

**FILED**  
MAY 10 2008  
DEPARTMENT OF REAL ESTATE

*Laura B. [Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-31529 LA
	)	L-2005010437
THOMAS M. COX,	)	
	)	
	)	
	)	
Respondent (s).	)	

DECISION

The Proposed Decision After Remand dated April 7, 2006, 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.

This Decision shall become effective at 12 o'clock noon on MAY 30 2006.

IT IS SO ORDERED 59-06

JEFF DAVI  
Real Estate Commissioner

*[Signature]*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

THOMAS M. COX,

Respondent.

Case No. H-31529 LA

OAH No. L2005010437

**PROPOSED DECISION AFTER REMAND**

This matter was initially heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on May 16, 2005, in Los Angeles, California. Kelvin K. Lee, Counsel, represented complainant Maria Suarez. Respondent represented himself.

Complainant seeks to discipline respondent's real estate license based on discipline imposed by the California State Bar. Oral and documentary evidence was presented at the hearing and the matter was submitted for decision. A Proposed Decision was issued on June 13, 2005, dismissing the Accusation.

On July 14, 2005, Real Estate Commissioner Jeff Navi (Commissioner), declined to adopt the Proposed Decision. The Commissioner informed respondent that the matter would be reviewed pursuant to Government Code section 11517, subdivision (c), after consideration of the record in the matter. An Order by the Commissioner dated August 23, 2005, stated, in pertinent part: "IT IS HEREBY ORDERED, in accordance with Section 11517(c) of the Government Code, that this case be referred to Samuel D. Reyes, Administrative Law Judge of the Office of Administrative Hearings, to take additional evidence."

On August 30, 2005, complainant filed a First Amended Accusation. As in the original Accusation, complainant alleged, as the basis for discipline, that respondent violated Business and Professions Code<sup>1</sup> section 10177, subdivision (f). The statute authorizes discipline on the basis of discipline imposed by another agency "for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license." The First Amended Accusation added an additional paragraph, number VIII, containing additional

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<sup>1</sup> All further statutory references are to the Business and Professions Code.

language<sup>2</sup>, but did not add new allegations or contain a specific provision of Real Estate Law allegedly violated by respondent.

The matter again came before the Administrative Law Judge on March 10, 2006, with the same representatives appearing for the respective parties. Complainant supplemented the jurisdictional documents, the parties presented argument, and the matter was submitted for decision.

At the March 10, 2006 hearing, complainant's counsel amended the First Amended Accusation to allege that the same acts that led to the discipline of respondent's license to practice law would have been grounds to discipline his license to sell real estate under Business and Professions Code section 10777, subdivision (g). The statute permits the Commissioner to discipline a licensee who has "demonstrated negligence or incompetence in performing any act for which he or she is required to hold a license." Respondent initially objected to the late amendment of the First Amended Accusation. However, in order to avoid another hearing at a later date and because he resides outside of California, respondent withdrew his objection. The amendment was thereafter allowed.

#### FACTUAL FINDINGS

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

2. The Department first issued real estate broker license number 00952767 to respondent on April 1, 1997. The license has been renewed and expires on October 19, 2008. The license has not been previously disciplined.

3. On March 21, 1995, in case number S044124, the California Supreme Court (Supreme Court) suspended respondent's license to practice law for 90 days, which suspension was stayed for two years on terms and conditions that respondent make restitution and pass the California Professional Responsibility Examination. In the underlying case, respondent failed to prepare an order after a hearing and failed to communicate with a client.

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<sup>2</sup> Paragraph VIII states, in its entirety: "Respondent's actions as described in Paragraph IV involved conduct which warranted suspension of his license to practice law by the State Bar of California, and if done by a real estate licensee, would have undoubtedly served as grounds for the suspension or revocation of a California real estate license. The State Bar of California suspended the Respondent's license to practice law after giving him fair notice of the charges, an opportunity for hearing, and other due process protections he was entitled to under the Administrative Procedure Act. Therefore, cause exists under section 10177(f) of the Business and Professions Code for the suspension or revocation of all licenses and license rights of the Respondent under the Real Estate law."

4. On March 30, 2001, in case number S094655, the Supreme Court suspended respondent's license to practice law for 30 days, placed the license on probation for two years, and required attendance to the State Bar Ethics School. In the underlying case, respondent failed to perform legal work and failed to promptly return unearned attorney fees.

5. On October 31, 2001, in case number S100261, the Supreme Court suspended respondent's license to practice law for 6 months, which suspension was stayed for three years, on terms and conditions that included an actual 30-day suspension, development of a law office management plan, and payment of costs. In this case, respondent had failed to inform the client about case developments, failed to make court appearances, failed to release a client file, and failed to account for funds received.

6. a. On July 2, 2003, in case number S1114801, the Supreme Court suspended respondent's license to practice law for 5 years, which suspension was stayed for three years, on terms and conditions that included restitution of \$2,500, plus interest, to Julian Rodriguez (Rodriguez), an actual suspension of two years or longer if restitution was not made, and passage of the Multistate Professional Responsibility Examination. In this case, respondent met with Rodriguez while his license to practice law was suspended, failed to perform legal services, failed to return client phone calls, failed to return the unearned \$2,500 retainer, and failed to cooperate in the investigation of the Rodriguez matter.

b. Respondent testified that he was in the process of closing his law practice when his office assistant accepted the Rodriguez representation. Respondent retained the \$2,500 because he had earlier performed legal work for another client and mistakenly believed the client was Rodriguez. When he realized his mistake, respondent did not have the funds to refund the money. The client has received reimbursement from the State Bar Client Security Fund.

7. On September 23, 2003, in case number S100261, the Supreme Court set aside the probation order in case number S100261 (factual finding number 5), and imposed the stayed 6-month suspension, for respondent's failure to provide a law office management plan, make required cost payments, or submit two quarterly reports. Respondent attributed his noncompliance to the closure of his office practice and lack of funds.

8. Respondent has not made any restitution payments to Rodriguez or to the State Bar Client Security Fund. Respondent testified at the May 16, 2005 hearing that he hoped to make the restitution payment in August 2005. No evidence was presented on this point at the March 10, 2006 hearing.

9. Respondent has been licensed as a real estate broker in Colorado, Oklahoma, and Texas, and his licenses have not been disciplined. He works primarily in Oklahoma and wants to retain his California real estate broker license to buy and sell his own property.

## LEGAL CONCLUSIONS

1. Respondent's acts, as set forth in factual finding numbers 3, 4, 5, and 6, if done in connection with his real estate broker activities would constitute negligence and/or incompetence in the discharge of such duties. Failing to perform work for a client without lawful excuse, as set forth in factual finding numbers 3, 4, 5, and 6, is inherently inconsistent with the proper discharge of the duties of either profession. Failing to return or account for money that belongs to a client, as set forth in factual finding numbers 4, 5, and 6, is likewise inappropriate in either profession. (See, e.g., section 10145 regarding the duties and obligations of a real estate broker who accepts funds from a client.) Practicing a profession without a valid license, as set forth in factual finding number 6, breaches a core public protection prohibition in regulated professions and constitutes, therefore, negligence per se. (See, e.g., section 10130 containing the real estate licensure requirement.)

2. Cause exists to discipline respondent's broker license pursuant to section 10177, subdivisions (f) and (g), in that he engaged in acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of the real estate license, by reason of factual finding numbers 3, 4, 5, and 6, and legal conclusion number 1.

3. All evidence presented in mitigation and rehabilitation has been considered. Respondent's failure to perform work for clients, to communicate with clients, and to return client funds reflect poorly on his ability to manage a business practice in a manner consistent with the public interest. In his favor, despite the problems in managing his legal practice, respondent has not had similar problems with respect to his practice of real estate. His actions with respect to Rodriguez resulted from negligent, rather than intentional, acts and omissions. The order that follows is necessary and sufficient for the protection of the public.

## ORDER

All licenses and licensing rights of respondent Thomas M. Cox under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application thereof and pays to the Department 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. All licenses and licensing rights of respondent Thomas M. Cox under the Real Estate law are suspended for a period of ninety (90) days from the effective date of this Decision.

2. Respondent shall, prior to the issuance of the restricted license and as a condition of the issuance of said restricted license, submit proof satisfactory to the Commissioner of payment of restitution in the amount of \$2,500, plus any outstanding charges or fees, to the State Bar Client Security Fund.

3. The restricted license issued to respondent may only be used in connection with real estate transactions involving respondent's own real property.

4. 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.

5. 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 the restricted license.

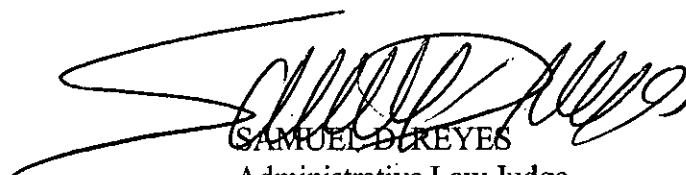
6. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

7. 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.

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8. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which respondent engaged during the period covered by the report.

DATED: 4/7/06

  
SAMUEL DREYES  
Administrative Law Judge  
Office of Administrative Hearings

*Subs  
Date*

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

**FILED**  
SEP 1 2005  
DEPARTMENT OF REAL ESTATE

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

*By Laura B. Crow*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-31529 LA
)	L-2005010437
)	
THOMAS M. COX, )	<u>FIRST AMENDED</u>
)	<u>ACCUSATION</u>
Respondent. )	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against THOMAS M. COX aka Thomas M. Cox ("Respondent") 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

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 broker.



State Bar Case 03-0-11830

III

On or about July 2, 2003, in State Bar Court Case No. 02-0-11830, The Supreme Court of California, En Banc, in Case No. S106183, ordered the Respondent, THOMAS M. COX, be suspended from the practice of law for five (5) years, that execution of the suspension be stayed, and the Respondent be placed on probation for two years and until he makes restitution to Julian L. Rodriguez (hereinafter Rodriguez), and furnishes satisfactory proof to the Probation Unit of the State Bar, along with other terms and conditions.

IV

The discipline stems from Rodriguez's employ of Respondent, on or about January 19, 2001, to represent him in an unlawful termination and harassment matter, at which time Rodriguez paid Respondent \$2,500 in advanced fees for his services. Said discipline was based, in part, on the following conclusions of law:

1. By discussing Rodriguez's case with him during the period when Respondent was suspended from practicing law in California, Respondent violated sections 6125 and 6126 of the Business and Professions Code, and thereby failed to comply with the laws of the State of California, in violation of Business and Professions Code Section 6068(a).

2. By not responding to Rodriguez's telephone calls and letters, Respondent failed to respond to Rodriguez's

1 reasonable status inquiries, in violation of Business and  
2 Professions Code Section 6068(m).

3 3. By not providing a written response to the  
4 allegations in the Rodriguez matter or otherwise cooperating in  
5 the investigation of the Rodriguez matter by the State Bar, in  
6 Case No. 02-O-11830, Respondent failed to cooperate and  
7 participate in a disciplinary investigation, in violation of  
8 Business and Professions Code Section 6068(i).

9 State Bar Case 00-O-13314

10 V

11 On or about September 23, 2003, in Case No. 2100261,  
12 the California Supreme Court ordered Respondent's probation,  
13 imposed in Case No. S100261 (State Bar Court Case No. 00-O-  
14 11314), revoked and the stay of execution of the six month  
15 suspension previously imposed in that case lifted. Respondent  
16 was actually suspended from the practice of law in the State of  
17 California for six (6) months. The discipline was regarding  
18 Case No. 02-PM-12402, where Respondent failed to submit his  
19 quarterly reports and a law office management plan, as imposed  
20 by the California Supreme Court in its disciplinary order  
21 No. S100261.

22 State Bar Case 00-O-11314

23 VI

24 On or about November 30, 2001, in Case No. 2100261,  
25 Respondent was sentenced to a six months stayed suspension, with  
26 an actual suspension of 30 days and three years probation. The  
27

1 discipline was regarding Case No. 00-0-11314.

2 VII

3 Respondent's discipline by the State Bar of  
4 California, as described herein above, constitutes cause under  
5 Section 10177(f) of the Code for the suspension or revocation of  
6 all license and license rights of Respondent under the Real  
7 Estate Law.

8 VIII

9 Respondent's actions as described in paragraph IV  
10 involved conduct which warranted suspension of his license to  
11 practice law by the State Bar of California, and if done by a  
12 real estate licensee, would have undoubtedly served as grounds  
13 for the suspension or revocation of a California real estate  
14 license. The State Bar of California suspended the Respondent's  
15 license to practice law after giving him fair notice of the  
16 charges, an opportunity for hearing, and other due process  
17 protections he was entitled to under the Administrative  
18 Procedure Act. Therefore, cause exists under Section 10177(f)  
19 of the Business and Professions Code for the suspension or  
20 revocation of all licenses and license rights of the Respondent  
21 under the Real Estate law.

22 IX

23 In aggravation of the above, Respondent has been  
24 disciplined by the California State Bar on prior occasions as  
25 follows:

26 1. Regarding the acts leading to the discipline  
27 described above in Paragraph IV(1), on or about March 30, 2001,

1 the California Supreme Court entered Supreme Court Order  
2 (S094655), effective on April 29, 2001, suspending Respondent  
3 from the Practice of law for thirty days thereafter. However,  
4 on or about May 11, 2001, Respondent, during his suspension  
5 period and in violation of the Supreme Court Order, met with  
6 Rodriguez and discussed his case with him.

7 2. On or about March 30, 2001, in Case No. S094655,  
8 the California Supreme Court ordered Respondent to be actually  
9 suspended for 30 days, on condition that he would be placed on  
10 probation for two years and attend the State Bar Ethics School.  
11 The discipline was regarding Case No. 99-O-11071, where  
12 Respondent failed to perform and failed to promptly return  
13 unearned attorney fees.

14 3. On or about March 21, 1995, in Case No S044124,  
15 the California Supreme Court ordered Respondent to be suspended  
16 for 90 days, suspended on condition that he be placed on  
17 probation for two years, that he make restitution, and that he  
18 take and pass the California Professional Responsibility  
19 Examination. The discipline was regarding Case No. 93-O-10521,  
20 where Respondent failed to prepare an order after a hearing and  
21 failed to communicate with his client.

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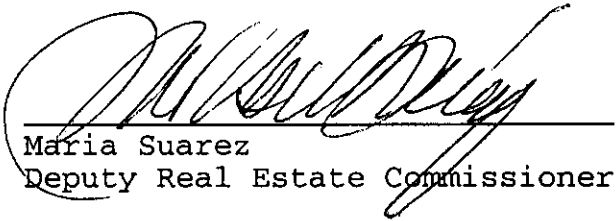
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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all the licenses and license rights of  
5 Respondent, THOMAS M. COX, 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 20th day of August, 2005

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14 Maria Suarez  
15 Deputy Real Estate Commissioner  
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26 cc: Thomas M. Cox  
27 Maria Suarez  
Sacto.  
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*Facts*

**FILED**  
AUG 30 2005  
DEPARTMENT OF REAL ESTATE

*Laura B. Ann*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
THOMAS M. COX,	NO. H-31529 LA
Respondent(s).	L-2005010437

AMENDED NOTICE OF REJECTION AND ORDER REMANDING CASE TO  
ADMINISTRATIVE LAW JUDGE TO TAKE ADDITIONAL EVIDENCE  
(Section 11517(c) of the Government Code)

TO: Respondent, THOMAS M. COX

This Order amends the Notice filed on July 18, 2005 in this matter.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 13, 2005, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 13, 2005, is attached hereto for your consideration.

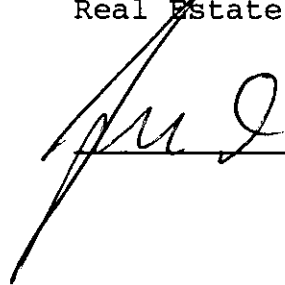
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IT IS HEREBY ORDERED, in accordance with Section 11517(c) of the Government Code, that this case be referred to Samuel D. Reyes, Administrative Law Judge of the Office of Administrative Hearings, to take additional evidence.

DATED: 8.23.05.

JEFF DAVI  
Real Estate Commissioner



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*File to me*

**FILED**  
JUL 18 2005

DEPARTMENT OF REAL ESTATE

By *Jane B. Clorn*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-31529 LA
THOMAS M. COX,	)	L-2005010437
Respondent.	)	

NOTICE

TO: THOMAS M. COX, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated June 13, 2005, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated June 13, 2005, is attached 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 May 16, 2005, and any written argument hereafter submitted on behalf of Respondent and Complainant.

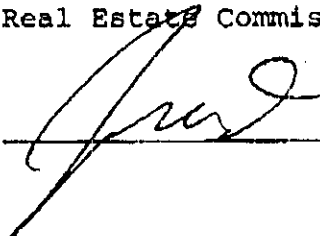


1 Written argument of Respondent to be considered by me  
2 must be submitted within 15 days after receipt of the transcript  
3 of the proceedings of May 16, 2005, at the Los Angeles office of  
4 the Department of Real Estate unless an extension of the time is  
5 granted for good cause shown.

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

11 DATED: 7-14-85, 2005

12 JEFF DAVI  
13 Real Estate Commissioner

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

THOMAS M. COX,

Respondent .

Case No. H-31529 LA

OAH No. L2005010437

**PROPOSED DECISION**

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on May 16, 2005, in Los Angeles, California. Kelvin K. Lee, Counsel, represented complainant Maria Suarez. Respondent represented himself. Oral and documentary evidence was presented at the hearing and the matter was submitted for decision.

**FACTUAL FINDINGS**

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

2. The Department first issued real estate broker license number 00952767 to respondent on April 1, 1997. The license has been renewed and expires on October 19, 2008. The license has not been previously disciplined.

3. On March 21, 1995, in case number S044124, the California Supreme Court (Supreme Court) suspended respondent's license to practice law for 90 days, which suspension was stayed for two years on terms and conditions that respondent make restitution and pass the California Professional Responsibility Examination. In this case, respondent failed to prepare an order after a hearing and failed to communicate with a client.

4. On March 30, 2001, in case number S094655, the Supreme Court suspended respondent's license to practice law for 30 days, placed the license on probation for two years, and required attendance to the State Bar Ethics School. In the underlying case, respondent failed to perform legal work and failed to promptly return unearned attorney fees.

5. On October 31, 2001, in case number S100261, the Supreme Court suspended respondent's law license for 6 months, and suspension was stayed for three years, on terms and conditions that included an actual 30-day suspension, development of a law office management plan, and payment of costs. He failed to inform the client about case developments, failed to make court appearances, failed to release a client file, and failed to account for funds received.

6. a. On July 2, 2003, in case number S1114801, the Supreme Court suspended respondent's license to practice law for 5 years, which suspension was stayed for three years, on terms and conditions that included restitution of \$2,500, plus interest, to Julian Rodriguez (Rodriguez), an actual suspension of two years or longer if restitution was not made, and passage of the Multistate Professional Responsibility Examination. In this case, respondent met with Rodriguez while his license to practice law was suspended, failed to perform legal services, failed to return client phone calls, failed to return the unearned \$2,500 retainer, and failed to cooperate in the investigation of the Rodriguez matter.

b. Respondent testified that he was in the process of closing his law practice when his office assistant accepted the Rodriguez representation. He performed legal work for another client and mistakenly believed the client was Rodriguez. When he realized his mistake, respondent did not have the funds to refund the money. The client has received reimbursement from the State Bar Client Security Fund.

7. On September 23, 2003, in case number S100261, the Supreme Court set aside the probation order in case number S100261 (factual finding number 5), and imposed the stayed 6-month suspension, for respondent's failure to provide a law office management plan, make required cost payments, or submit two quarterly reports. Respondent attributed his noncompliance to the closure of his office practice and lack of funds.

8. Respondent has not made any restitution payments to Rodriguez or to the State Bar Client Security Fund. Respondent testified he hopes to make the restitution payment in August 2005.

9. Respondent has been licensed as a real estate broker in Colorado, Oklahoma, and Texas, and his licenses have not been disciplined. He works primarily in Oklahoma and wants to retain his California real estate broker license to buy and sell his own property.

#### LEGAL CONCLUSIONS

Complainant asserts that grounds exist pursuant to Business and Professions Code section 10177, subdivision (f), to suspend or revoke respondent's real estate broker license, by reason of the discipline imposed by the Supreme Court, set forth in factual finding numbers 5, 6, and 7. The statute authorizes discipline on the basis of discipline imposed by another agency "for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license." However, complainant has not alleged any specific factual or legal basis on which the conduct found to violate the State Bar Act would constitute "acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license." In these circumstances, complainant has failed to establish a violation of, or to give respondent sufficient notice regarding what is claimed to constitute a violation of, Business and Professions Code section 10177, subdivision (f).

ORDER

The accusation is dismissed.

DATED: 6/13/05

*not  
adopted*



SAMUEL D. REYES  
Administrative Law Judge  
Office of Administrative Hearings

SACTO

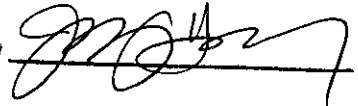
BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )  
 )  
 **THOMAS M. COX,** )  
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 \_\_\_\_\_ )  
 Respondent.

Case No. **H-31529 LA**  
OAH No. L-2005010437

**FILED**  
JAN 31 2005  
DEPARTMENT OF REAL ESTATE

**NOTICE OF HEARING ON ACCUSATION**

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 **FRIDAY, APRIL 1, 2005**, 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.

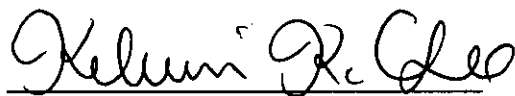
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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: January 31, 2005

By   
KELVIN K. LEE, Counsel

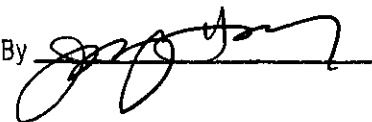
cc: Thomas M. Cox  
Sacto.  
OAH

5/11/04

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

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

**FILED**  
NOV 30 2004  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	No. H-31529 LA
THOMAS M. COX, )	<u>A C C U S A T I O N</u>
Respondent. )	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against THOMAS M. COX aka Thomas Martin Cox ("Respondent") 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

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 broker.

///

III

1  
2  
3 On or about July 2, 2003, in State Bar Court Case No.  
4 02-O-11830, The Supreme Court of California, En Banc, in Case  
5 No.S114801, ordered the Respondent be suspended from the  
6 practice of law for five years, that execution of the suspension  
7 be stayed, and the Respondent be placed on probation for three  
8 years. Respondent's probation being conditioned on that he  
9 actually be suspended for two years and until he makes  
10 restitution to Julian L. Rodriguez (hereinafter Rodriguez), and  
11 furnishes satisfactory proof thereof to the Probation Unit of  
12 the State Bar, along with other terms and conditions.

IV

13  
14 The discipline stems from Rodriguez's employ of  
15 Respondent, on or about January 19, 2001, to represent him in an  
16 unlawful termination and harassment matter, at which time  
17 Rodriguez paid Respondent \$2,500 in advanced fees for his  
18 services. Said discipline was based, in part, on the following  
19 conclusions of law:

20  
21 1. By discussing Rodriguez's case with him during the  
22 period when Respondent was suspended from practicing law in  
23 California, Respondent violated sections 6125 and 6126 of the  
24 Business and Professions Code, and thereby failed to comply with  
25 the laws of the State of California, in violation of Business  
26 and Professions Code Section 6068(a).

27 ///

1                   2. By not responding to Rodriguez's telephone calls  
2 and letter, Respondent failed to respond to Rodriguez's  
3 reasonable status inquiries, in violation of Business and  
4 Professions Code Section 6068(m).

5                   3. By not providing a written response to the  
6 allegations in the Rodriguez matter or otherwise cooperating  
7 in the investigation of the Rodriguez matter by the State Bar,  
8 in Case No.02-O-11830, Respondent failed to cooperate and  
9 participate in a disciplinary investigation, in violation of  
10 Business and Professions Code Section 6068(i).

11                   Respondent was also found to have violated provisions  
12 of the California Rules of Professional Conduct.

13                   State Bar Case 00-O-13314

14                   V

15                   On or about September 23, 2003, in Case No.S100261,  
16 the California Supreme Court ordered Respondent's probation,  
17 imposed in Case No.S100261 (State Bar Court Case No. 00-O-  
18 13314), revoked and the stay of execution of the six month  
19 suspension previously imposed in that case lifted. Respondent  
20 was actually suspended from the practice of law in the State of  
21 California for six (6) months. The discipline was regarding,  
22 Case No.02-PM-12402, where Respondent failed to submit his  
23 quarterly reports and a law office management plan, as imposed  
24 by the California Supreme Court in its disciplinary order  
25 No.S100261.

26                   ///

27                   ///



State Bar Case 00-O-13314

VI

On or about November 30, 2001, in Case No.S100261, Respondent was sentenced to a six months stayed suspension, with an actual suspension of 30 days and three years probation. The discipline was regarding, Case No.00-O-13314.

VII

Respondent's discipline by the State Bar of California, as described herein, above, constitutes cause under Section 10177(f) of the Code for the suspension or revocation of all license and license rights of Respondent under the Real Estate Law.

IN AGGRAVATION

In aggravation of the above, Respondent has been disciplined by the California State Bar on prior occasions as follows:

1. Regarding the acts leading to the discipline described above in Paragraph IV(1), on or about March 30, 2001, the California Supreme Court entered Supreme Court Order (S094655), effective on April 29, 2001, suspending Respondent from the Practice of law for thirty days thereafter. However, on or about May 11, 2001, Respondent, during his suspension period and in violation of the Supreme Court Order, met with Rodríguez and discussed his case with him.

///

///

1           2. On or about March 30, 2001, in Case No. S094655,  
2 the California Supreme Court ordered Respondent to be actually  
3 suspended for 30 days, on condition that he be on probation for  
4 two years and attend State Bar Ethics School. The discipline  
5 was regarding, Case No.99-O-11071, where Respondent failed to  
6 perform and failed to promptly return unearned attorney fees.

7           3. On or about March 21, 1995, in Case No. S044124,  
8 the California Supreme Court ordered Respondent to be suspended  
9 for 90 days, suspended on condition that he be on probation for  
10 two years, that he make restitution, and that he take and pass  
11 the California Professional Responsibility Examination. The  
12 discipline was regarding, Case No.93-O-10521, where Respondent  
13 failed to prepare an order after a hearing and failed to  
14 communicate with his client.

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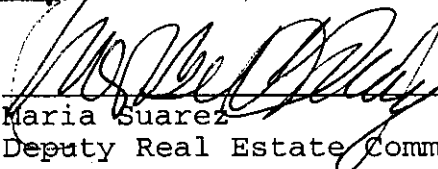
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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all the licenses and license rights of  
5 Respondent, THOMAS M. COX, 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 30<sup>th</sup> day of November, 2004.

11   
12 Maria Suarez  
13 Deputy Real Estate Commissioner  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 cc: Thomas M. Cox  
25 Maria Suarez  
26 Sacto.  
27 CW