

FILED

OCT 12 2007

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: Sandra B. Simon

* * * * *

In the Matter of the Accusation of)
)
BEHROUZ BECK SAFFARY,)
)
Respondent.)
_____)

No. H-33454 LA
L-2006120824

DECISION

The Proposed Decision dated September 11, 2007, 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.

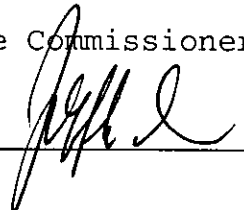
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 NOV - 1 2007

IT IS SO ORDERED 10-9-07

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BEHROUZ BECK SAFFARY,

Respondent.

Case No. H-33454 LA

OAH No. L2006120824

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 6, 2007, in Los Angeles, California.

James A. Demus, Counsel, represented Complainant Janice Waddell.

Respondent represented himself.

Complainant seeks to discipline respondent's real estate broker license because respondent suffered a criminal conviction. Respondent presented evidence of mitigation and rehabilitation in support of continued licensure.

Oral and documentary evidence was received at the hearing. The record was left open for respondent to submit criminal court records by April 23, 2007, and for complainant to submit any objections to the submission, by April 30, 2007. Respondent thereafter requested additional time to submit the records because of court delays that were not his fault. Extensions were granted to June 11, 2007, and to July 27, 2007. Complainant was given until August 10, 2007, to raise any objections to the receipt into evidence of respondent's documents.

On August 1, 2007, and again on August 2, 2007, respondent submitted a document entitled "Request for Judicial Notice," attaching an 8-page Superior Court of California docket printed on July 31, 2007, which documents have been marked as Exhibit C. On August 7, 2007, complainant's counsel objected to receipt of Exhibit C as untimely. Respondent replied in opposition, on August 13, 2007. Complainant's has not shown that receipt of a court document five days after it was due would prejudice complainant's case. Exhibit C is therefore received in evidence.

The matter was submitted for decision on August 13, 2007.

FACTUAL FINDINGS

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

2. On November 21, 1996, the Department of Real Estate (Department) issued real estate broker license number 01115475 to respondent. The license, which has not been previously disciplined, expired August 6, 2007, unless renewed.

3. On April 25, 2006, in the Superior Court of California, County of Los Angeles (Court), in case number BA284599, respondent was convicted, on his plea of nolo contendere, of violating Penal Code section 550, subdivision (b)(1) (assist or conspire to commit insurance fraud), a felony. The Court suspended imposition of sentence and placed respondent on formal probation for three years on terms and conditions that included service of one day in county jail, which was stayed, payment of \$230 in fines and fees, performance of 200 hours of community service, and payment of restitution in the sum of \$9,416.

4. The crime is one which, on its face, involves dishonest conduct, and, therefore, involves moral turpitude and is substantially related to the qualifications, functions, and duties of a real estate broker.

5. The facts and circumstances surrounding the conviction are as follows. California Department of Insurance investigators conducted an undercover investigation of a group responsible for the filing of fraudulent insurance claims. The investigation commenced August 2005 and lasted approximately nine months. Respondent was personally observed and surreptitiously recorded assisting a chiropractor and an attorney obtain fraudulent documents from undercover officers, in two separate alleged traffic accident cases, which documents were used to falsely establish medical treatment, property damage, and personal injury for the fraudulent insurance claims. Respondent also acted as an intermediary between the alleged victims of the accidents, i.e., the undercover officers, and the chiropractor and the attorney.

6. Respondent sought to minimize his involvement in the insurance fraud scheme. He blamed the chiropractor's husband for having instigated the undercover investigation, and claimed not to know about the chiropractor's or the attorney's actions. He explained his presence in the chiropractor's office as that of a translator helping a friend. He denied acting as a paralegal for the attorney in 2005, although he admitted in a letter to the Department having worked for the attorney in such capacity two years before. He did admit that the attorney had asked him to "cover" one of the meetings with the clients. He attributed his contacts with the undercover officers to his desire to help them obtain a just settlement. Respondent's self-serving testimony is not credible. It was self-contradictory at times, unbelievable at times, and contradicted by the direct observations of the officers, as recorded in their report.

7. Respondent complied with the terms and conditions of probation. He paid the required restitution and fines. He performed the community service. On July 24, 2007, the court granted respondent's motion to reduce the conviction to a misdemeanor pursuant to Penal Code section 17, subdivision (b)(5), terminated probation early pursuant to Penal Code section 1203.3, and set aside the conviction pursuant to Penal Code section 1203.4. Respondent has not suffered any subsequent convictions.

8. Respondent maintained his innocence at the hearing, stating that he entered the nolo contendere plea to bring an end to the lengthy proceedings and to prevent further harassment to himself and the chiropractor from the woman's husband. Respondent denies the intent to defraud anyone and wishes he had "opened his eyes better."

9. Respondent has volunteered his time and resources to help victims of hurricanes Katrina and Rita. On February 6, 2006, Louisiana Governor Kathleen Babineaux Blanco issued an official statement recognizing respondent's efforts to help the people of her state. Respondent has also raised money to help bail Iranian Jews detained and arrested by United States immigration authorities.

LEGAL CONCLUSIONS

1. Cause exists pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), to discipline respondent's license because he was convicted of a crime involving moral turpitude and substantially related to the qualifications, functions, and duties of a real estate licensee, by reason of factual finding numbers 3, 4, and 5.

2. The crime of which respondent was convicted is substantially related to the qualifications, functions, and duties of a real estate licensee pursuant to California Code of Regulations, title 10, section 2910, subdivisions (a)(1), (2), (4), (8), and (b), in that the crime involved dishonest and fraudulent conduct, as set forth in factual finding numbers 3, 4, and 5. (See also, *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402-403 [crimes involving dishonesty and intent to defraud are substantially related to the qualifications of real estate licensees].)

3. Respondent has satisfied some of the applicable criteria for rehabilitation, which are found in California Code of Regulations, title 10, section 2912, as set forth in factual finding numbers 7 and 9. Thus, he paid the court-ordered restitution and fines (subds. (b) and (g)); he complied with the terms and conditions of probation, which was terminated early (subd. (e)), and the conviction has been expunged (subd. (c)); and, he is engaged in significant and conscientious involvement in activities designed to provide social benefits or to ameliorate social problems (subd. (l).)

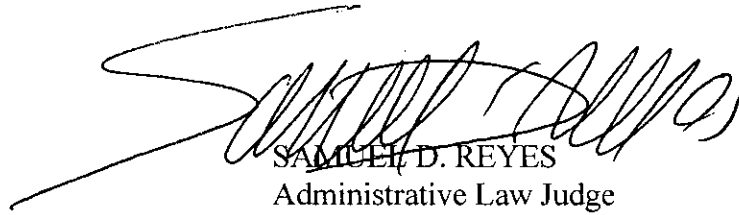
On the other hand, respondent has failed to satisfy several important criteria. Less than two years have passed since the conviction (subd. (a)); he presented no evidence regarding new and different social and business relationships (subd. (i)); he presented no evidence regarding stability of family life or fulfillment of familial responsibilities (subd. (j)); and he presented no testimony or evidence from others indicating a change in attitude from that which existed at the time of the commission of the criminal acts (subd. (m).) Significantly, respondent minimized his actions that led to the conviction and his involvement in the criminal scheme to defraud insurers, and did not display remorse, which factors indicate lack of rehabilitation.

On balance, particularly in light of the severity and recency of the conviction and respondent's failure to acknowledge the gravity of his actions, the order that follows is required for the protection of the public.

ORDER

All licenses and licensing rights of respondent Behrouz Beck Saffary under the Real Estate Law are revoked.

DATED: 9/10/07


SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

Sachs

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

FILED

NOV 22 2006

DEPARTMENT OF REAL ESTATE
BY: *Laura B. Stone*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-33454 LA
BEHROUZ BECK SAFFARY,)	<u>A C C U S A T I O N</u>
Respondent.)	

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BEHROUZ BECK SAFFARY, ("Respondent") alleges as follows:

1.

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

2.

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.

1 3.

2 On or about April 25, 2006 in the Superior Court of
3 California, County of Los Angeles, in case no. BA284599,
4 Respondent was convicted of violating California Penal Code
5 Section 550(B)(1) (assisting/conspiring in insurance fraud), a
6 felony. The underlying facts of this crime involve moral
7 turpitude, which bears a substantial relationship under Section
8 2910, Title 10, Chapter 6, California Code of Regulations to the
9 qualifications, functions or duties of a real estate licensee.

10 4.

11 The crime of which Respondent was convicted, as
12 described in Paragraph 3 above, constitutes cause under Sections
13 490 and 10177(b) of the Code for the suspension or revocation of
14 the license and license rights of Respondent under the Real
15 Estate Law.

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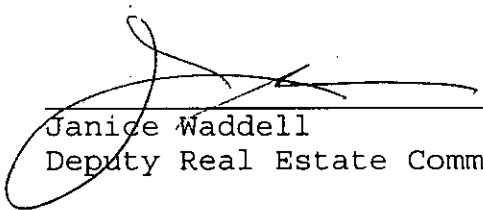
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent, BEHROUZ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

9 Dated at Los Angeles, California

10 this 21 day of November 2006.

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13 
14 Janice Waddell
15 Deputy Real Estate Commissioner
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26 cc: BEHROUZ BECK SAFFARY
27 Janice Waddell
Sacto.