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MAR 03 2009

DEPARTMENT OF REAL ESTATE

By L. F. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

SEROGE PETROSSIAN,

Respondent.

No. H-30339 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On March 10, 2004, a Decision was rendered herein revoking the real estate broker license of Respondent effective April 1, 2004, but granting Respondent the right to the issuance of a restricted broker license. A restricted broker license was issued to Respondent on April 1, 2004 and Respondent has operated as a restricted licensee since that time.

On April 18, 2008, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

This case is attended by the following circumstances:

On May 21, 2001, in the Los Angeles County Municipal Court, Respondent was convicted on his plea of nolo contendere to Theft Of Property in violation of Penal Code Section 484(a), a misdemeanor. On September 18, 2003, in Case No. H-30339 LA, an Accusation was filed alleging cause under Sections 490 and 10177(b) of the Business and Professions Code to

1 revoke Respondent's broker license on account of the conviction. On February 26, 2004,
2 Respondent entered into a Stipulation and Agreement whereby Respondent agreed to the
3 revocation of Respondent's broker license with the right to a restricted broker license on the
4 grounds alleged in the Accusation. The Decision in this case resulted from that agreement.

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

9 I have considered Respondent's petition and the evidence and arguments in
10 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has
11 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker
12 license.

13 The Department has developed criteria in Section 2911 of Title 10, California
14 Code of Regulations ("Regulations") to assist in evaluating the rehabilitation of an applicant for
15 reinstatement of a license. Among the criteria relevant in this proceeding are:

16 Section 2911(n) Change in attitude from that which existed at the time of the
17 conduct in question as evidenced by any or all of the following: (1) Testimony of applicant; (2)
18 Evidence from family members, friends or other persons familiar with applicant's previous
19 conduct and with his subsequent attitudes and behavioral patterns. (3) Evidence from probation
20 or parole officers or law enforcement officials competent to testify as to applicant's social
21 adjustments. (4) Evidence from psychiatrists or other persons competent to testify with regard to
22 neuropsychiatric or emotional disturbances. (5) Absence of subsequent felony or misdemeanor
23 convictions that are reflective of an inability to conform to societal rules when considered in light
24 of the conduct in question.

25 According to the police report, a Loss Prevention Agent for Costco observed
26 Respondent select two CDs. Respondent then walked to another aisle where he removed the
27 plastic wrapping from the items. The Agent then observed respondent walk to the next aisle over

1 where Respondent then balled up the plastic wrapping with his right hand, concealing it in his
2 pocket. Respondent was then observed walking back and forth in the same aisle as he concealed
3 the two CDs in his front right and left pockets. Respondent then was observed proceeding to the
4 front of the store, passing all open active cash registers. The Agent detained Respondent outside
5 the store and recovered the merchandise. Respondent on the other hand, denies he intended to
6 steal the two CDs. His wife had given him a ride to Costco to develop some pictures. The
7 pictures were not going to be ready for an hour, so Respondent strolled through the aisles,
8 stopping to pick up 2 CDs. Respondent says he does not normally put merchandise in his pocket,
9 but he did this time because his child was misbehaving. He says he always unwraps CDs to be
10 sure the disk is inside because of a bad experience he had at Circuit City. He decided to get
11 something to eat, forgetting the CDs in his pocket when he left the merchandise area.

12 Respondent's version of the events resulting in the revocation of his license
13 offered no assurance that, if reinstated, he would not resume his dishonest behavior. In the
14 statement, Respondent accepts no responsibility for his actions. What can be learned from
15 Respondent's statement is that he refuses, even now, to accept responsibility for the events
16 resulting in the revocation of his license. The Department is charged with providing maximum
17 protection for the public. Where, as here, it has been determined based on reliable evidence that a
18 licensee has engaged in misconduct bearing on his fitness to interact safely with the public in his
19 capacity as a licensee, the Department must assess the risk that the licensee will either persist in
20 the type of conduct that resulted in the revocation or has learned his lesson and may be counted
21 upon to avoid further misconduct. Of the relevant criteria of rehabilitation listed in Regulation
22 2911, none is more important in predicting future behavior than the Respondent's "change in
23 attitude" since the acts resulting in the revocation. In fact, virtually all of the criteria in the
24 regulation are an attempt to gauge whether the applicant has so changed his subjective outlook
25 that a repetition of the offending conduct no longer seems likely. When a Respondent denies
26 blame for conduct resulting in revocation of his license, it is entirely rational to infer that he is at
27 much greater risk of reoffending than one who accepts responsibility and shows remorse.

1 Clients who use a real estate agent to buy and sell their homes must be able to rely
2 upon information and advice offered by the agent. Here, there is an inadequate showing of any
3 change in Respondent's attitude. The evidence in this case clearly established that Respondent's
4 character is such that he can not be trusted to give truthful information. In the face of his denial
5 of responsibility for his misconduct, the only reasonable conclusion in this matter is denial of
6 reinstatement.

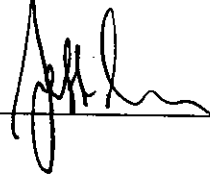
7 Consequently, I am not satisfied that Respondent is sufficiently rehabilitated to
8 justify reinstatement of Respondent's real estate broker license.

9 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
10 reinstatement of his real estate broker license is denied.

11 This Order shall become effective at 12 o'clock noon on MAR 23 2009

12 IT IS SO ORDERED 2-18-09

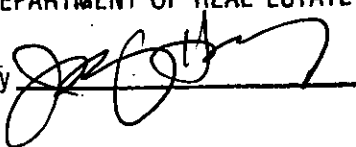
13 JEFF DAVI
14 Real Estate Commissioner

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1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982



By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-30339 LA
12 SEROGE PETROSSIAN,) L-2003100331
13 Respondent.) STIPULATION AND AGREEMENT

14
15 It is hereby stipulated by and between SEROGE
16 PETROSSIAN (sometimes referred to herein as "Respondent") and his
17 attorney, Frank M. Buda, and the Complainant, acting by and
18 through Mary E. Work, Counsel for the Department of Real Estate,
19 as follows for the purpose of settling and disposing of the
20 Accusation filed on September 18, 2003, in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act ("APA"), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement ("Stipulation").

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On October 1, 2003, Respondent filed a Notice of
6 Defense pursuant to Section 11506 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense,
11 Respondent will thereby waive his right to require the
12 Commissioner to prove the allegations in the Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that Respondent will waive other rights afforded to him
15 in connection with the hearing such as the right to present
16 evidence in defense of the allegations in the Accusation and the
17 right to cross-examine witnesses.

18 4. This Stipulation and Agreement ("Stipulation") is
19 based on the factual allegations contained in the Accusation
20 filed in this proceeding. In the interest of expedience and
21 economy, Respondent chooses not to contest these factual
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual statements, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove such
27 allegations.

1 5. This Stipulation and Respondent's decision not to
2 contest the Accusation are made solely for the purpose of
3 reaching an agree disposition of this proceeding and are
4 expressly limited to this proceeding and any other proceeding or
5 case in which the Department of Real Estate of another licensing
6 agency of this state, another state or the federal government is
7 involved, and otherwise shall not be admissible in any other
8 criminal or civil proceeding.

9 6. It is understood by the parties that the Real
10 Estate Commissioner may adopt the Stipulation as his Decision in
11 this matter thereby imposing the penalty and sanctions on
12 Respondent's real estate license and license rights as set forth
13 in the below "Order". In the event the Commissioner, in his
14 discretion, does not adopt the Stipulation, it shall be void and
15 of no effect, and Respondent shall retain the right to a hearing
16 and proceeding on the Accusation under all the provisions of the
17 APA and shall not be bound by any admission or waiver made
18 herein.

19
20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions and
22 waivers and solely for the purpose of settlement of the pending
23 Accusation without a hearing, it is stipulated and agreed that
24 the following Determination of Issues shall be made: The conduct,
25 acts and/or omissions of Respondent, as set forth in Paragraph
26 III of the Accusation are grounds for suspension or revocation of
27 the restricted real estate broker license of Respondent under the

1 provisions of Sections 490, 10177(b) and 10177(f) of the Business
2 and Professions Code.

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 The real estate broker license of Respondent SEROGE
6 PETROSSIAN is revoked; provided, however, a restricted real
7 estate broker license shall be issued to Respondent pursuant to
8 Section 10156.5 of Business and Professions Code if Respondent
9 makes application therefor and pays to the Department of Real
10 Estate the appropriate fee for said restricted license within 90
11 days from the effective date of this Decision. The restricted
12 license issued to Respondent shall be subject to all of the
13 provisions of Section 10156.7 of the Business and Professions
14 Code and to the following limitations, conditions and
15 restrictions imposed under authority of Section 10156.6 of that
16 Code:

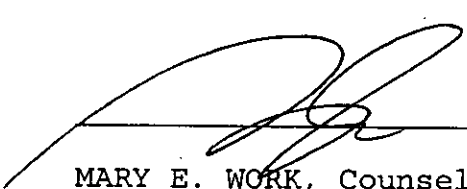
17 1. The restricted license issued to Respondent may be
18 suspended prior to hearing by Order of the Real Estate
19 Commissioner in the event of Respondent's conviction or plea of
20 nolo contendere to a crime which is substantially related to
21 Respondent's fitness or capacity as a real estate licensee.

22 2. The restricted license issued to Respondent may be
23 suspended prior to hearing by Order of the Real Estate
24 Commissioner on evidence satisfactory to the Commissioner that
25 Respondent has violated provisions of the California Real Estate
26 Law, the Subdivided Lands Law, Regulations of the Real Estate
27 Commissioner or conditions attaching to the restricted license.

1 3. Respondent shall not be eligible to apply for
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions
4 of a restricted license until two (2) years have elapsed from the
5 effective date of issuance of this Decision.

6 4. Respondent shall, within nine months of the
7 effective date of this Decision, present evidence satisfactory to
8 the Real Estate Commissioner that Respondent has, since the most
9 recent issuance of an original or renewal real estate license,
10 taken and successfully completed the continuing education
11 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
12 for renewal of a real estate license. If Respondent fails to
13 satisfy this condition, the Commissioner may order the suspension
14 of the restricted license until the Respondent presents such
15 evidence. The Commissioner shall afford Respondent the
16 opportunity for a hearing pursuant to the Administrative
17 Procedure Act to present such evidence.

18
19 DATED: 2-19-07


MARY E. WORK, Counsel for
the Complainant, the Department
of Real Estate

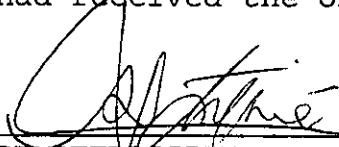
22 * * *

23 I have read the Stipulation and Agreement and its terms
24 are understood by me and are agreeable and acceptable to me. I
25 understand that I am waiving rights given to me by the California
26 Administrative Procedure Act (including but not limited to
27

1 Sections 11506, 11508, 11509 and 11513 of the Government Code),
2 and I willingly, intelligently and voluntarily waive those
3 rights, including the right of requiring the Commissioner to
4 prove the allegations in the Accusation at a hearing at which I
5 would have the right to cross-examine witnesses against me and to
6 present evidence in defense and mitigation of the charges.

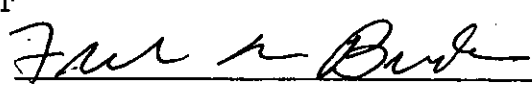
7 Respondent can signify acceptance and approval of the
8 terms and conditions of this Stipulation and Agreement by faxing
9 a copy of its signature page, as actually signed by Respondent,
10 to the Department at the following telephone/fax number: (213)
11 576-6917. Respondent agrees, acknowledges and understands that
12 by electronically sending to the Department a fax copy of his
13 actual signature as it appears on the Stipulation and Agreement,
14 that receipt of the faxed copy by the Department shall be binding
15 on Respondent as if the Department had received the original
16 signed Stipulation and Agreement.

17 DATED: 2/26/04


18 SEROGE PETROSSIAN, Respondent

19 APPROVED AS TO FORM AND CONTENT

20 DATED: 2.26.04


21 FRANK M. BUDA, Attorney for
22 Respondent

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IT IS SO ORDERED March 10, 2004.

John R. Liberator

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
SEROGE PETROSSIAN,)
_____) *Respondent.*

Case No. H-30339 LA

OAH No. L-2003100331

FILED
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DEPARTMENT OF REAL ESTATE

AMENDED 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, Suite 630, Los Angeles, CA 90013-1105 on MONDAY, FEBRUARY 23, 2004, 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 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.

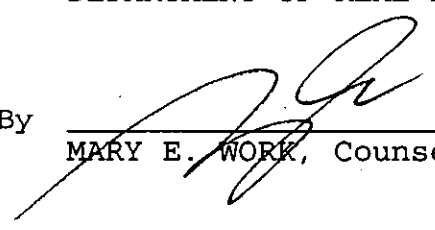
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real 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.

DEPARTMENT OF REAL ESTATE

Dated: December 5, 2003

By


MARY E. WORK, Counsel

cc: Seroge Petrossian
Frank M. Buda, Esq.
Sacto.
OAH

RE 501 (Rev. 8/97)

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SBN 175887
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FILED
SEP 18 2003

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

* * *

10 In the Matter of the Accusation of)
11 SEROGE PETROSSIAN,)
12 Respondent.)
13

No. H-30339LA

ACCUSATION

14 The Complainant, Maria Suarez, a Deputy Real Estate
15 Commissioner of the State of California, for cause of Accusation
16 against SEROGE PETROSSIAN, aka Seroge Beghos Petrossian
17 (hereinafter "Respondent"), is informed and alleges as follows:
18

I

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

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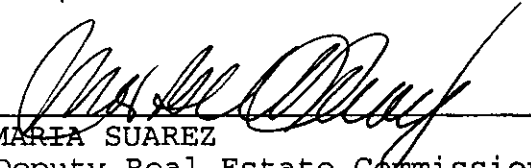
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VI

The revocation of Respondent's insurance license constitutes cause under Section 10177(f) of the Code to suspend or revoke Respondent's real estate broker license.

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 licenses and license rights of Respondent SEROGE PETROSSIAN 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 provisions of law.


MARIA SUAREZ
Deputy Real Estate Commissioner

Dated at Los Angeles, California,
this 16th day of September, 2003.

cc: Seroge Petrossian
Maria Suarez
SACTO
EE