

FILED
SEP 9 2003
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laura B. [Signature]

* * * * *

In the Matter of the Accusation of) No. H-30035 LA
MIGUEL R. PADILLA,) L-2003040855
Respondent.)

DECISION

The Proposed Decision dated August 13, 2003, 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 September 29, 2003.

IT IS SO ORDERED

September 9, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish [Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MIGUEL R. PADILLA

Respondent.

Case No. H-30035 LA.

OAH No. L2003040855

PROPOSED DECISION

This matter was heard by Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California on July 30, 2003 in Los Angeles, California.

Martha J. Rosett, Staff Counsel, represented the complainant.

Charles Benninghoff, Advocate represented the Respondent who was present.

The matter was submitted on July 30, 2003.

FACTUAL FINDINGS

1. Maria Suarez made this accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.
2. Miguel R. Padilla (Respondent) is presently licensed and has license rights under the Real Estate Law as a real estate broker.
3. On May 15, 2002, in the Municipal Court of Burbank Judicial District, County of Los Angeles, State of California, Case No. GA049135, Respondent was convicted of violating one count of section 664-487(A) of the Penal Code (Attempted grand theft property), a felony and a crime involving moral turpitude that is substantially related to the qualifications, functions and duties of a real estate licensee.
4. This was a very sophisticated crime. Respondent used his knowledge of loan and credit procedures to attempt to open a line of credit and withdraw a considerable amount of money. Respondent illegally obtained identification and credit cards in the name of Jesus Beltran. No person named Jesus Beltran provided any evidence to corroborate respondent's contention that he did this with Beltran's permission. Respondent took the forged documents to Washington Mutual Bank and attempted to withdraw money that did not belong to him.

Respondent was familiar with how to get credit because he previously worked as a loan agent.

5. Respondent's explanation that he had a partner (Jesus Beltran) who had agreed to supply money, but was not available when an emergency arose is not credible. Respondent had three friends testify on his behalf and none of them knew Jesus Beltran.

6. Respondent is presently on probation. He has not completed his 60 days of CalTrans service because of a medical condition. He hopes to have it changed to community service, however, he has not changed the order to community service as of yet. In any event, he has not completed all the terms and conditions of his criminal probation.

7. Respondent has been a broker for 12 years. He also has a travel agency business. He is married with three adult children. He recently told his friends about his problem and they are willing to give him support. Three friends testified on respondent's behalf at the hearing. They feel he is a productive member of the community and active in the church. They feel that this incident is out of character. However, they were not aware of respondent's financial problems that lead to this incident.

8. Respondent took an ethics course. He recognizes that there was a break down in his ethical foundation. He takes responsibility for his actions and is sorry for what happened.

9. However, respondent is still evasive about his relationship to Jesus Beltran. He was not completely forthcoming in his interview with Department personnel. He claims to have had authority from Beltran, but has never produced anything to corroborate this claim. It is too soon after this incident to determine if respondent is rehabilitated. Respondent is clearly making an effort toward rehabilitation. However, this was a very serious and sophisticated crime. Respondent has only been on criminal probation for just over a year and has not completed all the terms and conditions of that probation. There is no way to know yet whether or not respondent would lose his ethical foundation again in the face of financial and personal stress. It would not be in the public interest to grant respondent a restricted license at this time.

LEGAL CONCLUSION

1. By reason of the matters set forth in Finding 3 and 4, cause for disciplinary action exists pursuant to Business and Professions Code section 490 and 10177(b) (conviction of a crime).

2. The matters set forth in Findings 4 through 9 have been considered in making the following order.

ORDER

The broker's license issued to Miguel R. Padilla is hereby revoked pursuant to the
Legal Conclusion set forth above.

DATED: 8/13/03

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

Sacto filed

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

F U - E U
MAY 28 2003
DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation)
MIGUEL R. PADILLA,)
Respondent(s).)

Case No. H-30035 LA
OAH No. L-2003040855

James B. Leong

NOTICE OF HEARING ON ACCUSATION

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, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JULY 30, 2003, at the hour of 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: May 28, 2003

DEPARTMENT OF REAL ESTATE

By: *CHRIS LEONG*
CHRIS LEONG, Counsel

cc: Miguel R. Padilla
Nancy Benninghoff, Esq.
Sacto., OAH

Sub

1 CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)

FILED
MAR 27 2003
DEPARTMENT OF REAL ESTATE

Maria B. Crane

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
MIGUEL R. PADILLA,
Respondent.

No. H- 30035 LA

A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against MIGUEL R. PADILLA (hereinafter "Respondent"), is informed
and alleges as follows:

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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 "Code"), as a real
estate broker.

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II

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in her official capacity.

III

On or about May 15, 2002, in the Municipal Court of Burbank Judicial District, County of Los Angeles, State of California, Case No. GA049135, Respondent was convicted of violating one count of Section 664-487(A) of the California Penal Code (Attempted grand theft property), a felony and a crime involving moral turpitude which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

The conviction set forth above constitutes cause under Code Sections 490 and 10177(b) for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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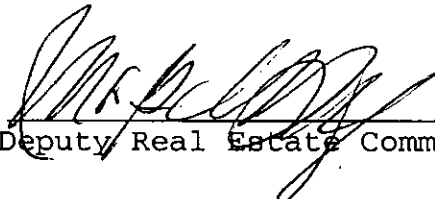
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2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and license rights of Respondent,
6 MIGUEL R. PADILLA, under the Real Estate Law (Part 1 of
7 Division 4 of the Business and Professions Code), and for such
8 other and further relief as may be proper under other
9 applicable provisions of law.

10 Dated at Los Angeles, California

11 this 20th day of March, 2003.

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14 Deputy Real Estate Commissioner
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23 cc: Miguel R. Padilla
24 Maria Suarez
25 Sacto.
26 ODA
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