

FILED
MAY - 6 2005
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28179 LA
JOSE GALVAN,)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On September 28, 1999, a Decision was rendered herein, revoking Respondent's real estate salesperson license, but granting Respondent the right to apply for and be issued a restricted real estate salesperson license on certain terms and conditions. A restricted real estate salesperson license was issued to Respondent on October 28, 1999.

On May 8, 2003, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

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1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has
3 failed to demonstrate to my satisfaction that Respondent has
4 undergone sufficient rehabilitation to warrant the issuance
5 to Respondent of an unrestricted real estate salesperson
6 license, in that:

8 I

9 In the Decision which revoked Respondent's restricted
10 real estate salesperson license, there were determination of
11 issues made that there was cause to revoke Respondent's license
12 pursuant to Business and Professions Code ("Code") Sections
13 490 and 10177(b) for conviction of a crime.

14 On or about June 23, 1998, Respondent was convicted
15 of violating Penal Code Section 647.6 (annoying or molesting
16 child under 18). Respondent was originally charged with a
17 violation of Penal Code Section 288(A) (lewd acts with child
18 under 14), but plea-bargained for a violation of Penal Code
19 Section 647.6. Said crime involves moral turpitude and is
20 substantially related to the qualifications, functions and
21 duties of a real estate licensee.

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II

The burden of proving rehabilitation rests with the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

The Department has developed criteria in Regulation to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(c): Respondent's conviction has not been expunged.

Regulation 2911(d): Respondent is required to register pursuant to Penal Code Section 290.

Regulation 2911(l): Respondent has not submitted proof of significant or conscientious involvement in community, church, or social programs.

Regulation 2911(n)(2): Respondent has not submitted proof from others of a change in attitude from that which existed at the time of the conduct which led to his conviction.

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1 Given the fact that Respondent has not established
2 that he has met the criteria of Regulations 2911(c), (d), (1)
3 and 2911(n)(2), I am not satisfied that Respondent is
4 sufficiently rehabilitated to receive a real estate salesperson
5 license.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement of Respondent's real estate
8 salesperson license is denied.

9 This Order shall become effective at 12 o'clock noon
10 on May 26, 2005.

11 _____
12 DATED: 4-28-05

13 JEFF DAVI
14 Real Estate Commissioner

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26 cc: Jose Galvan
27 916 West 79th Street
Los Angeles, CA 90044

FILED
OCT 8 1999

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Sandra B. Crane

* * * * *

In the Matter of the Accusation of)
)
JOSE GALVAN,)
)
Respondent.)
_____)

No. H-28179 LA
L-1999070450

DECISION

The Proposed Decision dated September 10, 1999, 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 October 28, 1999.

IT IS SO ORDERED September 28, 1999

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:) NO. H-28179 LA
))
JOSE GALVAN,) OAH NO. L1999070450
))
) Respondent.)
_____)

PROPOSED DECISION

This matter was heard on August 24, 1999, at Los Angeles, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by James R. Peel, Counsel. The respondent was present and represented himself.

FACTUAL FINDINGS

1. This Accusation was made by Thomas McCrady in his official capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent is, and at all times mentioned herein was, licensed by the Department of Real Estate as a real estate salesperson.
3. On or about June 23, 1998, in the Superior Court for the County of Los Angeles, State of California, respondent was convicted by plea of nolo contendere of a violation of Penal Code section 647.6 (annoying or molesting child under 18), a misdemeanor and a crime involving moral turpitude which is substantially related to the qualifications, functions or duties of a real estate licensee. Imposition of sentence was suspended, and he was placed on summary probation for one year.
4. Respondent indicates that he was wrongly accused and did nothing to the alleged victim. Although that is not a defense to the fact that he was convicted, it is consistent with the criminal court record, which indicates that the case was originally filed as a felony violation of Penal Code section 288(A) (lewd acts with child under 14) and while a jury trial was in progress, the charge was plea-bargained down to a misdemeanor violation of Penal Code section 647.6 with no jail time and only one year's probation.

5. Respondent produced letters from his employer and others who know him, attesting to his good character.

6. There was no evidence that respondent has suffered any other conviction or license discipline.

LEGAL CONCLUSIONS

1. Respondent's conviction is cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of all licenses and license rights under the Real Estate Law.

2. In determining the appropriate order to be made herein, due consideration was given to all relevant factors.

ORDER

All licenses and licensing rights of respondent Jose Galvan 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 ninety (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 two (2) 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 (9) 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 requirement 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 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: September 10, 1999



JERRY MITCHELL
Administrative Law Judge

SACTO

198-0325-004
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 03 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
JOSE GALVAN,)
Respondents.)

H-28179 LA)
NOTICE OF HEARING)
L-1999 070 450)

[Handwritten signature]

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California 90013 on **AUGUST 24, 1999** at **9:00 a.m.** or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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, and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: August 3, 1999

DEPARTMENT OF REAL ESTATE

By: *[Signature: James R. Peel]*
JAMES R. PEEL
DRE, Counsel

CC: Jose Galvan
JP, OAH & SACTO

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JAMES R. PEEL, Counsel
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013
State Bar 47055

(213) 576-6913

FILED
JUN 30 1999
DEPARTMENT OF REAL ESTATE
By [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of |) | NO. H-28179 LA |
| |) | |
| JOSE GALVAN, |) | A C C U S A T I O N |
| |) | |
| Respondents. |) | |
| _____ |) | |

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JOSE GALVAN, alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California makes this Accusation acting in his official capacity against JOSE GALVAN.

II

JOSE GALVAN, (hereinafter referred to as respondent) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, (hereinafter referred to as "the Code").

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III

At all times herein mentioned, respondent JOSE GALVAN, was licensed by the Department of Real Estate of the State of California as a real estate salesperson.

IV

On or about June 23, 1998, in the Superior Court, for the County of Los Angeles, State of California, respondent was convicted of violating Penal Code Section 647.6 (annoy children), a crime involving moral turpitude.

V

The crime of which respondent was convicted bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

VI

Respondent's criminal conviction is cause under Sections 490 and 10177(b) of the Business and Professions Code for suspension or revocation of all licenses 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 licensing rights of respondent
5 JOSE GALVAN, under the Real Estate Law (Part 1 of Division 4 of
6 the Business and Professions Code) and for such other and
7 further relief as may be proper under other applicable
8 provisions of law.
9

10 Dated at Los Angeles, California this: JUN 30 1999
11

12 
13 Deputy Real Estate Commissioner
14

15 cc: Jose Galvan
16 916 West 79th Street
17 Los Angeles, CA 90044

18 Mulhearn Realtors
19 16911 Belflower Blvd.
20 Bellflower, CA 90706

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22 JRP:rgp
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