

By

STATE OF CALIFORNIA

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In the Matter of the Accusation of) NO. H-28471 LA
)
 ANTHONY S. GALEANO,)
)
 Respondent.)

On January 16, 2001, a Decision was rendered herein, revoking Respondent's real estate salesperson license.

On January 14, 2004, Respondent petitioned for reinstatement of his real estate salesperson license and the Attorney General of the State of California has been given notice of the filing of Respondent's petition.

I have considered Respondent's petition and the evidence and arguments submitted in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson license and that it would

1 not be against the public interest to issue said license to
2 Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's
4 petition for reinstatement is granted and that a real estate
5 salesperson license be issued to Respondent if Respondent
6 satisfies the following conditions within nine (9) months from
7 the date of this Order:

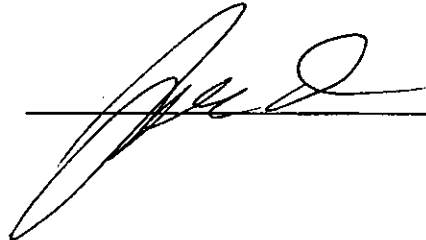
8 1. Submittal of a completed application and payment
9 of the fee for a real estate salesperson license.

10 2. Submittal of evidence of having, since his license
11 was revoked, taken and successfully completed the continuing
12 education requirements of Article 2.5 of Chapter 3 of the Real
13 Estate Law for renewal of a real estate license.

14 This Order shall be effective immediately.

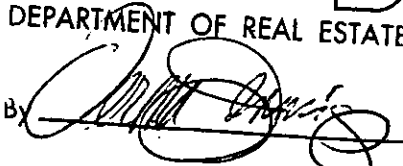
15 Dated: 6-1-05

16 JEFF DAVI
17 Real Estate Commissioner

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25 cc: Anthony Galeano
26 264 S. La Cienega Blvd., # 535
27 Beverly Hills, CA 90211

Handwritten initials: "Hag"

FILED
MAR 26 2001
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-28471 LA
ANTHONY S. GALEANO,) L-2000040221
Respondent.)

ORDER DENYING RECONSIDERATION

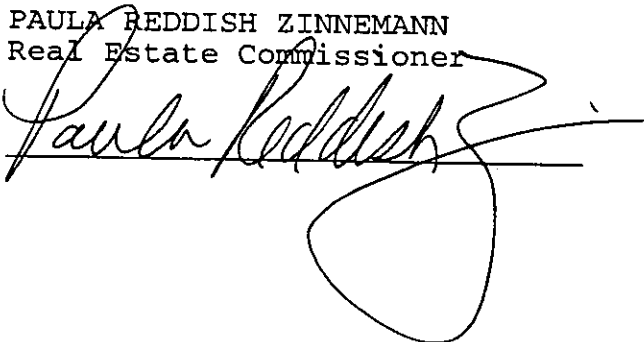
On January 16, 2001, a Decision was signed in the above-entitled matter. Said Decision was stayed by separate Orders to March 26, 2001.

On March 9, 2001, Respondent petitioned for reconsideration of the Order of January 16, 2001.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of January 16, 2001, and reconsideration is hereby denied.

IT IS SO ORDERED March 24, 2001.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner

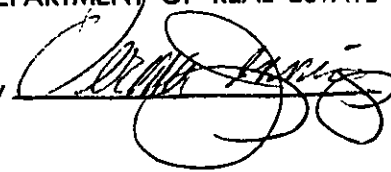


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MAR 14 2001

DEPARTMENT OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-28471 LA

ANTHONY S. GALEANO,

L-2000050221

Respondent.

ORDER STAYING EFFECTIVE DATE

On January 16, 2001, a Decision was rendered in the above-entitled matter to become effective February 13, 2001. On February 13, 2001, the effective date of said Decision was stayed until March 15, 2001.

IT IS HEREBY ORDERED that the effective date of the Decision of January 16, 2001, is stayed for an additional period of 10 days.

The Decision of January 16, 2001, shall become effective at 12 o'clock noon on March 26, 2001.

DATED: March 14, 2001.

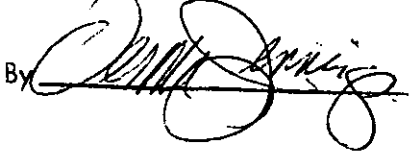
PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By:


RANDOLPH BRENDIA
Regional Manager

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FEB 13 2001
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-28471 LA
ANTHONY S. GALEANO,) L-2000050221
Respondent.)

ORDER STAYING EFFECTIVE DATE


On February 13, 2001, a Decision was rendered in the above-entitled matter to become effective February 13, 2001.

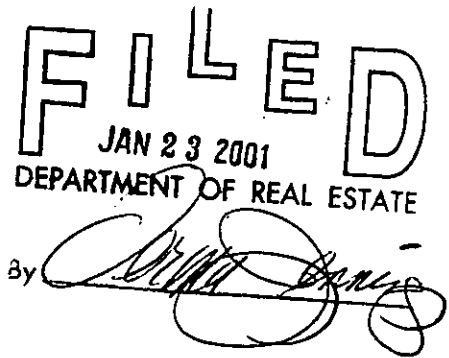
IT IS HEREBY ORDERED that the effective date of the Decision of February 13, 2001, is stayed for a period of 30 days.

The Decision of February 13, 2001, shall become effective at 12 o'clock noon on March 15, 2001.

DATED: February 13, 2001.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner

By: 
RANDOLPH BRENDIA
Regional Manager



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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No. H-28471 LA
L-2000050221
Respondent.

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DECISION AFTER REJECTION

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1 On August 3, 2000, the Administrative Law Judge
2 submitted a Proposed Decision which I declined to adopt as my
3 Decision herein.

4 Pursuant to Section 11517(c) of the Government Code
5 of the State of California, Respondent was served with notice
6 of my determination not to adopt the Proposed Decision of the
7 Administrative Law Judge along with a copy of said Proposed
8 Decision. Respondent was notified that the case would be
9 decided by me upon the record, the transcript of proceedings
10 held on July 6, 2000, and upon any written argument offered by
11 Respondent and Complainant.

12 On November 3, 2000, Argument was submitted by
13 Respondent. On November 20, 2000, Argument was submitted on
14 behalf of Complainant.

15 I have given careful consideration to the record in
16 this case including the transcript of proceedings of July 6,
17 2000. I have also considered the argument submitted by
18 Respondent and the argument submitted by Complainant.

19 The following shall constitute the Decision of the
20 Real Estate Commissioner in this proceeding.

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1 related to the deputy real estate commissioner, for not
2 disclosing.

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4 II

5 I have determined that Findings of Fact 10, of the
6 Proposed Decision of the Administrative Law Judge dated
7 August 3, 2000, is not appropriate and said Finding is not
8 adopted.

9 Findings of Fact 10 shall be as follows:

10 The circumstances surrounding the conviction are that
11 Respondent, while armed with a firearm, and a friend stole a
12 vehicle. Respondent later drove the vehicle to Arizona.
13 Respondent testified at the hearing that only a plastic toy gun
14 was used in the commission of the crime, but Respondent's
15 testimony conflicts with his guilty plea and admission to the
16 use of a firearm as evidenced by the court documents.

17 III

18 All other Findings are accepted and those other
19 findings are adopted as the Findings of Fact of the Real Estate
20 Commissioner in this proceeding.

21 LEGAL CONCLUSIONS

22 1. Cause for discipline exists based on Section 498
23 and Findings of Fact 5-8.

24 2. Cause for discipline exists based on Section
25 10177(a) in that respondent failed to disclose his conviction, a
26 material fact, which failure constitutes a material misstatement
27 of fact and grounds to suspend or revoke his license.

1 3. Conclusion "4" of the Administrative Law Judge is
2 hereby adopted.

3 4. All evidence presented as mitigation and
4 rehabilitation has been considered. As noted, Respondent has
5 taken steps towards rehabilitation and becoming a different
6 person than the one who suffered the conviction. He has
7 successfully discharged his duties in two different jobs that
8 require the handling of client funds and financial confidences.
9 Nevertheless, in light of his failure to disclose the conviction
10 on his license application, his conflicting versions to the
11 deputy real estate commissioner and the Administrative Law Judge
12 as to why he failed to disclose the conviction, and his attempt
13 to justify the non-disclosure, respondent has shown that he is
14 not fully rehabilitated. This fact, when taken into
15 consideration with the seriousness of his conviction evidences
16 that protection of the public interest would not be ensured if
17 Respondent were allowed to retain a real estate license.

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Real Estate Commissioner

Paula Heddes

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

NO. H-28471 LA
L-2000050221

TO: ANTHONY S. GALEANO, Respondent
and FRANK M. BUDA, his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 3, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 3, 2000, is attached hereto for your information.

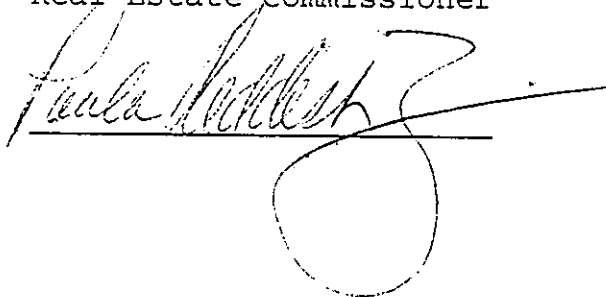
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on July 6, 2000, and any written argument hereafter submitted on behalf of Respondent and Complainant.

1 Written argument of Respondent to be considered by me
2 must be submitted within fifteen (15) days after receipt of the
3 transcript of the proceedings of July 6, 2000, at the Los Angeles
4 office of the Department of Real Estate unless an extension of the
5 time is granted for good cause shown.

6 Written argument of Complainant to be considered by me
7 must be submitted within fifteen (15) days after receipt of the
8 argument of Respondent at the Los Angeles office of the
9 Department of Real Estate unless an extension of the time is
10 granted for good cause shown.

11 DATED: August 25, 2000.

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13 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the matter of the Accusation of:)	
)	Case No. H-28471 LA
ANTHONY S. GALEANO,)	
)	OAH No. L-2000050221
Respondent.)	
_____)	

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on July 6, 2000, in Los Angeles, California.

Darlene Averetta, Counsel, represented complainant Thomas McCrady.

Frank M. Buda represented respondent.

Oral and documentary evidence was presented at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. The Department issued real estate salesperson license number 1249041 to respondent on November 14, 1998. It expires on November 13, 2002.

3. Respondent completed two of the courses listed in Business and Professions Code¹ section 10153.2.

4. The license has not been previously disciplined.

5. The Department issued the license to respondent in reliance of information contained on an application filed on October 29, 1998.

¹ All further references are to the Business and Professions Code.

6. a. The application contained the following question, number 25: "Have you ever been convicted of any violation of law? (You may omit any traffic violation where the disposition was a fine and the amount was \$100 or less)." An example and space for additional information were provided on the form in the event that the answer was affirmative.

b. In response, respondent checked the "No" box and did not provide information regarding any conviction.

7. Respondent's answer to question number 25 on the application is not true in that he had been convicted of a crime, as set forth in factual finding number 9 below.

8. Respondent explained that he failed to disclose the conviction because he thought it was too old to disclose. He gained this understanding based on his discussions with an attorney office mate regarding statutes of limitation. In light of this explanation, which is not unreasonable in the existing circumstances, it was not established that respondent knowingly sought to misstate the truth or to otherwise mislead the Department. He now recognizes that his conclusion was an incorrect interpretation of his friend's statements.

9. a. On April 25, 1988, in the Superior Court, County of Los Angeles, State of California, in case number A736660, following his plea, respondent was convicted of violating Penal Code section 211 (second degree robbery), a felony.

b. The Court suspended imposition of sentence and placed respondent on summary probation for four years on terms and conditions that included service of 300 days in county jail (road camp recommended and credit given for 183 days served), payment of a fine in the amount of \$428, payment of restitution in the amount of \$3,100, and cooperation in the development of a plan for psychiatric/psychological treatment.

10. The circumstances surrounding the conviction are as follows. Respondent and a friend used a plastic gun to steal a vehicle. He later drove it to Arizona.

11. a. Respondent's conviction unfavorably reflects on his honesty and truthfulness, traits that the legislature and the courts have deemed desirable in real estate licensees. See: Golde v. Fox, 98 Cal.App.3d 167 (1979). Accordingly, the conviction is for a crime which is substantially related to the qualifications, functions, and duties of a real estate salesperson.

b. Additionally, respondent's conviction is substantially related to the qualifications, functions, and duties of a real estate salesperson by reason of Title 10, California Code of Regulations, section 2910(b), in that it involves an unlawful act for financial benefit.

12. The conviction is a material fact in that it constitutes grounds for denial of the license application. It involves a serious offense that is substantially related to the qualifications, functions, and duties of a real estate licensee.

13. Respondent was a much younger man, 22 or 23 years old, when he committed the offense. He has since disassociated himself from the friend with whom he stole the vehicle. He is remorseful about the crime. He attended school and has had steady employment for the past ten years. He lives with the mother of two of his four children, all of whom he supports.

14. He has worked as a tax preparer for the past ten years. He is bonded for such employment and his license is in good standing.

15. Respondent enjoys selling residential real estate and has been successful during his brief career. He has been involved in 40 transactions and has completed 15 sales.

16. Adrian Bates, respondent's real estate broker, testified on his behalf. She is very happy with his performance. Respondent is one of her top producers and he has received many complements about his work. In her opinion, respondent is honest and scrupulous.

LEGAL CONCLUSIONS

1. Section 498 provides that "[a] board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact." Inasmuch as it was not established that respondent knowingly or intentionally failed to disclose the conviction, as set forth in factual finding numbers 5 through 8, cause for discipline does not exist under this section.

2. Section 10177(a) provides for denial or discipline of a real estate license if the licensee engaged in the following conduct:

"(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal or reinstatement."

3. As set forth in factual finding numbers 5 through 12, respondent failed to disclose his conviction, a material fact, which failure constitutes a material misstatement of fact and grounds to suspend or revoke his license pursuant to section 10177(a).

4. Respondent nevertheless argues that under Jones v. Maloney, 166 Cal.App.2d 80 (1951), and DeRasmo v. Smith, 15 Cal.App.3d 601 (1971), failure to disclose the conviction is not material because had the conviction been revealed it would have been insufficient to deny licensure. These cases are distinguishable.

In Jones, the applicant failed to disclose two misdemeanor convictions not involving theft or financial gain ("disturbing the peace and resisting an officer" and "disturbing a public assemblage"), which convictions had occurred approximately 9 and 19 years before. In this case, respondent's conviction is more serious than those in Jones.

In DeRasmo, the conviction was void by reason of subsequent appellate court action, a fact that provided both a basis for concluding that the conviction could not be used as the basis of discipline and for the applicant's good faith belief that he did not need to disclose such conviction. In contrast, respondent's conviction can still form the basis for discipline because it is substantially related to the duties, functions, and qualifications of a real estate salesperson.

The more recent case of Madrid v. Department of Real Estate, 152 Cal.App.3d 454 (1984), is more persuasive and more analogous to the instant one. There an applicant failed to disclose a five-year-old conviction for fraud involving a bingo game. The Court cited findings by the administrative law judge, subsequently adopted by the Department, rejecting respondent's claims of confusion and lack of recollection and finding that respondent knowingly made a material misstatement of fact in the application. It also cited the following conclusions by the Department:

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

Respondent's failure to reveal the criminal conviction alleged above in said application for licensure constitutes the procurement of a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in said application, which failure is cause for suspension or revocation of respondent's real estate license under Sections 490 and 10177(a) of the Business and Professions Code.' "

Madrid, supra at 460. In reference to the foregoing conclusions by the Department, the Court stated: "[t]his is merely another way of stating that the license would not have been granted had the conviction been disclosed." Ibid.

Accordingly, respondent's arguments lack merit.

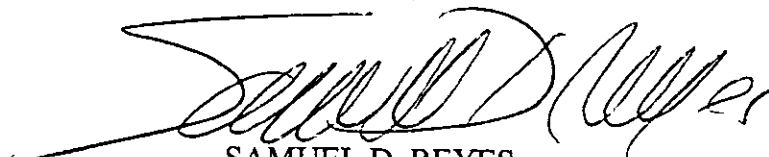
5. All evidence presented in mitigation or rehabilitation has been considered. He is a different person than the one who suffered the conviction. He is now a mature and responsible person. His misconduct is isolated and remote. He has discharged his duties in a successful manner in two occupations that require handling clients' funds and financial confidences. Nevertheless, because of the seriousness of the conviction, a period of monitoring is warranted. Accordingly, The order that follows is both necessary and adequate for the protection of the public.

ORDER

Not adopted
All licenses and licensing rights of respondent Anthony S. Galeano under the Real Estate Law are suspended for a period of one year from the effective date of this Decision; provided, however, that said suspension shall be stayed for one (1) year upon the following terms and conditions:


1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and
2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

DATED: 8/3/00


SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

54210

OA# No. L-2000050221

By 

RE 501 (Rev. 8/97)

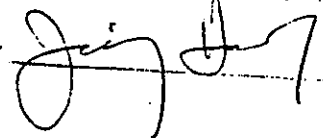
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DARLENE AVERETTA, Counsel (SBN 159969)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6904

FILED
APR 7 2000

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ANTHONY S. GALEANO,)
Respondent.)

No. H-28471 LA

A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against ANTHONY S. GALEANO ("Respondent") alleges as follows:

I

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

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 salesperson.

///



III

Respondent made application to the Department of Real Estate of the State of California ("Department") for a real estate salesperson license on or about October 29, 1998, and was originally licensed by the Department as a real estate salesperson on November 14, 1998.

IV

In response to Question 25 on Respondent's application, to wit: "Have you ever been convicted of any violation of law? (You may omit convictions for drunk driving, reckless driving and minor traffic citations which do not constitute a misdemeanor or felony offense)", Respondent marked the answer box denoting "No", and thereafter failed to reveal to following conviction.

V

On or about April 25, 1988, in the Superior Court of California, County of Los Angeles, Respondent ANTHONY S. GALEANO, aka Anthony Galeano, aka Anthony Salvador Galeano, was convicted of violating Section 211 of the Penal Code (Second Degree Robbery). Said crime was a felony involving moral turpitude, which bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

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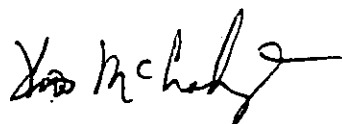
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Respondent's failure to reveal the conviction against him as set forth in Paragraph V , above, constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misrepresentation of fact, or by making a knowing misrepresentation of a material fact, or knowingly omitting to state a material fact, in his real estate license application. Said conduct, act(s) and/or omission(s) constitute cause under Code Sections 498 and/or 10177(a) for 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 all the licenses and license rights of Respondent, ANTHONY S. GALEANO, 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 7th day of April, 2000.



Deputy Real Estate Commissioner

cc: Anthony S. Galeano
Adrian Laverne Bates
Thomas McCrady
✓ Sacto.
LF

