

FILED
MAR 1 9 1998
DEPARTMENT OF REAL ESTATE
By *[Signature]*

In the Matter of the Accusation of)
)
 ROBERT ALAN WALL,)
)
 Respondent.)
 _____)

JIM ANTT, JR.
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the matter of the Accusation	)	
Against:	)	Case No. H-27140 LA
	)	
ROBERT ALAN WALL,	)	OAH No. L-1997070185
	)	
Respondent.	)	

PROPOSED DECISION

This matter came regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on January 13, 1998, at Los Angeles, California.

Robert E. Baker, Counsel, represented complainant. Frank M. Buda, Attorney at Law, represented respondent.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received at the hearing. The record was left open for the filing of briefs. Respondent's brief, marked for identification as Exhibit W, was received on January 23, 1998. Complainant's brief, marked for identification as Exhibit 6, was received on January 28, 1998. The matter was submitted for decision on January 28, 1998. The Administrative Law Judge makes the following findings of fact:

FINDINGS OF FACT

1. The accusation was filed by Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, solely in his official capacity.

2. Respondent was first licensed as a real estate salesperson in 1971. He became a real estate broker in 1979. His license, number 390442, was last renewed on December 18, 1995; it expires on December 17, 1999.

3. On June 5, 1995, in the Superior Court, County of Los Angeles, State of California, in case number BA090710, respondent was convicted, following his plea of nolo contendere, of violating Penal Code section 487.1 (grand theft) and Revenue Code section 19405 (filing of false returns); he also admitted the allegations of Penal Code section 12022.6(b) (taking of property valued in excess of \$100,000).

4. On September 3, 1996, the Court ordered respondent to pay restitution in the amount of \$550,795, less a credit of \$207,000, or a total of \$343,795.

5. On February 4, 1997, after receiving an additional restitution payment in the amount of \$206,474, the Court suspended imposition of a two-year state prison term and placed respondent on probation for five years subject to terms and conditions which included payment of a \$200 fine and service of 750 hours of community service. The Court further ordered 72 days in county jail, which commitment was discharged by time already served and by goodtime/worktime credits. Respondent can apply to terminate probation after three years of compliance with the terms and conditions of probation.

6. The facts and circumstances surrounding the conviction are as follows.

Respondent formed a limited partnership in the mid 1980s for the purchase, refurbishment, and resale of two office buildings. He invested \$2,000, acted as the general partner, and acted as the real estate broker. The total invested in the venture was \$270,000. Respondent also obtained improvement loans in the amount \$150,000 secured by his own real property. On May 25, 1991, he sold the improved buildings for \$638,000.

In March 1991 respondent discovered that an employee had embezzled in excess of \$300,000 from his business. Respondent was forced to use his revolving \$350,000 line of credit to pay operating expenses. The line of credit had to be paid in full on a yearly basis before additional funds could be borrowed. Respondent used the proceeds of the sale of the limited partnership assets to pay off the line of credit. He expected the line of credit to be re-established after the required waiting period, as had happened in the past. He planned to pay his partners from funds drawn on the line of credit. However, for reasons unrelated to respondent's actions, the line of credit was cancelled by the bank.

At first, respondent tried to hide from his limited partners the fact that he had sold the two buildings. In connection with these efforts, respondent filed tax returns which falsely reported that the buildings had not been sold.

7. Respondent's conviction is for crimes which involve dishonesty. Further, the crimes were committed in connection with licensed activity and involved unlawful activity for financial gain. The conviction therefore involves moral turpitude and is substantially related to the qualifications, functions, and duties of a real estate broker.

8. Some of the former limited partners filed a civil action against respondent, Souveroff, et al., v. Robert A. Wall, et al., Case No. BC 105 315, in Superior Court, County of Los Angeles. On March 10, 1997, following a jury trial, the Court ordered respondent to pay a judgement in the sum of \$1,299,155.60 plus interest, costs, and disbursements. Respondent has not paid the punitive damages portion of the judgement, or \$1,100,000, which award he is challenging on appeal.

9. Respondent is still on probation. However, he is complying with all of its terms and conditions. He is not required to meet with his probation officer, filing written reports instead. He has made full restitution, which sums included interest payments. At the time of the hearing, he had completed 535 hours of community service at the Gene LeBell School, teaching underprivileged children martial arts. Gene LeBell testified at the hearing on respondent's behalf; in his opinion, respondent has "class" and is a very honest and truthful individual.

10. Respondent has been married to the same woman for 29 years. He has two daughters, both in their twenties. The three testified at the hearing and are supportive of respondent's continuing rehabilitation efforts.

11. Respondent works as an independent broker, presently specializing in residential and commercial sales. Over his career, he has been involved in the sales of properties valued in the millions of dollars. Despite all this activity, his license has not been previously disciplined.

12. Starting in 1978, respondent became active in forming and managing limited partnerships. He was involved in a total of twenty-two, including the one over which the criminal proceedings resulted. He had no other problem involving the formation or management of these enterprises. His only continuing involvement in this area is the management of a ten-year old limited partnership. He has disclosed his conviction to all the investors and has given them the opportunity to withdraw from the partnership. No investor left and one testified at the hearing that he has full confidence in respondent's ability to manage his \$180,000 investment in the partnership.

13. He candidly discussed the circumstances surrounding the conviction, expressing sincere remorse for his behavior. He acknowledges that his crime was the worse thing he has done in his life. He realizes that he has hurt his family, his reputation, his career, and his investors. He pledges never to engage in any conduct resembling that which led to his conviction.

14. Respondent has been active in local professional associations and charitable organizations. As a volunteer for the Tarzana Chamber of Commerce, he initiated a graffiti cleanup program which still serves as a model for similar efforts in the area; his efforts earned him multiple commendations from police and civic leaders. Over the years, he has donated money and resources to organizations such as the YMCA and the Association of Retarded Citizens.

15. Respondent presented an impressive array of evidence to show that the incident in question was isolated and unrepresentative of his otherwise good character. Thus, 16 individuals testified at the hearing, 11 provided stipulated testimony, and 44 presented written affidavits/declarations or letters (some of these individuals also testified in person or by stipulation). All attest to his good character. In their opinion, the acts which led to the conviction are out of character. Several of these individuals have had and continue to have business dealings with respondent.

16. One of respondent's oldest acquaintances, Chuck Norris ("Norris"), submitted a letter on his behalf. Respondent and Norris formed a partnership in 1968 to operate karate studios. They have remained friends and respondent has handled several real estate transactions for the actor. Norris is also an investor in respondent's remaining general partnership. In Norris' opinion, respondent has been very honest and trustworthy in their dealings. Norris loaned respondent \$207,000 to enable him to make restitution.

17. An FBI Special Agent, Victor Guerrero, who has known respondent for thirty-two years or since he was student at a Karate school, testified regarding respondent's assistance in two Bureau undercover operations. In his opinion, respondent is very trustworthy and very conscientious.

18. Dr. Patrick Hunt has known respondent since 1979 and has invested in 5 or 6 limited partnerships with him. Dr. Hunt's association with respondent led him to persuade his pension fund to invest millions of dollars through respondent. Respondent's handling of Dr. Hunt's business affairs has been "meticulous", with detailed and full disclosure of all aspects.

19. Respondent is a man of honesty and integrity who exercised extremely poor judgement when faced with an unusual and difficult situation. His lapse is an isolated one.

* * * * *

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

DETERMINATION OF ISSUES

1. Grounds exist pursuant to Business and Professions Code section 490 to suspend or revoke respondent's license because he was convicted of crimes substantially related to the qualifications, functions, and duties of a real estate broker, by reason of finding of fact numbers 3 through 7.

2. Grounds exist pursuant to Business and Professions Code section 10177(b) to suspend or revoke respondent's license because he was convicted of crimes involving moral turpitude and substantially related to the qualifications, functions, and duties of a real estate salesperson, by reason of finding of fact numbers 3 through 7.

3. All evidence offered in mitigation and rehabilitation has been considered. Respondent has established sufficient rehabilitation to warrant the order which follows. He is a competent and honest individual who exercised poor judgement in an isolated situation when faced with unusual and difficult circumstances. He has no other convictions or discipline. He is a stable individual with a long history of service to his community. Nevertheless, the conviction involves serious crimes and respondent is still on probation. Discipline and monitoring are appropriate for the Department and others to continue to supervise his rehabilitation.

In light of the foregoing, the order which follows is necessary for the protection of the public.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent Robert Alan Wall 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 five 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.

6. Respondent shall, within six months from the effective date of this Decision, 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 suspension of respondent's license until respondent passes the examination.

DATED: 2/26/98



SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

SACTU

197-0210-006
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 07 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation and) CONTINUANCE
ROBERT ALAN WALL,) NOTICE OF HEARING ON ACCUSATION
)
) Case No. H-27140 LA
)
Respondents.) L- 199 7979 185
)

By R. J. [Signature]

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 West First Street, Los Angeles, California 90012 on January 13, 1998. at 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: October 7, 1997

DEPARTMENT OF REAL ESTATE

By: Robert E. Baker
ROBERT E. BAKER
Attorney-in-Charge

cc: Robert Alan Wall
Frank Buda, Esq.
MA, OAH & SACTO

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197-0210-006
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 12 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation and

ROBERT ALAN WALL,

Respondents.

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DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-27140 LA
ROBERT ALAN WALL,)
Respondent.)

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On April 23, 1997, a Default Order was filed. Thereafter, on May 12, 1997, a Decision was rendered herein revoking the real estate broker license of respondent ROBERT ALLAN WALL, effective, after a Stay was granted, July 15, 1997.

On May 30, 1997, good cause was presented to set aside the Default Order of April 23, 1997, and to vacate the Decision of May 12, 1997, and to have the matter remanded to the Office of Administrative Hearing as a contested matter.

NOW, THEREFORE, IT IS ORDERED that the Default Order of April 23, 1997, is set aside and the Decision of May 12, 1997, is vacated and that the Matter of the Accusation filed herein on April 3, 1997, be remanded to the Office of Administgrative Hearings.

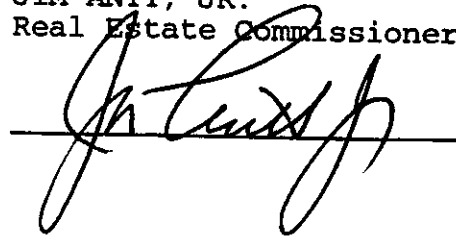
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This Order shall be effective immediately.

DATED: _____

7/1/97

JIM ANTT, JR.
Real Estate Commissioner



SACTO

FILED
JUN 0 2 1997
DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27140 LA
ROBERT ALLAN WALL,)	
Respondent.)	
_____)	

ORDER STAYING EFFECTIVE DATE

On May 12, 1997, a Decision was rendered herein in the above-entitled matter to become effective June 5, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of May 12, 1997 is stayed for a period of 40 days.

The Decision of May 12, 1997 shall become effective at 12 o'clock noon on July 15, 1997.

DATED: June 2, 1997

Randolph Brendia
RANDOLPH BRENDIA,
Regional Manager

SACD

FILED
MAY 15 1997
DEPARTMENT OF REAL ESTATE
By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27140 LA
ROBERT ALAN WALL,)	
Respondent.)	
_____)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on APRIL 23, 1997, and the findings of fact set forth herein are based on one or more of the following: (1) respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

I

(a) On April 7, 1997, Thomas Mc Crady made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to respondent's last known mailing and business addresses on file with the Department of Real Estate (Department) on April 3, 1997.

(b) On April 23, 1997, no Notice of Defense having been

filed herein within the time prescribed by Section 11506 of the Government Code, respondent's default was entered herein.

II

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) as a real estate broker. Said license is due to expire on December 17, 1997.

III

On or about June 5, 1995, in the Los Angeles County Superior Court, Los Angeles County, respondent was convicted on his plea of nolo contendere to one count of violating Section 487.1 of the California Penal Code, (grand theft) and two counts of violating Section 19405.A of the Revenue and Taxation Code (False return or concealment of goods). The conduct and the convictions involve moral turpitude, and is substantially related under Section 2910, Title 10, Chapter 6, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee. On or about December 16, 1996, Respondent was sentenced to State Prison for a term of two years and ordered to make restitution totaling \$206,274.00. On February 4, 1997, imposition of sentence was suspended and Respondent was placed on probation for a period of five years.

DETERMINATION OF ISSUES

I

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

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

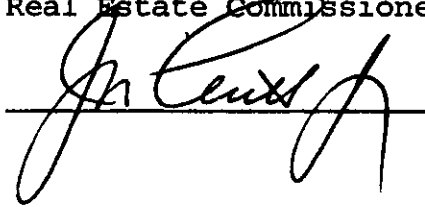
ORDER

The license and license rights of ROBERT ALAN WALL under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at
12 o'clock noon on June 5, 1997.

DATED: 5/12/97.

JIM ANTT, JR.
Real Estate Commissioner

A handwritten signature in dark ink, appearing to read "Jim Antt, Jr.", is written over a horizontal line.

1 Robert E. Baker, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012

5 (213) 897-3937

FILED

APR 03 1997
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of) No. H-27140 LA
12)
13 ROBERT ALAN WALL,) ACCUSATION
14)
15 Respondent.)

16 The Complainant, Thomas Mc Crady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against ROBERT ALAN WALL (respondent), alleges as follows:

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19 Respondent is presently licensed and/or has license
20 rights under the Real Estate Law (Part 1 of Division 4 of the
21 California Business and Professions Code) (Code) as a real estate
22 broker. Said license is due to expire on December 17, 1997.

2

24 The Complainant, Thomas Mc Crady, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation in
26 his official capacity.
27

3.

On or about June 5, 1995, in the Los Angeles County Superior Court, Los Angeles County, respondent was convicted on his plea of nolo contendere to one count of violating Section 487.1 of the California Penal Code, (grand theft) and two counts of violating Section 19405.A of the Revenue and Taxation Code (False return or concealment of goods). The conduct and the convictions involve moral turpitude, and is substantially related under Section 2910, Title 10, Chapter 6, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee. On or about December 16, 1996, Respondent was sentenced to State Prison for a term of two years and ordered to make restitution totaling \$206,274.00. On February 4, 1997, imposition of sentence was suspended and Respondent was placed on probation for a period of five years.

4

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

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

1
2 license and license rights of respondent ROBERT ALAN WALL, under
3 the Real Estate Law and for such other and further relief as may be
4 proper under other applicable provisions of law.

5 Dated at Los Angeles, California
6 this 4th day of April, 1997.
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THOMAS MC GRADY /
Deputy Real Estate Commissioner

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