

FILED
FEB 24 1997
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By C.B.

* * * * *

In the Matter of the Accusation of)	No. H-26624 LA
MANUEL RUIZ MARTINEZ,)	
Respondent.)	L-9605322
_____)	

DECISION

The Proposed Decision dated February 6, 1997, 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.

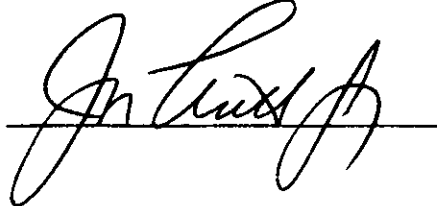
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on March 18, 1997.

IT IS SO ORDERED

2-18-97

JIM ANTT, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of:)
)
)
MANUEL RUIZ MARTINEZ)
)
)
Respondent.)
_____)

No. H-26624 LA

OAH No. L-9605322

PROPOSED DECISION
[Amended]

This matter was heard by Humberto Flores,
Administrative Law Judge of the Office of Administrative
Hearings, in Los Angeles, California, on January 15, 1997.

Complainant was represented by Darlene Averetta, Staff
Counsel.

Respondent appeared personally and was represented by
Brian F. Doyle, Attorney at Law. All jurisdictional requirements
have been met.

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

I

Thomas McCrady made the Accusation in his official
capacity as Deputy Real Estate Commissioner of the State of
California.

II

At all relevant times, Manuel Ruiz Martinez
("respondent"), was licensed by the Department of Real Estate as
a real estate salesperson and has licensing rights under Part 1,
Division 4, of the Business and Professions Code.

III

A. On April 17, 1995, in the Superior Court of California, County of Los Angeles, (Case No. KA026427), respondent pleaded guilty to one count charging a violation of section 10851(A) of the Vehicle Code (taking a vehicle without the owner's consent), a crime of moral turpitude and substantially related to the duties and qualifications of the departmental licensee.

B. Respondent was sentenced on May 15, 1995. The Court suspended the imposition of sentence and respondent was placed on formal probation for three years on certain conditions, including the conditions that he spend 180 days in the county jail and make restitution to the victim. On July 25, 1995, the court found that respondent had been accepted into the work furlogh program and was allowed to complete his incarceration in said program. Respondent completed all terms and conditions of probation.

C. On November 21, 1996, the Superior Court in the above referenced case reduced the original charge to a misdemeanor, terminated probation, and dismissed the matter pursuant to Penal Code section 1203.4.

IV

A. The facts and circumstances of the offense were that respondent wrote a check from an account with insufficient funds to cover a down payment for the purchase of a vehicle. The checking account belonged to respondent's brother.

B. Respondent told the car salesman to hold the check for one month until respondent deposited sufficient money into the account. However, the check was deposited and was returned unpaid. A representative from the dealership communicated with respondent's sister-in-law who informed the dealership's representative that they had not purchased a car and that respondent wrote and signed a check on his brother's account without authorization. When respondent was informed that the dealer deposited the check, respondent returned the vehicle to the dealer whereupon respondent was arrested. Respondent cooperated completely with arresting officer and admitted his wrongdoing at an early stage of the criminal proceedings.

V

Respondent is very remorseful for his misconduct and feels that he disappointed his family. Further, respondent has taken full responsibility for his actions and has made complete restitution to the victim. He has suffered no other convictions. Recidivism is unlikely.

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 III.

II

The mitigation and rehabilitation proven by respondent, and the dismissal of his criminal matter, as well as his demeanor and comportment at the hearing, dictate that the public would be adequately protected by restricting respondent's license and imposing strict conditions.

ORDER

All licenses and licensing rights of respondent Manuel Ruiz Martinez 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 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.

DATED: February 6, 1997 Humberto Flores
HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

5AC
1 DARLENE AVERETTA, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012

(213) 897-3937

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MAY 07 1996
DEPARTMENT OF REAL ESTATE

By C. B.

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of) No. H-26624 LA
12)
13 MANUEL RUIZ MARTINEZ,) A C C U S A T I O N
14)
Respondent.)

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against MANUEL RUIZ MARTINEZ (hereinafter "Respondent"), alleges
18 as follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 in his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the
26 California Business and Professions Code (hereinafter "Code"),
27 as a real estate salesperson..

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III

At all times material herein, Respondent was licensed by the Department of Real Estate of the State of California ("Department") as a real estate salesperson.

IV

On or about May 15, 1995, in the Superior Court of California, County of Los Angeles, Respondent MANUEL RUIZ MARTINEZ, aka Manuel Martinez, aka Rigoberto Martinez, was convicted on his plea of guilty of one count of violating Section 10851(A) of the California Vehicle Code (Take Vehicle without Owner's Consent), a felony and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

The crime of which Respondent was convicted, as described in Paragraph IV, above, constitutes 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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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent,
5 MANUEL RUIZ MARTINEZ, under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code), and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.
9 Dated at Los Angeles, California
10 this 7th day of May, 1996.

11
12 THOMAS McCRADY
13 Deputy Real Estate Commissioner
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25 cc: Manuel Ruiz Martinez
26 Sacto.
27 AK