

1
2 On March 6, 2001, Respondent again petitioned for
3 reinstatement of his real estate broker license and the Attorney
4 General of the State of California has been given notice of the
5 filing of said petition.

6 I have considered the petition of Respondent and
7 the evidence and arguments in support thereof. Respondent
8 has demonstrated to my satisfaction that Respondent meets
9 the requirements of law for the issuance to Respondent of
10 an unrestricted real estate broker license and that it would
11 not be against the public interest to issue said license to
12 Respondent ROSENDO HERRERA.

13 NOW, THEREFORE, IT IS ORDERED that Respondent's
14 petition for reinstatement is granted and that a real estate
15 broker license be issued to Respondent if Respondent satisfies
16 the following conditions within nine (9) months from the date
17 of this Order:

18 1. Submittal of a completed application and payment
19 of the fee for a real estate broker license.

20 2. Submittal of evidence of having, since the most
21 recent issuance of an original or renewal real estate license,
22 taken and successfully completed the continuing education
23 requirements of Article 2.5 of Chapter 3 of the Real Estate
24 Law for renewal of a real estate license.

25 ///

26 ///

27 ///

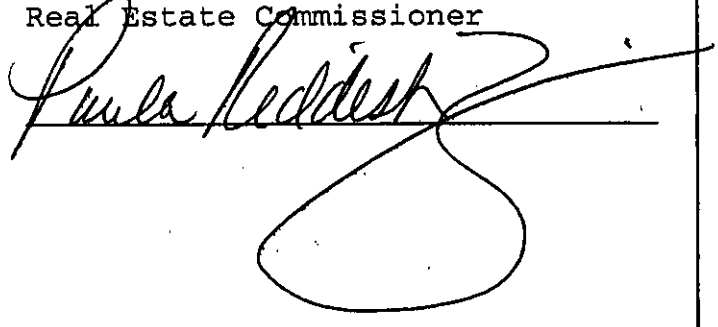
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3. Submittal of evidence satisfactory to the Real Estate Commissioner that Respondent has, since his license was revoked, taken and passed the written examination required to obtain a real estate broker license.

This Order shall become effective immediately.

DATED: October 29, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



cc: Rosendo Herrera
15730 Lake Terrace Drive
Lake Elsinore, CA 92530

1 reinstatement of his real estate broker license at this time.
2 This determination has been made in light of Respondent's
3 history of acts and conduct which are substantially related
4 to the qualifications, functions and duties of a real estate
5 licensee. That history includes:

6 I

7 In the Decision which revoked his real estate
8 broker's license pursuant to Section 10176(i) of the Business
9 and Professions Code (Code). Said Determination was based on
10 Findings that Respondent engaged in fraudulent and dishonest
11 conduct by knowingly giving false information about the
12 financial aspects of a transaction to a lending institution
13 in order to have that institution lend a significant amount
14 of money. In this transaction the bank in question was
15 forced to foreclose.

16 II

17 Due to very serious nature of the conduct which led
18 to the loss of his real estate broker license not enough time
19 has passed to establish that Respondent is now fully
20 rehabilitated. This is cause to deny his petition pursuant to
21 Section 2911(a) of Chapter 6, Title 10, California Code of
22 Regulations (Regulations).
23
24
25
26
27

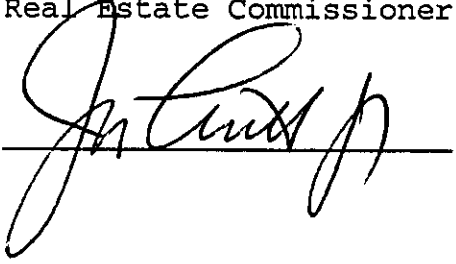


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for reinstatement of his broker's license is denied.

This Order shall become effective at 12
o'clock noon on August 12, 1998

DATED; 7/20/98

JIM ANTT, JR.
Real Estate Commissioner


ROSENDO HERRERA
15730 Lake Terrace Drive
Lake Elsinore, California 92530

File

FILED
NOV 18 1996
DEPARTMENT OF REAL ESTATE

By *Laura B. Duro*

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

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-26251 LA
)	
U.S. HERRERA REALTY and)	L-9510177
ROSENDO HERRERA,)	
)	
)	
Respondents.)	
<hr/>		

DECISION AFTER RECONSIDERATION

On September 16, 1996, a Decision in this matter was rendered by the Real Estate Commissioner. Said Decision is to become effective on November 18, 1996. On October 28, 1996, respondents filed a Petition for Reconsideration for the purpose of determining whether the action imposed against respondents by said Decision should be reduced. I have considered the petition of Respondents U.S. HERRERA REALTY and ROSENDO HERRERA and it is ordered that the discipline imposed against Respondents remain unchanged and unmodified.

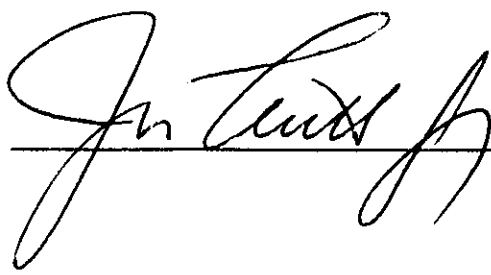
/
/

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

The Decision of September 16, 1996, shall become
effective at 12 o'clock noon on November 18, 1996.

IT IS SO ORDERED 11/14/96.

JIM ANTT, JR.
Real Estate Commissioner



lbo

FILED
SEP 19 1996
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laura B. Irone

* * * * *

In the Matter of the Accusation of)

No. H-26251 LA

U.S. HERRERA REALTY and,)
ROSENDO HERRERA,)

L-9410177

Respondent(s).)

DECISION

The Proposed Decision dated August 16, 1996,
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.

This Decision shall become effective at 12 o'clock
noon on October 9, 1996.

IT IS SO ORDERED 9-16-96.

JIM ANTT, JR.
Real Estate Commissioner

Jm Antt Jr

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of)
U.S. HERRERA REALTY and) No. H 26251 LA
ROSENDO HERRERA,) OAH Case No. L-9410177
Respondents.)
_____)

PROPOSED DECISION

On July 18, 1996, in Los Angeles, California, Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

James R. Peel represented the complainant.

Respondents were represented by Mr. Leonard Brazil. Respondent Rosendo Herrera appeared personally, and on behalf of U.S. Herrera Realty.

Evidence was received and the matter was submitted.

FINDINGS OF FACT

1. The Accusation was filed by Peter F. Hurst, a Deputy Real Estate Commissioner, Department of Real Estate, State of California, while acting solely in his capacity as such.

2. The corporate Respondent, U.S. Herrera Realty, holds a corporate real estate broker's license, and held such a license at the time of the events which are the subject of this proceeding. Respondent Rosendo Herrera was and is the designated corporate officer of that Respondent.¹

¹ Unless otherwise noted, references hereafter to "Respondent" shall be references to Mr. Herrera, who of course acted on behalf of the corporate licensee.

3. In April 1992 Mr. and Mrs. Armando Bolanos learned that the house located at 2107 Workman Avenue, in Los Angeles was for rent. They contacted the real estate broker whose name appeared on the sign in the front yard of the property. That person was Respondent, Rosendo Herrera.

4. Respondent met with the Bolanos and convinced them it would be possible for them to purchase the home, which was listed for approximately \$145,000.00. Mr. and Mrs. Bolanos raised some doubts, as both were hourly wage earners, and together had been able to save very little. Respondent told them he was the owner of the property, and could therefor assist them. Specifically, he was willing to loan them all of the downpayment, except for \$1,000.00.

5. Mr. and Mrs. Bolanos executed a standard form Real Estate Purchase Contract and Receipt for Deposit on April 14, 1992. Among the contract's terms were clauses to the effect that the Buyers would make a downpayment of \$14,500 and would obtain a new first loan for \$130,000.00, for a total purchase price of \$145,000.00. Near the end of the four-page contract Respondent inserted a handwritten provision, which states: "Buyers are aware that Seller has an interest on the property and has a real estate license." The contract was signed by Respondent as one of two sellers. The other signature was that of a Mr. Martinez.

6. Mr. and Mrs. Bolanos gave \$1,000.00 to Respondent, and an escrow was opened through U.S. Herrera Realty, Inc., Escrow Division.

7. Respondent offered to help the Bolanos obtain a loan. According to Respondent, he obtained copies of their W-2 statements and other documents which convinced him they could not qualify for a loan with any lender he worked with. He therefore referred them to Ms. Margaret Oregel, who was associated with U.S. Bancorp, a lending institution.

8. The Bolanos met with Ms. Oregel, and worked with her to obtain a loan from U.S. Bancorp. To do this, they falsified W-2 statements and employer wage verifications, and their written loan application. Ms. Oregel knew such documents and information were false, and materially assisted them in generating this false information.

9. To create false documents, Mr. and Mrs. Bolanos met with a tax preparer whose office was in Huntington Park, California. They were referred to this person by Respondent, for the purpose of having false W-2 statements generated by him, which

would be used to inflate the Bolanos' income.² Those false W-2 statements were turned over to Ms. Oregel, who in turn submitted them to U.S. Bancorp.

10. To further the scheme to obtain financing on the property, a "gift letter" was submitted to the lender. This document, on a pre-printed form containing the letterhead of U.S. Bancorp, stated that one Adeldo Flores was making a gift of \$7,500.00 to Mr. and Mrs. Bolanos, to assist them in the purchase of the Workman Street property. The document, dated June 15, 1992, stated that Mr. Flores was the cousin of Mrs. Bolanos.

11. Not only was Mr. Flores not Mrs. Bolanos' cousin, he was the office manager of the corporate Respondent, and its employee, since approximately 1987.

12. Respondent was aware that the artifice of the "gift letter" was being utilized by the Bolanos and Ms. Oregel, because he testified he had made an agreement to repay Mr. Flores the \$7,500.00 at some later date. Further, U.S. Herrera, as the escrow holder, sent U.S. Bancorp a copy of a \$7,500.00 check made payable by Mr. Flores to the Escrow, certifying the copy as true and correct. Compounding this misrepresentation, the corporate Respondent sent a copy of a receipt for those monies to U.S. Bancorp. That document, also certified as a true copy of the original, purported to establish that the \$7,500.00 had actually been deposited into U.S. Herrera's trust account.

13. In fact, the \$7,500.00 was never deposited into the escrow.³

14. At some point prior to the close of escrow Mr. and Mrs. Bolanos separated. They informed Respondent and Ms. Oregel that they did not want to go through with the transaction. Respondent told them that the transaction had gone too far, and he

² Respondent's referral of the Bolanos to this tax preparer was vigorously contested by Respondent, who denied doing so, and who pointed up some discrepancies in Mrs. Bolanos' testimony. However, on balance, Mrs. Bolanos testimony is found more credible on this, and on several other key points. See also Finding 20.

³ Respondent testified that Mr. Flores had orally informed Ms. Oregel he was not putting up the gift money. Respondent apparently hoped to prove that Ms. Oregel alone was involved with the fraudulent loan transaction, and that he did not participate in it or know of it. Instead, he proved by this testimony that documents pertaining to the "gift", and the closing statement, were certified and sent to U.S. Bancorp even though Respondents had to know they were false. Further, he offered no evidence the withdrawal of the gift was ever confirmed in writing to the Bank.

could not cancel the sale. Respondent told them that he knew of some other persons who were willing to buy the property, and that he would take steps to have the property sold to these third persons.

15. Escrow closed on or about July 17, 1992. A certified copy of the escrow closing statement was sent by U.S. Herrera Realty to U.S. Bancorp. That document stated that earnest money or deposit money in excess of \$19,000.00 had been paid by the buyers, above the Bank's loan of \$130,000.00. In fact, they had paid only \$1,000.00.

16. Mr. and Mrs. Bolanos never occupied the property. They thought that steps had been taken to take them out of ownership. Eventually, the property was foreclosed upon. This has negatively affected their credit rating.

17. Respondent testified that Mr. Martinez, who actually owned the property, owed Respondent money, and that Respondent had some sort of lien upon the property. The debt from the owner was approximately the same as the owner's equity in the property. Thus, between any commission and the lien (apparently unrecorded), Respondent was entitled to the entire balance due the sellers at close of escrow. Mr. Martinez basically verified this scenario regarding the sales proceeds.

18. Respondent admitted he had prepared a deed for the purpose of transferring title from Mr. and Mrs. Bolanos to third parties. He testified he did not complete the transfer of the property because the Bolanos had threatened to sue him.

19. Respondent attempted to mitigate his involvement in the transaction by pointing out he lost any chance of receiving his money--some \$19,000.00 in commissions and the debt from Mr. Martinez--when the property was foreclosed.

20. Respondent's testimony was less than credible, in several regards, including the matters detailed below. In part this is based on an observation of all witnesses, and in part is based on contradictions in the evidence.

(A) Respondent claimed he did not tell the Bolanos he owned the property, contending he told them of his lien rights. However, he signed the sale contract as a seller, even though he was not on the deed at that time, and even though there was no evidence of a recorded lien in his favor.⁴ Further, Mrs. Bolanos was consistent in this testimony, and in prior statements to the

⁴ If a recorded lien had existed, one would expect a reference to it in the escrow closing statement. There is no such reference.

Department and others.

(B) Respondent claimed he had no connection with Ms. Oregel, and did not know of her dishonest dealings in this transaction. Yet, he admittedly knew her from other business transactions. Mrs. Bolanos' testimony that Respondent referred her to the tax preparer to obtain the false W-2 statements is accepted. From this it is inferred he participated with Ms. Oregel to defraud the Bank.

(C) Respondent in disclaiming knowledge of the fraud has attempted to prove too much; that he was both ignorant of the particulars of the transaction, and of the practical realities of real estate transactions as well. Yet he has been a real estate licensee since 1985, ran an escrow company, and himself placed loans at the time. He knew early in the process that Mr. and Mrs. Bolanos would not qualify for a loan, as he had seen accurate income information for them. It should have been obvious to him that only a miracle could have raised their income to a level which would qualify them for the loan. Here that miracle was the creation of false documents, including those created by the tax preparer, to whom he referred Mr. and Mrs. Bolanos. And, part of the miraculous change in the Bolanos' fortunes was the "gift" from Respondent's office manager. Respondent's claims of ignorance are discredited by the facts, and by reasonable inferences.

(D) As a real estate professional since 1985, Respondent knew or should have known that an institutional lender would be unlikely to loan against the property if the buyers had only invested \$1,000.00 of the \$145,000.00 purchase price, even if there was a gift involved. Respondent attempted to prove that "gift" loans were readily available at that time. But, this was a conventional loan, by his own admission. Further, and most damning, is Respondent's connection with Mr. Flores and the purported gift. Respondent admitted he was going to pay Flores the \$7,500.00 which was purportedly a gift. His company sent false documentation to the Bank which showed actual receipt of such funds, when no such funds were received. This proves he knew deceit was being used to obtain the loan, and U.S. Herrera Realty had a direct part in the deceit.

(E) The submission of the escrow closing or settlement statement by the corporate Respondent is further proof of fraudulent conduct, and disproves Respondent's contentions of innocence. That document would lead the lender to believe the buyers had put nearly \$12,000.00 into the purchase, along with the purported \$7,500.00 gift. But, Respondent knew the buyers had put in only \$1,000.00, and that the gift had not been made.

21. In mitigation neither Respondent has any history of discipline. In aggravation, it is found that Respondent U.S. Herrera certified escrow documents to the lender with knowledge

they were false and misleading. As an officer and designated broker for that company, Respondent Rosendo Herrera must be charged with knowledge of that fraud. This was undertaken for Mr. Herrera's financial gain; he sought to have his debt from Mr. Martinez liquidated, while earning a commission as well. Further, he led two other people, the buyers, into an illegal act, and ultimately they suffered damage through harm to their credit rating. Respondent told them they could not terminate the purchase when they separated. That was untrue; the sale was contingent upon them obtaining the loan, and it is inconceivable the Bank would have completed the loan if it had known of the Bolanos' separation. Thus, the separation would have caused the contingency to fail. Of course, such an event would have terminated the fraud without any harm to the Bank or the Bolanos. But, to further his own interest, Respondent misled the buyers about their rights, and caused the transaction to go forward. Finally, Respondent attempted to mislead the trier of fact in his testimony.

DETERMINATION OF ISSUES

1. It is determined that cause exists to suspend or revoke Respondent's license, pursuant to section 10176(i) of the Business and Professions Code. Respondents have engaged in fraudulent and dishonest conduct as those terms are used in the statute. (Findings 7, 9 through 13, 15, 20 and 21.)

(A) Here Respondents knowingly gave false information about the financial aspects of the transaction to a lending institution, in order to have that institution lend a significant amount of money. Ultimately, the bank in question was forced to foreclose. This constitutes fraud. (See Civil Code, section 1709.) Further, they concealed facts from the Bank, which constitutes fraud. (Civil Code, section 1710(c).) Even where a party is under no duty to speak, once they undertake to speak, they may not withhold facts which would materially qualify what he has stated. (E.g., McCue v. Bruce Enterprises, Inc. (1964) 228 Cal. App. 2d 21, 27.) This applies as well to Respondent's false statements to the Bolanos, that the transaction could not be terminated because of their marital separation.

(B) While fraud or deceit certainly constitute dishonest dealing, fraud does not have to be proven to establish dishonest dealing. (Chodur v. Edmonds (1985) 174 Cal. App. 3d 565, 572-573.) Under the statute, dishonest dealing includes an element of bad faith, and denotes an absence of integrity. (Chodur, supra, citing Hogg v. Real Estate Commissioner (1942) 54 Cal. App. 2d 712, 717.)

2. It is determined Respondents have not established substantial mitigation, and that there are aggravating

circumstances. (Finding 21.)

3. At the close of the complainant's case Respondent moved to dismiss it on the grounds it had been brought outside the applicable statute of limitations, and on the grounds of laches. Those motions were orally denied at that time. Further consideration has been given to those rulings, and they are hereby confirmed.

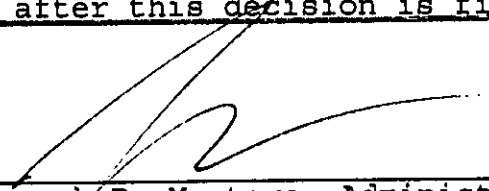
(A) Business and Professions Code section 10101, relied upon by Respondents for their statute of limitations defense, allows for the bringing of an accusation within three years of fraudulent acts. Here the escrow in question closed July 17, 1992, and the last act in furtherance of the fraud occurred on that day, when the settlement statement was submitted to the Bank. The accusation was filed on July 14, 1995, three days before the last day to file under the statute.

(B) As to laches, Respondents have failed to introduce evidence which would establish prejudice to their case as a result any delay in prosecution. They mainly relied on the representation of Respondent's counsel that he and his office had been unable to locate Ms. Oregel so as to subpoena her. For purposes of this matter those statements will be treated as evidence. However, even if accepted as true, there was not a sufficient showing of the extent of the effort to locate her. There was no evidence that any delay in filing correlated with the inability to locate her. At the same time, the evidence indicated the Department received its first complaint from the Bolanos in about August 1993, and was still investigating the matter in July 1994. Under all the circumstances, laches has not been established.

ORDER

All licenses and licensing rights of Respondents U.S. Herrera Realty and Rosendo Herrera under the Real Estate Law are revoked, effective fifteen days after this decision is final.

August 14, 1996



Joseph D. Montoya, Administrative
Law Judge

Sacto, Hwy

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 28 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of) Case No. H-26251 LA
) OAH No. L-9501077
U.S. HERRERA REALTY, ET AL,)
)
Respondent.)

By Laure B. Orme

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

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, California, on JULY 18, 1996, 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.

Dated: May 28, 1996

DEPARTMENT OF REAL ESTATE

By: James R. Peel
JAMES R. PEEL, Counsel

cc: U.S. Herrera Realty
Leonard Brazil, Esq.
Sacto.
OAH

Sacto
Herrera

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 19 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of
U.S. HERRERA REALTY, ET AL.,

Respondent

}

By *[Signature]*

Case No. H-26251 LA
OAH No. L-951077

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**

**on May 28 & 29, 1996, at the hour of 9:00 am.,
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

Dated: January 19, 1996

By *James R. Peel*
Counsel

cc: U.S. Herrera Realty
Rosendo Herrera
Leonard Brazil, Esq.
Sacto OAH SE

RE 501 (1/92)
kw

*Suzette
Olas*

FILED
NOV - 6 1996
DEPARTMENT OF REAL ESTATE

By *Laura B. Brown*

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

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26251 LA
)	
U.S. HERRERA REALTY and,)	
ROSENDO HERRERA,)	
)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On September 16, 1996, a Decision was rendered in the above entitled matter to become effective October 9, 1996. Thereafter in an Order signed October 8, 1996, the Decision was stayed until November 8, 1996.

IT IS HEREBY ORDERED that the effective date of the Decision of September 16, 1996, is stayed for an additional 10 days.

/

/

/

/

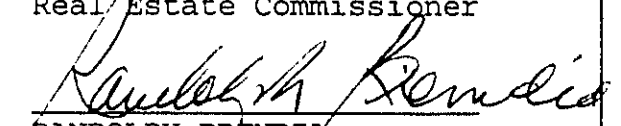
/

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

The Decision of September 16, 1996, shall become effective at 12 o'clock noon on November 18, 1996.

DATED: 6 Nov. '96

JIM ANTT, JR.
Real Estate Commissioner


RANDOLPH BRENDIA
Regional Manager

lbo

facts done

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
OCT - 8 1996
DEPARTMENT OF REAL ESTATE

By *Laura B. Orme*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-26251 LA
)	
U.S. HERRERA REALTY and)	L-9410177
ROSENDO HERRERA,)	
)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On September 16, 1996, a Decision was rendered in the above-entitled matter to become effective October 9, 1996.

IT IS HEREBY ORDERED that the effective date of the Decision of September 16, 1996 is stayed for a period of 30 days.

The Decision of September 16, 1996 shall become effective at 12 o' clock noon on November 8, 1996.

DATED: *8 Oct. 1996*

JIM ANTT, JR.
Real Estate Commissioner

By: *Randolph Brendia*
RANDOLPH BRENDIA
Regional Manager

lbo

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

JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JUL 14 1995
DEPARTMENT OF REAL ESTATE

By K. K. K. K.

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-26251 LA
)
U.S. HERRERA REALTY)
and ROSENDO HERRERA,) ACCUSATION
)
Respondents.)

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against U.S. HERRERA REALTY and ROSENDO HERRERA, alleges as follows:

I

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

U.S. HERRERA REALTY and ROSENDO HERRERA (hereinafter referred to as respondents) are presently licensed and/or have

1 license rights under the Real Estate Law (Part 1 of Division 4 of
2 the Business and Professions Code, hereinafter "Code").

3 III

4 At all times herein mentioned, respondent U.S. HERRERA
5 REALTY was licensed by the Department of Real Estate as a
6 corporate real estate broker, and respondent ROSENDO HERRERA was
7 licensed as the designated broker officer of said corporation, and
8 ordered, authorized or participated in the illegal conduct of
9 respondent corporation.

10 IV

11 On or about April 13 , 1992, respondents U.S. HERRERA
12 REALTY and ROSENDO HERRERA, on behalf of others in expectation of
13 compensation, negotiated the sale of real property located at 2107
14 Workman Avenue, Los Angeles ("property") from Modesto and Socorro
15 Martinez ("sellers") to Armando and Lorena Bolanos ("buyers").
16 The terms of the sale required, among other things, the buyers to
17 obtain first trust deed financing from U. S. Bancorp Mortgage
18 Company ("lender").

19 V

20 As part of the loan transaction, respondents U.S.
21 HERRERA REALTY and ROSENDO HERRERA with the intent to induce the
22 lender to make the loan to the buyers, caused to be prepared and
23 submitted to lender for funding false and fraudulent IRS Tax
24 Statements, W-2 forms, verification of employment form, pay stubs,
25 gift letter, gift check, certificate of title for automobile,
26 Wells Fargo bank checks, escrow receipts, on buyers' behalf which
27 grossly exaggerated or falsely represented the buyers' annual

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

income, employment position, and financial capabilities to purchase the property.

VI

The lender did not know the information submitted by respondents U.S. HERRERA REALTY and ROSENDO HERRERA was false and reasonably relied on said representations. Had the lender known the true facts, the lender would not have agreed to make the loan to the buyers. Lender will have to set up loss reserves to cover potential losses, the loan may have to be repurchased and servicing premiums will have to be repaid to agencies and investors.

VII

The conduct of respondents U.S. HERRERA REALTY and ROSENDO HERRERA, as alleged above, subjects their real estate licenses and license rights to suspension or revocation under Section 10176(i) of the Code.

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

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 all licenses and license rights of Respondents U.S. HERRERA REALTY and ROSENDO HERRERA 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 14th day of July, 1995.

PETER F. HURST

Deputy Real Estate Commissioner

cc: U.S. Herrera Realty
Rosendo Herrera
Sacto
SE