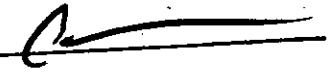


FILED
OCT 18 2006
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

By 

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
JUAN A. PEREZ,)
Respondent.)
_____)

No. H-32572 LA

L-2006040176

DECISION

The Proposed Decision dated September 13, 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.

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

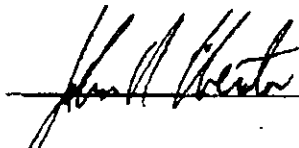
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on November 7, 2006.

IT IS SO ORDERED

October 17, 2006

JEFF DAVI
Real Estate Commissioner


BY John R. Liberator
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JUAN A. PEREZ

Respondent.

Case No. H-32572LA
OAH No. L2006040176

PROPOSED DECISION

This matter was heard by Glynda B. Gomez, Administrative Law Judge Pro Tem with the Office of Administrative Hearings on August 21, 2006, in Los Angeles, California. James Peel, Real Estate Counsel for the Department of Real Estate, represented complainant. Respondent Juan A. Perez (Respondent) was present and represented by Julia Kemp, Esq.

Oral and documentary evidence was received, and argument was heard. The matter was submitted on August 21, 2006.

FACTUAL FINDINGS

1. On March 16, 2006, Complainant Maria Suarez, Deputy Real Estate Commissioner filed the Accusation dated March 10, 2006, in her official capacity as Deputy Real Estate Commissioner, Department of Real Estate, State of California (DRE).

2. The operative pleading is the Accusation filed and served on March 16, 2006. Respondent filed a Notice of Defense requesting a hearing on the Accusation.

3. Respondent was originally licensed by the DRE as a real estate salesperson on June 2, 1989 and has no record of prior discipline. The license will expire on June 1, 2009, unless renewed.

Conviction

4. On January 29, 2004 in Case No. MWV086567, entitled *People of the State of California vs. Juan A. Perez* in the Superior Court of San Bernardino County, State of California, Respondent was convicted, on his guilty plea, of one count of violating Penal Code section 490.5 subdivision (a), petty theft, a misdemeanor crime of moral turpitude, substantially related to the qualifications, functions and duties of a real estate licensee. (January 29, 2004 conviction.) Respondent was sentenced to one

day in jail, two years summary probation and payment of a fine in the amount of \$280.

5. The facts and circumstances surrounding the January 29, 2004 conviction are that on December 29, 2003, Respondent was shopping in the JC Penney store in the Montclair Plaza with his wife and then five year old son. Respondent's wife and son separated from him to shop in the children's department. Alone in the men's department, Respondent selected a men's shirt valued at \$40. When he discovered that he did not have sufficient funds to pay for the shirt, Respondent left the store with the merchandise and was apprehended outside the store.

Rehabilitation/Mitigation

6. Respondent has paid the court imposed fine and completed probation without incident. On June 23, 2006, the San Bernardino Superior Court ordered Respondent's conviction expunged pursuant to Penal Code Section 1203.4. Respondent does not have any other criminal convictions.

7. Respondent was candid about the facts and circumstances surrounding the conviction and admits the conviction and its substantial relationship to the functions, duties and qualifications of a real estate licensee. He is remorseful, embarrassed and ashamed of his criminal conduct.

8. Respondent is a 42 year old man. He has been married for ten years and lives with his wife and seven year old son. Respondent is responsible for transporting his wife to and from work each day and transporting his son to and from school each day. Respondent has regular contact with his mother, who owns a store located next to A-Plus Realty. Respondent also helps his mother with the operation of her store.

9. Respondent works as a part-time real estate sales agent for A-Plus Realty in La Habra, California. His managing broker, Jeffrey Chang, is sad that Respondent committed the crime, but believes that he is an honest man who is an asset to the Real Estate industry. Chang has known the respondent for approximately 15 years and previously worked with him as a colleague at another company where both were real estate salespersons. Chang has supervised the respondent since 1999 and has no reservations about Respondent. Chang described the respondent as a meticulous person and found him to be conservative and risk adverse in his business dealings. The respondent did advise Chang of the conviction. As the managing broker, Chang is responsible for reviewing and approving all of Respondent's real estate transactions. Chang is willing to keep the respondent as an agent of A-Plus Realty if a restricted license is granted.

10. Respondent's friend and colleague of ten years, Ralph Perez, a real estate salesperson, credibly testified to Respondent's good character and honesty in business dealings based upon his experience in real estate transactions with the respondent.

11. Respondent volunteers every Sunday at Saint Madeline's Parish in Pomona, California where he serves as an usher and assists with collection of Sunday offerings and collections. He also assists with communion and volunteers time with their Parish school on a regular basis including fundraising, donation of funds and participation in the classroom. Respondent consulted with the church pastor and confessed the theft to his priest. Respondent attends church with his son every Sunday.

12. Respondent has volunteered 35 hours to the Montclair library, assisting patrons, organizing and shelving books and providing customer service.

13. Respondent has volunteered 61 hours to the Boys' and Girls' Club of Pomona providing tutoring services to young children, preparing meals and supervising recreational activities. Respondent has committed to undertake an additional year of volunteer work at the Boys' and Girls' Club.

LEGAL CONCLUSIONS

Cause for Discipline

1. The Burden of proof in this case is on the complainant. The standard of proof is clear and convincing evidence.

2. Cause exists for the discipline of Respondent's real estate salesperson license pursuant to Business and Professions Code section 490 and 10177, subdivision (b), for conviction of a crime, as set forth in Findings 4, 5 and 7.

3. The rehabilitation and mitigation shown by Respondent are sufficient to justify the granting of probation and the issuance of a restricted license to Respondent. (Findings 6 through 13.) Respondent has satisfied the DRE's Criteria for Rehabilitation set forth in California Code of Regulations, title 10, section 2912. Respondent meets the requirements of subdivision (a) in that respondent's most recent conviction is more than two years old. Respondent has paid the court ordered fine meeting the requirements of subdivisions (b) and (g). Respondent has completed his probation without incident and was granted an expungement of the conviction thereby meeting the requirements of subdivision (c), (d) and (e). Respondent meets the requirements of subdivisions (i) and (j) in that Respondent has a stable family situation caring for his wife and child. Respondent also has regular interaction with his mother, who owns a store located next to Respondent's real estate office. Respondent has the support of his employing broker, his colleagues and has deepened

his commitment to the community through voluntary community service and service to his church. Respondent spends significant portions of his day volunteering at his church and at the parish school his son attends, tutoring children at the Pomona Boys and Girls Club and assisting patrons at the Montclair Library. He attends church services every Sunday and assists with the services. His actions constitute the factors set forth in subdivision (i) and (l). Respondent's change in attitude and lack of subsequent convictions meet the requirements of subdivision (m). Most telling is Respondent's expressions of shame and regret over what he termed "stupid" behavior. Criteria (f), (h) and (k) are not applicable.

4. Although Respondent's volunteer activities are impressive and indicative of some rehabilitation, he has only recently completed probation. Since people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that someone has engaged in good behavior while on probation or parole. (*In Re Gossage* (2000) 23 Cal. 4th 1080.) Since the DRE has had minimal opportunity to observe Respondent's post-probation rehabilitation, it is appropriate that the license be placed on a restricted status with a probationary term to allow observation and protect the public.

ORDER

Wherefore, the following Order is hereby made:

All licenses and licensing rights of Respondent, Juan A. Perez, 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 therefor 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 the 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 five years have elapsed from the effective date of this Decision.

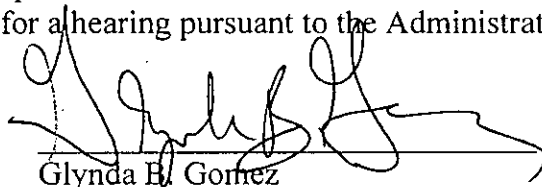
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(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 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: 9/13/06



Glynda B. Gomez

Administrative Law Judge Pro Tem
Office of Administrative Hearings

LISSETE GARCIA, Counsel (SBN 211552)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

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(Direct) (213) 576-6914

FILED
MAR 16 2008
DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	NO. H-32572 LA
	)	
JUAN A. PEREZ,	)	<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 JUAN A. PEREZ ("Respondent"), is informed and alleges in her official capacity as follows:

I

At all times herein mentioned, Respondent was and is presently licensed by the Department of Real Estate of the State of California ("Department") as a real estate salesperson under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

II

Pursuant to the provisions of Code Section 10153.3, Respondent was originally licensed as a salesperson with the Department on or about June 2, 1989.

III

On or about January 29, 2004, in the Superior Court of California, County of San Bernardino, in case number MWV086567, Respondent was convicted of a violation of Penal Code Section 490.5(A) (petty theft), a misdemeanor. Said crime involves moral turpitude and bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III above, constitutes cause under Code Sections 490 and/or 10177(b) for the suspension or revocation of all Respondent's licenses and license rights under the Real Estate Law.

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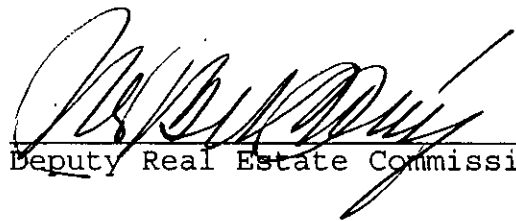
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent,
5 JUAN A. PEREZ, under the Real Estate Law (Part 1 of Division 4
6 of the Business and Professions Code) and for such other and
7 further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California

10 this 10th day of March, 2006.

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14 Deputy Real Estate Commissioner
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24 cc: Juan A. Perez
25 Jeffrey C. Chang
26 Sacto.
27 Maria Suarez