the Commissioner may
8 order suspension of Respondent's license until Respondent passes
9 the examination.

10 The right to reinstatement of a revoked or suspended
11 real estate license or to the reduction of a penalty is
12 controlled by Section 11522 of the Government Code. A copy of
13 Section 11522 and a copy of the Commissioner's Criteria of
14 Rehabilitation are attached hereto for the information of
15 respondent.

16 This Decision shall become effective at 12 o'clock
17 noon on July 22, 1993.

18
19 IT IS SO ORDERED 6/23, 1993.

20
21 CLARK WALLACE
22 Real Estate Commissioner

23 
24
25
26
27

Handwritten signature/initials

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

MAR 24 1993

DEPARTMENT OF REAL ESTATE
BY Laine B. Orma

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
MANUEL THEMO COTTGIAS,)	NO. H-25068 LA
Respondent.)	L-57393

NOTICE

TO: MANUEL THEMO COTTGIAS, Respondent

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 22, 1993, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 22, 1993, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on February 5, 1993, and any written argument hereafter submitted on behalf of respondent and complainant.

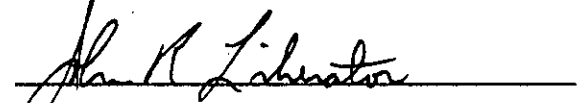
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of February 5, 1993, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of complainant to be considered by me must be submitted within 15 days after receipt of the argument of respondent at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: March 18, 1993

CLARK WALLACE
Real Estate Commissioner



BY: **John R. Liberator**
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of:)
) NO. H-25068
MANUEL THEMO COTTGIAS,)
) 1-57393
Respondent.)
_____)

PROPOSED DECISION

This matter came on regularly for hearing before Milford A. Maron, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on February 5, 1993. The Complainant was represented by V. Ahda Sands, Staff Counsel. The respondent appeared in person and represented himself. Oral and documentary evidence was received and the matter was submitted for decision. It is now found as follows:

I

Steven J. Ellis, Complainant, is a Deputy Real Estate Commissioner of the State of California, and made the Accusation in his official capacity.

II

At all times mentioned herein, respondent, Manuel Themo Cottgias, was and now is licensed by the Department of Real Estate of the State of California as a real estate broker.

III

On January 31, 1991, in the United States District Court, Central District of California, respondent was convicted of two counts of a violation of Section 1001 of Title 18, USC, Section 1001 (Submitting Fraudulent Loan Applications), felony crimes, involving moral turpitude, occurring in 1985, and which are substantially related to the qualifications, functions and duties of a real estate licensee.

IV

A. During 1985 in connection with real estate activities, respondent accepted trust funds from or on behalf of

sellers or purchasers in connection with the purchase or sale of real property, but failed to maintain a record of trust funds received, including uncashed checks held pursuant to the instructions of the principal, and/or trust funds forwarded directly to escrow, as required by law.

B. In addition in connection with respondent's business as a real estate broker in 1984 and 1985, he used the fictitious name "Property Mart Realty", which was not previously authorized by the Department.

C. Also in connection with his business as a real estate broker, respondent failed to notify the Department in writing when he employed a real estate salesperson or terminated same, as required by law.

V

Respondent testified in his own behalf and established the following:

1. That at the time of the aforesaid incidents respondent was consumed by marital difficulties, as well as suffering financial reversals which subsequently resulted in his filing for bankruptcy.

2. During said period respondent operated a real estate office employing 12 to 15 agents.

3. He is abiding by a court order by making restitution of ten percent of his income to FHA, toward the total sum owed of \$163,000. Thus far, he has made restitution totaling \$9,800. In addition, he pays \$300 monthly to IRS on the total sum owed of \$40,000. He also owes \$5,000 on his State income tax, and pays \$1000 monthly; the total paid the State amounts to \$2,000.

4. Respondent is currently a loan officer and has income of \$100,000 yearly.

5. Respondent is divorced and supports two children by paying child support of \$500 monthly.

6. He is contrite for his misbehavior.

* * * * *

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

//

I

Cause for discipline of respondent's broker's license exists pursuant to Sections 490 and 10177(b) of the Business and Professions Code.

II


No public purpose would be adversely affected by permitting respondent to engage in activities as a salesperson.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Real Estate Broker's license of respondent Manuel Themo Cottgias, is hereby revoked; provided, however, that if within sixty (60) days after the effective date of this Decision respondent shall make proper application therefor, a real estate salesperson's license shall be issued.

DATED: Feb 26, 1993


MILFORD A. MARON
Administrative Law Judge
Office of Administrative Hearings

MAM: mh

NOT ADOPTED

SACTO,
Plus

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JUN 24 1992

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

In the Matter of the Accusation of

MANUEL THEMO COTTGIAS

Case No. H-25068 LA

OAH No. L-57393

Respondent

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 February 5, 1993, at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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 Administrative Law Judge 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 Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

By *V. Abda Sands*
V. AHDA SANDS, Counsel

Dated: June 24, 1992

cc: Manuel Themo Cottgias
Sacto.
OAH
SE

1 Real Estate of the State of California (hereafter the Department)
2 as a real estate broker.

3 III

4 On January 31, 1991, in the United States District
5 Court, Central District of California, respondent was convicted
6 upon a guilty plea of two counts of Section 1001 of Title 18, of
7 the United States Code (Submitting Fraudulent Loan Applications)
8 for felony crimes that occurred during February 13, 1985, and
9 April 12, 1985, and involved moral turpitude, which is
10 substantially related under Section 2910, Title 10, Chapter 6, of
11 the California Code of Regulations, to the qualifications,
12 functions or duties of a real estate licensee.

13 IV

14 The facts as alleged constitute cause under Section 490
15 and 10177(b) of the Code for the suspension or revocation of all
16 licenses and license rights of respondent under the Real Estate
17 Law.

18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /
27 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 the license and license rights of respondent MANUEL THEMO COTTGIAS 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 21st day of May, 1992.


Deputy Real Estate Commissioner

cc: Manuel Themo Cottgias
Sacto.
SE