

FILED
JAN 10 2008
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By James B. [Signature]

* * * * *

In the Matter of the Accusation of)	No. H-34038 LA
)	
RICHARD GLENN DUNHAM,)	L-2007070505
)	
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated December 6, 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 JAN 30 2008.

IT IS SO ORDERED 1-2-08

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RICHARD GLENN DUNHAM,

Respondent.

Case No. H-34038 LA

OAH No. L2007070505

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on November 7, 2007.

Martha J. Rosett, Staff Counsel, represented Maria Suarez (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Richard Glenn Dunham (Respondent) represented himself.

Oral and documentary evidence was received, and the matter argued. The case was submitted for decision on November 7, 2007.

FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in her official capacity.
2. 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 Business and Professions Code).
3. Respondent was originally licensed by the Department on August 31, 1980. Respondent's license will expire on August 30, 2008, unless it is renewed. There has been no prior disciplinary action filed against Respondent.

4. On March 23, 2006, in United States District Court, Central District of California, Western Division, Respondent, upon his plea of guilty, was convicted of violating 18 United States Code sections 1341 and 2, subdivision (b), mail fraud, causing an act to be done, a Class D Felony; and 26 United States Code section 7206(2), aiding and assisting in the preparation of a false tax return, a Class E Felony. The court committed Respondent to the custody of the Bureau of Prisons to be placed on formal probation for a term of three years under certain terms and conditions including, participating in home detention with electronic monitoring for a period of ten months, paying a fine and special assessment in the amount of \$4,200; and making restitution in the total amount of \$135,000. Respondent has completed the home detention and paid the monetary amounts ordered by the court. Respondent continues on probation until March 19, 2009.

5. The facts and circumstances surrounding Respondent's criminal conviction are as follows:¹ Respondent was an accountant and financial planner who owned and operated RDA Financial Corporation (RDA). RDA specialized in tax planning and tax return preparation for individuals, corporations and partnerships. In addition, RDA provided small and medium businesses with advice concerning debt and equity financing and business plan preparation.

Beginning in 1998, Respondent was solicited to invest in a purported business entity doing business as DFJ Italia (DFJ) by persons who became his co-defendants. According to the co-defendants, DFJ was a mutual fund investment operated by a purported royal Italian family. The fund operated off-shore and invested globally in large international companies and various commodities including diamonds, all of which provided the fund with high yield returns. The investment was selective in that it only invited certain investors to participate. Investors were guaranteed an annual rate of return of twenty-four percent and the returns would be paid out monthly either in cash or by check.

The co-defendants also claimed that the royal Italian family who operated the fund had obtained special tax exempt status in a special treaty with the United States government. According to the co-defendants, the result of this special status was that DFJ was exempt from paying taxes in the United States and further, investors did not owe taxes on interest obtained from the DFJ investment.

As a tax professional, Respondent was aware that no such special tax status existed and that DFJ employees and investors were all obligated to pay taxes on income received from DFJ. Respondent also was aware that the purported business entity known as DFJ was obligated to pay taxes. While Respondent did not invest in the fund, in order to expand the business of RDA, Respondent agreed to provide accounting services including tax return preparation for employees of DFJ and its clients.

¹ The following paraphrases the allegations set forth in the Information filed in *United States of America v. Richard Glenn Dunham*, CR No. 04-246, United States District Court for the Central District of California.

Respondent also agreed to provide business evaluation in which he would conduct audits of small businesses for potential investment or purchase by DFJ or its clients. Respondent was paid a monthly retainer for his services. In 1999, Respondent moved RDA into the DFJ office space and subsequently moved out when DFJ went bankrupt in March 2000.

In order to foster his business relationship with his co-defendants, Respondent knowingly allowed the co-defendants at DFJ to use his name on a list of purported professional references which would be provided to potential investors. The list was printed on DFJ stationary and identified Respondent as a certified public accountant, which Respondent knew was not true. Respondent was paid \$1,000.00 for the use of his name. Respondent knew that the reference list was misleading to potential investors because it appeared that he would personally vouch for the integrity of the DFJ investment. Respondent had not, in his professional capacity as an accountant, performed any financial review of the investment. Furthermore, Respondent had no personal experience as an investor in the fund.

Respondent also provided his co-defendants with a letter written on RDA Financial Corporation stationary and signed in Respondent's capacity as the corporation's president which Respondent knew would be provided to potential investors. In the letter, Respondent purported that DFJ had provided clients of RDA Financial with an excellent investment program that and that DFJ had demonstrated professionalism and accountability in dealing with his clients. In addition, Respondent described how his clients had enjoyed the comfort of a "safe investment with substantial returns on their investment" and indicated that he would continue to refer RDA clients to DFJ.

At the time of writing the letter, Respondent did not have any clients who had invested in DFJ. Moreover, Respondent had no basis to represent that the investment was safe as he had not performed any financial review of the investment. Furthermore, Respondent understood that the representations contained within the letter would be relied upon by potential investors in their decision as to whether to invest in DFJ.

In addition, Respondent knowingly provided erroneous advice to investors with respect to the soundness of the DFJ investment. For example, at the request of his co-defendants, Respondent participated in a sales meeting with an individual who had previously invested in DFJ, the purpose of which was to induce the investor to make a larger investment. During the meeting, a co-defendant provided Respondent with purported financial statements, prepared by Stephen Ceparano, an accountant in New York, which contained an income statement, balance sheet and an unqualified opinion letter. The opinion letter purported that the financial statements fairly presented the financial position of DFJ and certain related entities. Unbeknownst to Respondent, the financial statements were in fact fraudulent and no such financial review had ever been conducted.

During the meeting, Respondent briefly reviewed the documents with the investor and then told the investor that in his opinion the financial statements were "good as gold." As Respondent knew, this was false as he had never seen the financial statements prior to the meeting and had not conducted any review or analysis of their contents in order to determine their accuracy. Moreover, Respondent knowingly withheld this information from the investor, even though Respondent knew the investor would and did, in fact, rely upon Respondent's advice when making an even larger investment in DFJ. As a result of the investor's investment, Respondent received a \$500.00 commission for the sale of the investment.

Respondent and others for the purpose of executing the foregoing scheme caused an account statement for the DFJ Italia investment fund in the name of an investor to be placed in the United States Postal Service mail depository in Irvine, California, and sent to an investor in Villa Park, California.

6. Respondent assisted the prosecutors in the preparation of the case against his co-defendants in the criminal proceeding.

7. Respondent currently works for a law firm. He performs various administrative duties including bookkeeping, and interviews and assists clients. He uses his real estate license in some of his dealings with firm clients. The office manager for the law firm testified to Respondent's good character and the high quality of his work.

8. Respondent states that since 2004 he has dramatically changed his way of life. He has become very active in community affairs.

9. Respondent is on the executive board of a local American Legion Post and also serves on three of its committees. In addition, Respondent is very active in a local Exchange Club and its outreach projects. Over the years, he assisted the club in preparing its tax returns.

10. Respondent is active in his church. He assists in the distribution of clothing to the needy. He also assists in programs to assist widows and orphans from the Iraq war.

11. Respondent is a member of the Orange County Sheriff's Department Advisory Council and the California State Sheriffs' Association.

12. Twenty-five letters of recommendation praising Respondent for his good character, financial donations and previous assistance were presented in evidence.

LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. Respondent's has been convicted of two felonies which are, by virtue of the provisions of the California Code of Regulations, title 10, section 2910, subdivision (a) (4) and (8), substantially related to the qualifications, functions or duties of a licensee of the Department.


3. Cause exists, by virtue of Business and Professions Code sections 490 and/or 10177, subdivision (b), to revoke or suspend Respondent's license and license rights from the Department due to his criminal conviction.

4. The Department's Criteria of Rehabilitation, set forth in California Code of Regulations, title 10, section 2912, provides factors to be considered in evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee. The criteria require the passage of at least two years from the time of the most recent criminal conviction. It has not yet been two years since Respondent's criminal conviction. While Respondent is to be commended for his prompt payment of the fines and assessments levied by the court, he will remain on formal probation until 2009. Respondent is also to be praised for his community activities and assistance he provides to those in need. However, an examination of Respondent's criminal convictions reveals that they are very serious offenses directly related to the professional services rendered by Respondent. Under these circumstances, more time is required to evaluate Respondent's rehabilitation.

ORDER

All licenses and licensing rights of Respondent Richard Glenn Dunham, under the Real Estate Law, are revoked.

DATED: December 6, 2007.


N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

Handwritten signature/initials

FILED

JUN 11 2007

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013-1105

DEPARTMENT OF REAL ESTATE
BY: *James B. [Signature]*

4 (213) 576-6982
5 (213) 620-6430

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-34038 LA
12)
13 RICHARD GLENN DUNHAM,) A C C U S A T I O N
14)
15 Respondent.)

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against RICHARD GLENN DUNHAM, dba Rda Financial Services, dba
19 Richard G. Dunham & Associates (hereinafter "Respondent"), is
20 informed and alleges as follows:

21 1.

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

25 2.

26 At all times herein mentioned, Respondent was and still
27 is licensed and/or has license rights under the Real Estate Law

1 (Part 1 of Division 4 of the Business and Professions Code) as a
2 real estate broker. Respondent was first licensed by the
3 Department as a real estate broker on or about August 31, 1980.

4 3.

5 On or about March 23, 2006, in the United States
6 District Court, Central District of California, in Case No. CR
7 04-246-DSF, Respondent was convicted of violating 18 U.S.C.
8 Section 1341(b) (mail fraud), and 26 U.S.C. Section
9 7206(2) (assisting in the preparation of a false tax return),
10 felonies and crimes of moral turpitude which are substantially
11 related to the qualifications, functions and duties of a real
12 estate licensee. Respondent was sentenced to 3 years probation,
13 the terms and conditions of which included 10 months home
14 detention, payment of a fine of \$4,000, a special assessment of
15 \$200.00 and restitution of \$135,000.00. The facts and
16 circumstances leading to Respondent's conviction involved a
17 scheme to defraud investors and assisting another in preparing
18 and filing a false tax return.

19 4.

20 Respondent's conviction, as set forth in Paragraph 3
21 above, constitutes cause for the revocation or suspension of
22 Respondent's license and/or license rights pursuant to Business
23 and Professions Code Sections 490 and/or 10177(b).

24 ///

25 ///

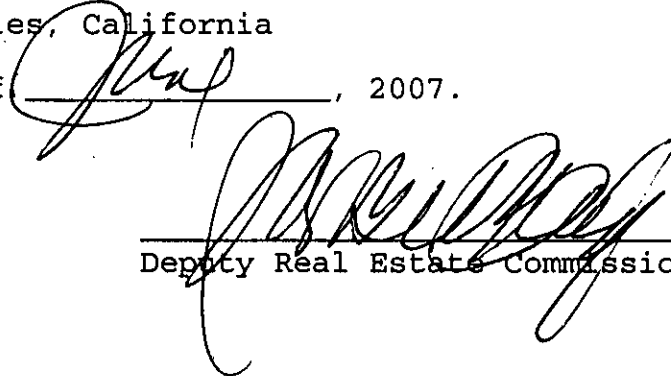
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WHEREFORE, the Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent, RICHARD GLENN DUNHAM, under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California
this 27th day of June, 2007.



Deputy Real Estate Commissioner

cc: RICHARD GLENN DUNHAM
Sacto.
Maria Suarez