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DEPARTMENT OF REAL ESTATE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By K. Nielsen

* * * * *

In the Matter of the Accusation of) No. H-32545 LA
CHRISTIAN ALEXANDER EHLERS,) L-2006030746
Respondent.)

DECISION

The Proposed Decision dated October 12, 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.

Pursuant to Section 11517(c)(2)(C) of the Government Code, the following corrections are made:

FACTUAL FINDINGS, page 1, paragraph 1, line 2 "salesperson" is changed to "broker".

ORDER, page 3, "salesperson" is changed to "broker".

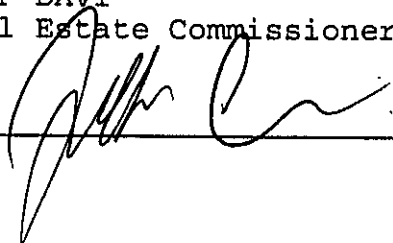
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 DEC 11 2008.

IT IS SO ORDERED 11-13-08

JEFF DAVI
Real Estate Commissioner



**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of:	)	No. H-32545 LA
	)	OAH No. L2006030746
CHRISTIAN ALEXANDER EHLERS,	)	
	)	
Respondent.	)	

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings on June 13, 2006, in Taft, California.

Complainant was represented by Elliott Mac Lennan, Counsel for the Department of Real Estate.

Christian Alexander Ehlers (respondent) appeared personally and represented himself.

Oral and documentary evidence was received and the record was left open to allow complainant to submit the First Superseding Indictment relating to respondent's conviction, and a letter brief as to how a pending appeal of respondent's conviction affects the issues to be determined in this administrative hearing. Complainant submitted the First Superseding Indictment on July 19, 2006, and submitted his letter brief on August 11, 2005. The First Superseding Indictment was marked exhibit 6 and admitted. The letter brief was marked exhibit 7 for identification only. Respondent submitted a reply on September 12, 2006, which was marked as exhibit B for identification only. The matter was deemed submitted on September 12, 2006.

FACTUAL FINDINGS

1. Complainant Maria Suarez made the Accusation in her official capacity as Deputy Real Estate Commissioner of the State of California.

2. Respondent is presently licensed or has license rights as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

3. Respondent was originally licensed by the Department of Real Estate as a real estate salesperson on May 14, 1999.

broker

4. On December 14, 2004, in the United States District Court for the Central District of California (Case No. CR03-239-JSL), after a criminal trial, the jury rendered a verdict of guilty on one count charging a violation of 18 USC 371, conspiracy; eight counts charging violations of 18 U.S.C. §1342.2, use of fictitious name in scheme to defraud; eleven counts charging violations of 18 U.S.C. §1029, (a)(2).2, use of unauthorized or counterfeit access device; and one count charging a violation of 18 USC §1343, wire fraud. Respondent's crimes were felonies of moral turpitude and are substantially related to the duties, functions and qualifications of a real estate broker.

5. Sentence was imposed on July 25, 2005, and respondent was committed to the Bureau of Prisons for a period of 60 months on each of the counts, with the sentences to run concurrently. Respondent is currently serving his prison sentence. Upon release from federal custody, respondent will be placed on supervised release on certain terms and conditions, including payment of restitution in the amount of \$1,187,942. In addition, respondent will be prohibited from obtaining credit cards, lines of credit or checks without prior approval of his probation officer. Respondent was also prohibited from using any identifying documentation such as passports, driver's license or social security number except under his true legal name. Respondent filed an appeal after imposition of sentence.

6. In this case, neither party submitted a certified copy of the appeal that had been filed by respondent in his criminal case. When questioned by the undersigned, respondent testified that his appeal was limited to sentencing issues. When the undersigned asked the parties how an appeal of a criminal conviction would affect the accusation, respondent changed his testimony and said that he believed his attorney had filed a general appeal of the conviction. However, a close review of the criminal docket (exhibit 4) indicates that respondent appealed the sentence and not the conviction because the relevant docket notes refer to the sentencing minutes and the transcript of the sentencing that occurred on July 25, 2005.¹ The docket entry for "transcript designation" for the appeal referred only to the date of sentencing and not the trial dates. This evidence corroborates respondent's initial statement that his appeal was limited to sentencing issues.

7. The facts underlying the conviction were that respondent and co-conspirators used false and fictitious assumed names and false social security cards to apply for various credit cards. Respondent and his co-conspirators used these cards to make purchases and obtain cash. Respondent denied responsibility for these crimes.

8. Respondent is a well spoken intelligent man who was also licensed an attorney. Respondent resigned from the California Bar in April 2005. He has been a model prisoner and has tutored other inmates while in prison.

¹ The notes in the docket (exhibit 4) dated August 1, 2005, state "Notice of Appeal to USCA filed by Christian Alexander Ehlers from sen minutes [123-3], filed on 7/25/05 . . ." The September 23, 2005 docket entry states "Transcript designation filed as to Christian Alexander Elhers for transcript of 7/25/05 court reporter Margaret Babykin - sentencing referencing appeal."

DISCUSSION

9. Under both statutory and case law in California, the final judgment and sentencing are legally the same for purposes of appeal. (Penal Code Section 1237; *People v. Rojas* (1975) 15 Cal.3rd 540, 543). However, federal rules and statutes allow convicted defendants, in some circumstances, to appeal the sentence without attacking the validity of the judgment of conviction. (See 18 United States Code section 3742; Federal Rules of Criminal Procedure 35). 18 United States Code section 3742 confers a limited jurisdiction on the Court of Appeal to determine if the sentence violates the law, sentencing guidelines or is unreasonable. A decision by a federal appellate court under this statute does not disturb a valid conviction and merely affords a procedure for bringing an improper sentence into conformity with the law. Federal Rule of Criminal Procedure 35 (18 U.S.C.) provides for a United States district court to correct a sentence after remand from the Court of Appeal. 18 United States Code section 3582(b) provides that a judgment of conviction remains final notwithstanding the fact that a prison sentence may be modified or corrected under Federal Rule of Criminal Procedure 35 or 18 U.S.C. 3742. (See *United States v. Sanders* (4th Cir. 2001) 247 F.3d 139). Therefore, respondent's conviction is deemed final and the pending appeal of his sentence does not affect the finality of his conviction.²

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Christian Alexander Ehlers, under Business and Professions Code sections 490 and 10177, subdivision (b), for the conviction of crimes set forth in finding 4.
2. Respondent has not satisfied the criteria for rehabilitation set forth in California Code of Regulations, title 10, section 2912.

ORDER

The real estate ^{broker} ~~salesperson~~ license previously issued to respondent Christian Alexander Ehlers, and any attendant licensing rights, are revoked.

DATED: October 12, 2006


HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

² Although respondent indicated in his reply brief that he was "willing to waive the issue" of finality of his conviction, the undersigned has decided to address the issue because of the importance of the issue as it relates to the cause for discipline.

*Index
only*

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FILED
MAR - 8 2008
DEPARTMENT OF REAL ESTATE

By K. Medhurst

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-32545 LA
	)	
CHRISTIAN ALEXANDER EHLERS,	)	<u>ACCUSATION</u>
	)	
Respondent.	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against CHRISTIAN ALEXANDER EHLERS aka Christian A. Ehlers, Dan Andriotes and Christian Alexander Sabando, Simon Ehlers and Chris Ehlers, is informed and alleges in her official capacity as follows:

1.

Respondent is presently licensed and/or has license rights as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

///

2.

Respondent was originally licensed by the Department of Real Estate of the State California as a real estate broker on May 14, 1999.

3.

On July 25, 2005, in the United States District Court for the Central District of California, Docket No. CR03-239-JSL, respondent was convicted upon a guilty plea to 23 counts of 18 USC 371 - conspiracy; use of fictitious name in scheme to defraud and aiding and abetting and causing an act to be done - 18 USC 1342, 2; use of unauthorized or counterfeit access device - 18 USC 1029(a)(2), 2; and, wire fraud - 18 USC 1343. These violations are felony crimes involving using false social security numbers to obtain credit card by which to obtain merchandise and cash without the intent to repay the defrauded creditors, which by their facts and circumstances involve moral turpitude and are substantially related under Section 2910(a)(1), (a)(4) and (a)(8), Chapter 6, Title 10, of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

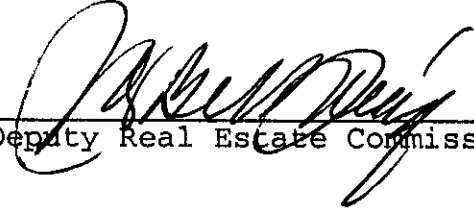
The facts as alleged in Paragraph 3, above, constitute cause for the suspension or revocation of the license and license rights of respondent under Code Sections 490 and/or 10177(b).

///

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 the license and license rights of respondent
5 CHRISTIAN ALEXANDER EHLERS 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 provision of law.

9 Dated at Los Angeles, California

10 This 7th day of March 2006.

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14 Deputy Real Estate Commissioner
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26 cc: Christian Alexander Ehlers
27 Maria Suarez
Sacto