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FILED

JUN 27 2011

DEPARTMENT OF REAL ESTATE

By L. J. [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JOHN WILLIAM VARCIAG,

Respondent.

No. H-26429 LA

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 3, 1996, in Case No. H-26429 LA, a Decision was rendered revoking the real estate salesperson license of Respondent effective August 13, 1996, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on October 4, 1996, and Respondent has operated as a restricted licensee since that time.

On May 11, 2010, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the

///

1 requirements of law for the issuance to Respondent of an unrestricted real estate salesperson
2 license and that it would not be against the public interest to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
4 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
5 Respondent satisfies the following requirements:

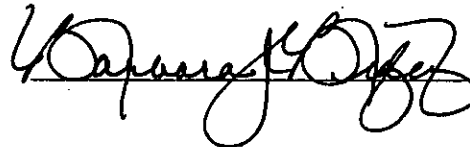
6 1. Submits a completed application and pays the fee for a real estate
7 salesperson license within the 12 month period following the date of this Order; and

8 2. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed
11 application, or (ii) within the 12 month period following the date of this Order.

12 This Order shall become effective immediately.

13 DATED: 6/14/11

14 BARBARA J. BIGBY
15 Acting Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of)
JOHN WILLIAM VARCIAG)
Respondent.)
_____)

No. H 26429 LA
OAH Case No. L-9603047

PROPOSED DECISION

On May 20, 1996, in Los Angeles, California, Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Elliott Mac Lennan represented the complainant.

Respondent John William Varciag appeared in propria persona.

Evidence was received and the matter was submitted.

FINDINGS OF FACT

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

2. Respondent holds a real estate salesperson's license, and has rights thereunder, the license having first been issued to him in September 1994.

3. The Respondent was convicted of two felonies, based on his guilty pleas to the charges. The first conviction was for issuing a false instrument (Penal Code section 115(a)). The second conviction was for accessing a computer to defraud (Penal Code section 502(c)). The convictions entered on September 9, 1993 in the Superior Court, San Bernardino County.

4. Respondent was placed on three years supervised probation. He was sentenced to one day in jail, and ordered to pay

restitution of approximately \$6,600.00 to the Department of Motor Vehicles.

5. Respondent's crimes involved moral turpitude, and are substantially related to the duties, qualifications and functions of a real estate salesperson. Respondent committed his crimes while working as an auto mechanic. He prepared and issued false automobile smog check reports. These were fraudulent acts for his personal gain.

6. Respondent has taken some steps toward rehabilitation. More than two years have passed since his conviction, without further incidents. He has paid approximately \$5,300.00 toward restitution, approximately eighty percent of the amount he was ordered to pay. However, he has not actually completed his criminal probation or restitution.

7. Based on Respondent's demeanor at the hearing, it can not be said he accepted full responsibility for his acts, other than acknowledging that it is his responsibility to comply with the criminal probation, and especially the restitution requirement. However, it is clear that Respondent has learned a hard lesson, and further wrongful conduct is unlikely to occur.

DETERMINATION OF ISSUES

1. It is determined that cause exists to suspend or revoke the respondent's license pursuant to Sections 490 and 10177(b) of the Business and Professions Code, and Title 10, section 2910 of the California Code of Regulations.

2. It is determined that Respondent has taken steps toward rehabilitation, based on Finding 6.

3. Based on Finding 7 it is determined that Respondent has not established complete rehabilitation.

4. It is determined that it is in the best interests of the Public, and the Respondent, that he be allowed to continue in his occupation, subject to restrictions, so as to complete his rehabilitation while tending to prevent harm to any consumers of his services.

ORDER

All licenses and licensing rights of respondent John William Varciag under the Real Estate Law are revoked; provided,

however, 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 therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

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 authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three (3) years have elapsed from the effective date of this Decision.

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

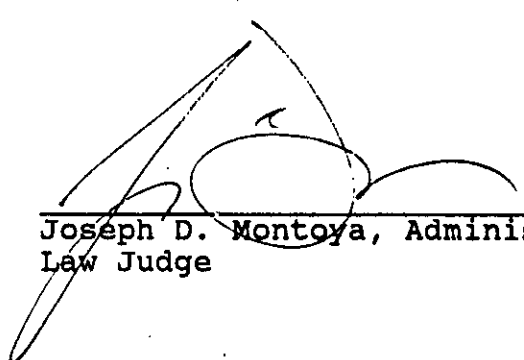
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

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

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most

recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

May 22, 1996



Joseph D. Montoya, Administrative
Law Judge


SACTO,
PLAG

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
MAR 28 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
JOHN WILLIAM VARCIAG,)
)
Respondent.)

By 
Case No. H-26429 LA
OAH No. L-9603047

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, California, on May 20, 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: March 28, 1996.

DEPARTMENT OF REAL ESTATE

cc: John William Varcia
Guardian Real Estate Corp.
Sacto.
OAH


ELLIOTT MAC LENNAN, Counsel


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ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
FEB 15 1996
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26429 LA
JOHN WILLIAM VARCIAG,)	A C C U S A T I O N
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)	
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Respondent.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against JOHN WILLIAM VARCIAG, aka Jon Viorell Varciag, is informed and alleges in his official capacity as follows:

I

Respondent is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

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II

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate salesperson on September 15, 1994.

III

On October 21, 1993, in the San Bernardino County Municipal Court District, Valley Division, County of San Bernardino, State of California, respondent was convicted upon a guilty plea to one count of violating Section 115(a) of the California Penal Code (Attempt to file false or forged instrument) and was convicted upon a guilty plea to one count of violating Section 502(c) of the California Penal Code (Computer access and fraud) for felony crimes that occurred on April 29, 1993, and which by their facts and circumstances involve moral turpitude and are substantially related under Section 2910, Chapter 6, Title 10, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The facts as alleged constitute cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of respondent under the Real Estate Law.

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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 JOHN WILLIAM VARCIAG under the Real Estate Law 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 15th day of February, 1996.


Deputy Real Estate Commissioner

cc: John William Varciag
Guardian Real Estate Corporation
Sacto.
JDF