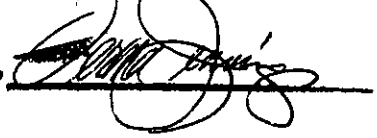


SACTO.
Glan

FILED
APR 15 2011
DEPARTMENT OF REAL ESTATE

By 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of)	No. H-31036 LA
)	
JOSE ERNESTO CALVENTO,)	
)	
Respondent.)	
)	

ORDER GRANTING UNRESTRICTED LICENSE

On November 23, 2004, a Decision was rendered herein denying the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on January 11, 2005, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On or about October 22, 2009, Respondent petitioned for removal of restrictions of said real estate salesperson license.

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

1 salesperson license and that it would not be against the public interest to issue said license to
2 Respondent.

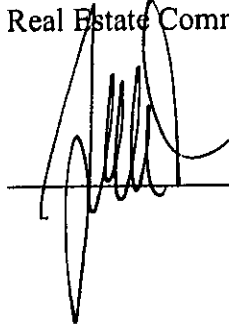
3 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal
4 of restrictions is granted and that a real estate salesperson license be issued to Respondent, if
5 Respondent satisfies the following conditions:

- 6
- 7 1. Submits a completed application and pays the fee for a real estate salesperson
8 license within the 12 month period following the date of this Order; and
 - 9 2. Submits proof that Respondent has completed the continuing education
10 requirements for renewal of the license sought. The continuing education courses must be
11 completed either (i) within the 12 month period preceding the filing of the completed application,
12 or (ii) within the 12 month period following the date of this Order.

13 This Order shall be effective immediately.

14 Dated: 2/16/204

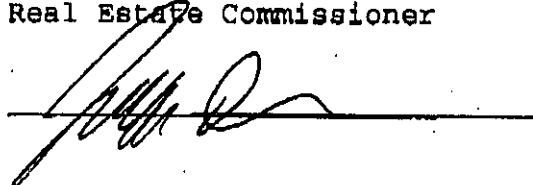
15
16 JEFF DAVI
17 Real Estate Commissioner

18
19 
20
21
22
23
24
25
26
27

This Decision shall become effective at 12 o'clock
noon on December 14, 2004.

IT IS SO ORDERED December 23 2004.

JEFF DAVI
Real Estate Commissioner

A handwritten signature in black ink, appearing to read "Jeff Davi", is written over a horizontal line.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application/Statement of
Issues Against:

~~ERNESTO~~
JOSE ~~ERESTO~~ CALVENTO,

Respondent.

OAH NO. L-2004070538

CASE NO. H-31036 LA

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge (ALJ), Office of Administrative Hearings, at Los Angeles, California on October 5, 2004.

Department of Real Estate Staff Counsel Kelvin K. Lee represented complainant.

Respondent, Jose E. Calvento, personally appeared and represented ~~himself~~ **BY ATTORNEY JOSE VICTOR L. BIONGCO.**

Oral and documentary evidence was received and the matter was submitted.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. The Statement of Issues was filed by Janice Waddell ("complainant") while acting in her official capacity as a Deputy Real Estate Commissioner, Department of Real Estate (DRE), State of California.
2. On June 3, 2003, respondent filed an application with the DRE for a real estate salesperson license knowing that any license issued to him would be subject to the conditions set forth in California Business and Professions Code (Code) section 10153.4.
3. Respondent's application was denied based on respondent's 1997 criminal conviction, and his failure to disclose his conviction on his application.
4. Respondent timely requested a hearing and the instant hearing ensued.

5. On May 5, 1997, respondent was convicted in Los Angeles County Municipal Court, of one count of violating California Vehicle Code section 4462.5 (displaying false evidence of registration with the intent to avoid registration fees), a misdemeanor crime involving moral turpitude which, pursuant to California Code of Regulations, title 10, section 2910, is substantially related the qualifications, functions and duties of a licentiate.

6. The facts and circumstances underlying respondent's conviction are as follows: Respondent, who was 18 years old at the time of the criminal conduct, received a license registration "tab" from one of his friends. Respondent put the registration tab on the rear license plate of his car. Eventually, respondent was stopped by a law enforcement officer. When the officer ran a check on respondent's license and registration he discovered that the registration tab did not belong to respondent. Respondent was arrested and later convicted of displaying false evidence of registration with intent to avoid registration fees.

7. Question 25 on respondent's application asks: "Have you ever been convicted of any violation of law?... You may omit minor traffic citations which do not constitute misdemeanor or felony offense[s]." In response to this question respondent answered "No" and failed to disclose his 1997 conviction.

Evidence in Mitigation and of Rehabilitation

8. The misdemeanor conviction occurred in 1997, approximately seven (7) years ago.

9. Respondent testified that with the exception of the 1997 conviction he has no other violations of the law.

10. At the time of the conduct leading to respondent's conviction respondent was only 18 years old. Respondent is now 25 years old. He is married and has attended school at Pierce College.

11. Respondent is gainfully employed. He currently works for a mortgage company and has had no complaints concerning his job performance.

12. Respondent testified that he did not list his 1997 conviction because, at the time of his conviction he was living at home and after his arrest his father handled all the legal aspects. Respondent's father hired an attorney who appeared for respondent and entered a plea on respondent's behalf. Respondent's father paid the resultant fine and respondent never realized he had suffered a "conviction." Respondent believed that the crime was an infraction, similar to a traffic citation; accordingly, he did not disclose the conviction in response to question 25 on the

application. Respondent's explanation seems plausible given the fact that he was only 18 years old at the time of his conviction.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. The crime for which respondent was convicted, as described in paragraphs 5 and 6, is substantially related to the qualifications, functions and duties of a licensee (See Cal. Code Regs., title 10, § 2910). Respondent's conviction, therefore, constitutes a ground for denial of respondent's application for a real estate salesperson's license pursuant to Business and Professions Code section 480, subdivision (a), subsection (1); however, as set forth in Conclusion 3, below, the ALJ concludes that it would not be against the public interest to accept respondent's application and issue him a restricted license.

2. Cause does not exist for denial of respondent's application based on California Business and Professions Code sections 480, subdivision (c) and 10177, subdivision (a) because, as set forth in Finding 12, respondent did not attempt to procure a license by fraud, misrepresentation or deceit, nor did he knowingly make false or misleading statements in his application for licensure.

3. As set forth in Findings 8, 9, 10, and 11, respondent has not had any other violations of the law, either before or after the 1997 conviction, he has matured since the time of the crime, he has maintained gainful employment since his conviction, and he seems to have learned his lesson. All factors considered, the ALJ concludes that it would not be adverse to the public interest to issue respondent a restricted salesperson license.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's application for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Business and Professions Code section 10156.5. The restricted license issued to the Respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of Business and Professions Code section 10156.6:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of *nolo contendere*) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence 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 this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to Respondent.

3. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

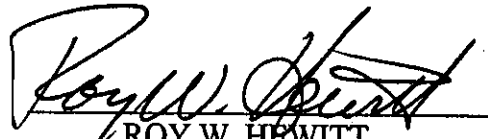
IT IS FURTHER ORDERED, that:

Respondent shall, within 18 months of the issuance of the restricted license under the provisions of Business and Professions Code section 10153.4, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two courses listed in Business and Professions Code section 10153.2, other than Real Estate Principles, Advanced Legal Aspects of Real Estate, Advanced Real Estate Finance, or Advanced Real Estate Appraisal. If respondent fails to present satisfactory evidence of successful completion of said course, the restricted license shall be automatically suspended effective eighteen

///
///
///
///
///
///
///
///
///
///

(18) months after issuance of the restricted license. Said suspension shall not be lifted until respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent that the suspension has been lifted.

Dated: October 27, 2004.


ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

SACTO

BEFORE THE DEPARTMENT OF REAL ESTATE

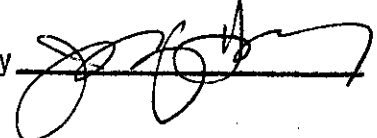
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-31036 LA
)
 JOSE ERNESTO CALVENTO,) OAH No. L-2004070538
)
)
 _____)
 Respondent (s)

FILED
 AUG 03 2004

DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By 

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 TUESDAY, OCTOBER 5, 2004, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

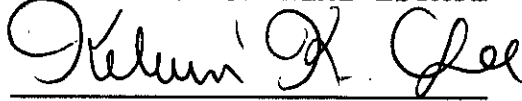
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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



By

KELVIN K. LEE, Counsel

Dated: August 3, 2004

cc: Jose E. Calvento
 Bernard Maniago
 Sacto.
 OAH

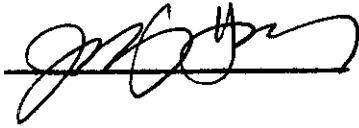
SOLTO
MAG

1 KELVIN K. LEE, Real Estate Counsel (SBN 152867)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6905

FILED
JUL 01 2004

DEPARTMENT OF REAL ESTATE

By 

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)	NO. H- 31036 LA
12)	
13 JOSE ERNESTO CALVENTO,)	<u>STATEMENT OF ISSUES</u>
14)	
15 Respondent.)	
16)	

17 The Complainant, Janice Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Statement
19 of Issues against JOSE ERNESTO CALVENTO ("Respondent"), is
20 informed and alleges as follows:

21 I

22 The Complainant, Janice Waddell, a Deputy Real Estate
23 Commissioner of the State of California, makes this Statement
24 of Issues against Respondent in her official capacity.

25 II

26 Respondent made application to the Department of Real
27 Estate of the State of California for a real estate salesperson
license on or about June 3, 2003, with the knowledge and
understanding that any license issued as a result of said

1 application would be subject to the conditions of Business and
2 Professions Code ("Code") 10153.4.

3 III

4 (CRIMINAL CONVICTIONS)

5 On or about May 5, 1997, in the Municipal Court of the
6 State of California, County of Los Angeles, in Case No. 7VN01327
7 respondent JOSE ERNESTO CALVENTO, was convicted of violating
8 Section 4462.5 of the California Vehicle Code, Presenting or
9 Displaying False Evidences of Registration with the Intent to
10 Avoid Registration Fees. This crime involves moral turpitude
11 and is substantially related under Title 10, Chapter 6, Section
12 2910, California Code of Regulations, to the qualifications,
13 functions or duties of a real estate licensee.

14 IV

15 The crime of which Respondent was convicted, as
16 alleged herein above in Paragraphs III, constitutes cause for
17 denial of Respondent's application for a real estate license
18 under Code Sections 475(a)(2), 480(a)(1) and/or 10177(b).

19 V

20 (FAILURE TO REVEAL CONVICTION)

21 In response to Question 25 of his license application,
22 to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
23 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
24 DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH
25 DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent
26 answered "No," and failed to reveal the conviction described
27 above in Paragraph III.

1 Respondent's failure to reveal the conviction set
2 forth herein in Paragraph III, above, in his license
3 application, constitute the attempt to procure a real estate
4 license by fraud, misrepresentation, or deceit, or by making a
5 material misstatement of fact, or knowingly making a false
6 statement of material fact required to be revealed in said
7 application, which is grounds for denial of the issuance of a
8 license under Business and Professions Code Sections 475(a)(1),
9 480(c), and/or 10177(a).
10

11 The Statement of Issues is brought under the
12 provisions of Section 10100, Division 4 of the Business and
13 Professions Code of the State of California and Sections 11500
14 through 11528 of the Government Code.

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

1 WHEREFORE, Complainant prays that the above entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent, JOSE ERNESTO CALVENTO, and for such other
6 and further relief as may be proper under other provisions of
7 law.

8 Dated at Los Angeles, California

9 this 30 day of June, 2004.

10
11 
12 Janice Waddell
Deputy Real Estate Commissioner

13 cc: JOSE ERNESTO CALVENTO
14 Bernard Maniago
15 Janice Waddell
16 Sacto.
17 AE
18
19
20
21
22
23
24
25
26
27