

into file

FILED
JAN - 5 2009
DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-31128 LA
)
RUBEN ROBERT ARELLANES,)
)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE AND
GRANTING RIGHT TO A RESTRICTED LICENSE

On May 5, 2005, 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. Respondent failed
to apply for a restricted real estate salesperson license within
the time prescribed and his license remained revoked.

On February 28, 2008, Respondent petitioned for
reinstatement of Respondent's real estate salesperson license
and the Attorney General of the State of California has been
given notice of the filing of the petition.

///

1 I have considered Respondent's petition and
2 the evidence and arguments in support thereof. Respondent
3 has failed to demonstrate to my satisfaction that Respondent
4 has undergone sufficient rehabilitation to warrant the
5 reinstatement of Respondent's real estate salesperson license,
6 in that:
7

8 I

9 In the Decision which revoked Respondent's real
10 estate license, there were Legal Conclusions made that there
11 was cause to revoke Respondent's real estate license pursuant
12 to Business and Professions Code ("Code") Sections 490 and
13 10177(b).
14

15 On or about January 22, 2004, Respondent was
16 convicted of violating Penal Code Section 273.5(a) (corporal
17 injury to cohabitant).
18

19 Said crime involved moral turpitude and is
20 substantially related to the functions, qualifications and
21 duties of a real estate licensee, pursuant to Section 2910,
22 Title 10, Chapter 6, California Code of Regulations
23 ("Regulations").
24

25 II

26 On April 20, 2005, Respondent was convicted of
27 driving under the influence.

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III

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 2911 to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

2911(i) - Respondent has not provided proof of sustained enrollment in formal educational or vocational training courses for economic self-improvement.

2911(j) - A civil judgment in the amount of \$11,377 was filed against Respondent on December 26, 2006, and a judgment lien in the amount of \$11,722 was filed against Respondent on May 16, 2007, in Orange County, California. Respondent has not provided proof that Respondent has satisfied, or made bona fide efforts toward satisfying, said adjudicated debts and monetary obligations to others.

Given the fact that Respondent has not established that Respondent has complied with Regulations 2911(i) and 2911(j), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of Respondent's real estate
3 salesperson license is denied.

4 I am satisfied, however, that it will not be against
5 the public interest to issue a restricted real estate
6 salesperson license to Respondent.

7 A restricted real estate salesperson license shall
8 be issued to Respondent pursuant to Code Section 10156.5
9 if Respondent within twelve (12) months from the date hereof:

10 (a) takes and passes the written examination required
11 to obtain a real estate salesperson license;

12 (b) makes application therefor and pays the
13 appropriate fee for said license;

14 The restricted license issued to Respondent shall be
15 subject to all of the provisions of Code Section 10156.7 and to
16 the following limitations, conditions and restrictions imposed
17 under authority of Code Section 10156.6:

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

23 ///

24 ///

1 2. The restricted license issued to Respondent
2 may be suspended prior to hearing by Order of the Real Estate
3 Commissioner on evidence satisfactory to the Commissioner that
4 Respondent has violated provisions of the California Real
5 Estate Law, the Subdivided Lands Law, Regulations of the Real
6 Estate Commissioner or conditions attaching to the restricted
7 license.
8

9 3. Respondent shall not be eligible to apply for
10 the issuance of an unrestricted real estate license nor for
11 the removal of any of the conditions, limitations or
12 restrictions of a restricted license until two (2) years
13 have elapsed from the effective date of this Decision.
14

15 4. With the application for license, or with the
16 application for transfer to a new employing broker, Respondent
17 shall submit a statement signed by the prospective employing
18 real estate broker on a form approved by the Department of Real
19 Estate which shall certify as follows:

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

23 (b) That the employing broker will carefully review
24 all transaction documents prepared by the restricted licensee
25 and otherwise exercise close supervision over the licensee's
26 performance of acts for which a real estate license is required.
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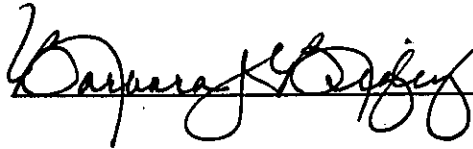
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This Order shall become effective at 12 o'clock noon

on JAN 26 2009

DATED: 12-29-08

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED
MAY - 6 2005
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-31128 LA
)
) RUBEN ROBERT ARELLANES,)
) L-2004110487
)
) Respondent.)

DECISION

The Proposed Decision dated April 4, 2005, 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.

Pursuant to Section 11517(b)(3) of the Government Code, the Proposed Decision, at Page 1, in the case caption at the top of the page, "Application" is amended to read "Accusation..."

AMENDED

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 May 26, 2005.

IT IS SO ORDERED May 5, 2005.

JEFF DAVI
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE OF THE
STATE OF CALIFORNIA

ACCUSATION

In the Matter of the ~~Application~~ of:

RUBEN ROBERT ARELLANES,

Respondent.

Case No. H-31128 LA

OAH No. L2004110487

PROPOSED DECISION

This matter came on regularly for hearing before Administrative Law Judge Mark E. Harman, Office of Administrative Hearings, at Los Angeles, California, on March 4, 2005.

Maria Suarez, complainant, was represented by Kelvin Lee, Counsel for the Department of Real Estate (the Department).

Ruben Robert Arellanes (Respondent) appeared personally and represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on March 4, 2005.

FACTUAL FINDINGS

1. The Accusation was made by Maria Suarez, who is a Deputy Real Estate Commissioner of the State of California, acting in her official capacity. The Accusation was filed on July 29, 2004.

2. Respondent is presently licensed and/or has license rights as a real estate salesperson under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). Respondent was originally licensed by the Department as a real estate salesperson on January 14, 2003. His license will expire on January 13, 2007, unless renewed.

3. On or about January 22, 2004, in the Superior Court of California, County of Orange, Case No. 03NM14963, Respondent was convicted, upon his plea of guilty, of violating Penal Code section 273.5, subdivision (a), corporal injury to cohabitant, a misdemeanor which involves moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee under California Code of Regulations, title 10, section 2910, subdivision (a)(8).

4. Imposition of sentence was suspended, and Respondent was placed on informal probation for a period of 36 months under various terms and conditions, including:

- a) Incarceration for 15 days, with credit for one day time served, and with the remainder days stayed pending completion of 14 days CalTrans in lieu of 15 days of incarceration;
- b) Attendance and completion of Domestic Violence Substance Abuse Program;
- c) Payment of restitution fines, fees and court costs of \$571;
- d) Completion of eight hours community service;
- e) Compliance with all laws and court orders;
- f) Avoidance of contact with the victim; and
- g) Submission to search of person, vehicle or residence at any time.

5. The facts and circumstances underlying the conviction are that, on or about November 15, 2003, Respondent was living with his fiancée. They shared the residence as roommates with another couple. Respondent went out drinking with some friends and got very intoxicated. When he returned home, he found his fiancée and the female roommate smoking methamphetamine. Respondent does not use drugs and he lost his temper. He slapped the pipe out of his fiancée's hand, also striking her face. They continued to argue, and when the male roommate told Respondent that the police had been called, and that he should leave, Respondent walked out of the house. He returned a short while later, and told his fiancée that what he did was wrong.

6. Respondent's testimony was not consistent with what his fiancée and the roommates told the police. According to the police report, his fiancée told police that she had gone to a concert with her roommates. She telephoned Respondent after the concert and he was very angry at her. When she arrived home, around 2:00 a.m., he followed her into their bedroom, struck her, choked her, and ripped her bra off of her.

7. Within days, Respondent enrolled himself in a course of drug and alcohol/anger management classes, before any charges were filed against him. He completed the course, missing only one day, and he paid his fines. He performed the court-ordered CalTrans and community service. He and his fiancé have been together for more than 10 years. They are expecting the birth of a daughter very soon. Respondent is financially responsible for his fiancé, and he bought a house for them; however, his fiancé is living with her mother right now during her pregnancy. They plan to marry after the child is born.

8. Respondent believes that his crime was a true mistake that he is not proud of. He does not associate with the old roommates anymore. He has not raised his voice or hand against anyone since the incident. He believes that his drinking was a factor in his becoming violent. Respondent was arrested recently for driving under the influence. He is hoping to obtain a dismissal of those charges.

9. In his testimony, Respondent made straightforward admissions and explanations. He accepted responsibility for his crime. He did not tell police that his fiancé was using drugs and his failure to do so adds credibility to the story she told to the police. It

also calls into question Respondent's credibility in his testimony. Nevertheless, it is plausible that Respondent kept to his fiancée's story at the time simply because he did not want his fiancée to be punished for her own misdeeds. He did not appear to try to excuse or shift blame for his own conduct in his explanations. He was a credible witness.

10. Respondent had a rough and hard childhood. His mother was a heroine addict. Respondent believes that he has learned to deal with his childhood problems and channel them in a positive way. Respondent presented letters of support from several business associates, colleagues and friends to supplement the record of the changes Respondent has made in his life. His employer, Paul Campos, the President of Instant Capital Funding Group, Inc., has known Respondent and his family for over 10 years. Respondent is currently head of the customer service department, overseeing 35 coworkers. He also presented letters from a social worker and the controller of Hannah's Childrens Homes, a foster care agency located in Orange, California, where he has volunteered as a mentor to underprivileged children, held workshops for them, and made other contributions.

LEGAL CONCLUSIONS

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to suspend or revoke Respondent's real estate salesperson license pursuant to Business and Professions Code section 10177, subdivision (b), for conviction of a crime, as set forth in Findings 3, 4 and 5. The crime of which Respondent has been convicted involves moral turpitude.

2. Cause exists to suspend or revoke Respondent's real estate salesperson license pursuant to Business and Professions Code section 490 because Respondent has been convicted of a crime which is substantially related to the qualifications, functions and duties of a real estate salesperson, as set forth in Findings 3, 4, and 5.

3. Criteria have been developed by the Department pursuant to Business and Professions Code section 482, subdivision (b), for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension has been initiated on account of a crime committed by the licensee. Respondent has paid his fines; has explored issues relating to alcohol dependency, and has evidenced a change in attitude from the time of his conviction to the present, both through his testimony and the supporting letters of his friends and coworkers. (Cal. Code Regs., tit. 10, § 2912.) However, less than two years have passed since his conviction, he has almost two years remaining on his probation, and it is not clear that he is fully recovered from possible alcohol dependency. Respondent needs to continue to take positive steps toward rehabilitation.

4. It is not possible to know the exact nature of what happened on the night of the incident. This was apparently an isolated incident with his longtime partner. It went beyond the point that Respondent either wanted or expected. Moreover, the dynamics which result

in domestic violence are peculiar to the individuals involved and cannot necessarily be generalized to predict how an individual would act in typical social and business relations. Respondent has presented sufficient evidence of his rehabilitation, and the public will not be unduly exposed to a substantial risk, to allow Respondent to maintain a restricted real estate salesperson license. This also will give Respondent more time to add to his record of rehabilitation.

ORDER

All licenses and licensing rights of Respondent Ruben Robert Arellanes 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 therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 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 this 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 three 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.

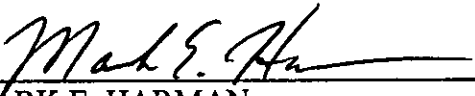
5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the

most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements 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 the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. During the term of the restricted license, Respondent shall submit to the Department of Real Estate as of the last day of each March, June, September and December, proof satisfactory to the Real Estate Commissioner of Respondent's ongoing participation in a recognized drug and alcohol diversion program. Said proof shall be submitted to the Manager of the Crisis Response Team at the Los Angeles Office of the Department of Real Estate and shall be verified as true and accurate by Respondent under penalty of perjury.

7. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Government Code section 11500 et seq., if such proof is not timely submitted as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until such proof is submitted or until Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: April 4, 2005

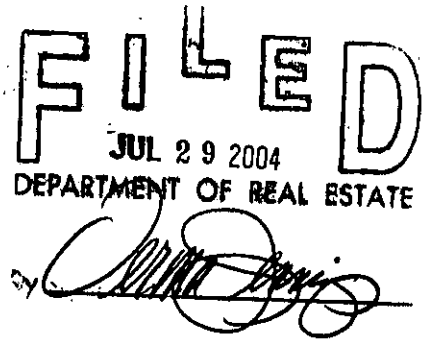


MARK E. HARMAN
Administrative Law Judge
Office of Administrative Hearings

SACD.
Flag

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-31128 LA
)	
RUBEN ROBERT ARELLANES,)	<u>ACCUSATION</u>
)	
Respondent.)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against RUBEN ROBERT ARELLANES, alleges as follows:

I

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

II

RUBEN ROBERT ARELLANES (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").

1 III

2 Respondent was licensed by the Department of Real
3 Estate of the State of California as a real estate salesperson
4 effective January 13, 2003.

5 IV

6 On or about January 22, 2004, in the Superior Court of
7 California, County of Orange, Respondent was convicted of
8 violating Penal Code Section 273.5(a) (corporal injury to
9 cohabitant), a crime involving moral turpitude.

10 V

11 The above-referenced matter bears a substantial
12 relationship to the qualifications, functions or duties of a real
13 estate licensee.

14 VI

15 Respondent's conviction alleged in Paragraph IV is
16 cause under Code Sections 490 and 10177(b) for suspension or
17 revocation of all licenses and license rights of Respondent under
18 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 license rights of Respondent
5 RUBEN ROBERT ARELLANES under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California,

10 this 18th day of July, 2004.

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14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
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24 cc: Ruben Robert Arellanes
25 Jack Conrad
26 Maria Suarez
27 Sacto.
LF