

Laura B. Cron

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
SERGIO TRINIDAD RAMOS,)
Respondent.)

No. H-35147 LA
L-2008090264

DECISION

The Proposed Decision dated December 30, 2008, 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) of the Government Code, the following corrections are made to the Proposed Decision:

Condition "1" of the Order of the Proposed Decision as set forth herein is not adopted and shall not be part of the Decision.

The following condition is added to the Order of the Proposed Decision and shall be part of the Decision:

6. Respondent shall submit with the application for license under an 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 broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

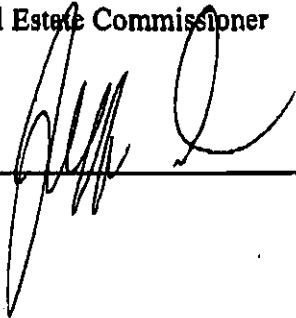
The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondent.

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 MAR - 3 2009.

IT IS SO ORDERED FEB 11 2009.

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
SERGIO TRINIDAD RAMOS) Case No. H-35147 LA
Respondent.) OAH No. 2008090264

PROPOSED DECISION

Nancy Beezy Micon, Administrative Law Judge, Office of Administrative Hearings, heard this matter on November 13, 2008, in Los Angeles, California.

James A. Demus, Staff Counsel, represented complainant Maria Suarez.

Respondent Sergio Trinidad Ramos was present and represented himself.

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

Each party had an opportunity to examine and cross-examine witnesses under oath, introduce evidence, and make arguments in support of their respective positions.

The record was held open until November 21, 2008, for respondent to submit additional evidence, and until December 1, 2008 for complainant to raise objections to the receipt of the evidence. Respondent timely submitted a November 18, 2008 cover letter with letters dated November 13, 2008, and August 28, 2006, from Taffy Bishara, President of Center 21 Bright Horizons in West Covina, a November 14, 2008 letter from attorney Dennis G. Saab, and court documents concerning the plea bargain agreement in Superior Court, County of San Bernardino case number FVA 027466, marked collectively as Exhibit E. Objections to the admissibility of the letters in Exhibit E were received on December 2, 2008. Exhibit E is admitted as administrative hearsay.

The matter was submitted for decision on December 1, 2008.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent, at all relevant times, was licensed as a real estate salesperson. He has held a real estate salesperson license for approximately 16 years. The license has not been

disciplined and will expire on August 30, 2009, unless renewed.

Conviction

3. a. On July 18, 2007, in the Superior Court of California, County of San Bernardino, in Case No. FVA027466, respondent was convicted, on his plea of guilty, of violation of Government Code section 6203 (making or delivering a certificate known to be false), a misdemeanor.

b. The court withheld pronouncement of the judgment and granted a conditional and revocable release for 24 months on terms and conditions that included payment of \$110 to a victim restitution fund, a \$5,000 restitution payment to the San Bernardino County Recorder, revocation of respondent's notary commission, and surrender of his notary journal and stamp.

c. Respondent decided to plead guilty after being informed by his attorney that other charges would be dismissed and the guilty plea on the remaining charge did not involve a conviction for fraud.

d. The facts and circumstances surrounding the conviction are that respondent notarized a grant deed on March 28, 2005, without obtaining required signatures and thumb prints and entering them in his notary journal. Respondent felt he was doing a favor for a client and could get the signatures and thumb prints another day.

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 licensee.

Rehabilitation and Other Factors

5. Although probation has not yet been completed, respondent paid the fines and restitution imposed by the court.

6. Respondent credibly testified that he has learned from the incident and would not, in the future, put himself in a position where his actions could be questioned and potentially impact his reputation, his family, and his profession.

7. Respondent has not been arrested for any crimes before or after the one at issue in this Accusation. Respondent's criminal conduct was an isolated incident.

8. Respondent is 56-years-old. He has been married for 25 years and has three children, ages 23, 22, and 21, who are in college. Respondent is involved in his church, where he regularly attends services and volunteers as a host. Respondent's real estate license is the primary source of support for his family.

9. Respondent has been a real estate salesperson with Century 21 in West Covina

since 1995.

10. Respondent presented two letters from Taffy Bishara, his broker at Century 21 Bright Horizons in West Covina. Bishara wrote that he is aware of the criminal conviction but still believes in respondent's integrity and would be willing to have respondent work under him.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following legal conclusions:

1. *Cause for License Revocation.* Cause exists to revoke Respondent's real estate salesperson license pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), in that Respondent's July 18, 2007 misdemeanor conviction under Government Code section 6203 (making or delivering a certificate known to be false) was for a crime substantially related to the qualifications, functions, and duties of a real estate licensee, by reason of factual finding numbers 3 and 4.

2. Respondent's entry of a guilty plea in his criminal case is conclusive evidence of guilt upon which the administrative law judge must rely. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) To hold otherwise would impose upon administrative boards extensive, time-consuming hearings aimed at re-litigating criminal charges that had already culminated in final judgments of conviction. Regardless of respondent's motives for entering the plea, a guilty plea constitutes an admission of each element of the crime charged. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

3. The objective of a disciplinary proceeding is to protect the public, the licensed profession or occupation, maintain integrity, high standards, and preserve public confidence in real estate professionals. (*Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Dept. of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031.) As cause exists for discipline against respondent's license, respondent bears the burden of establishing his reformation. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1950) 52 Cal.2d 259, 264-265.)

Rehabilitation Criteria

4. Criteria have been developed by the Department to evaluate the rehabilitation of a licensee who has committed a crime. These criteria, found at California Code of Regulations (CCR), title 10, section 2912, are summarized as follows:

- Subdivision (a), passage of at least 2 years since the conviction or wrongful act;
- Subdivision (b), restitution to any person who suffered monetary loss;
- Subdivision (c), expungement of the conviction;
- Subdivision (d), expungement of the requirement to register as a sex offender;
- Subdivision (e), completion of, or early discharge from, the criminal probation;
- Subdivision (f), abstinence from drugs or alcohol that contributed to the crime;
- Subdivision (g), payment of any criminal fines or penalties;

Subdivision (h), correction of business practices causing injury;
Subdivision (i), new and different social and business relationships;
Subdivision (j), stability of family life;
Subdivision (k), enrollment in or completion of educational or training courses;
Subdivision (l), significant involvement in community, church or private programs for social betterment; and

Subdivision (m), change in attitude from the time of conviction to the present, evidenced by: testimony of the licensee and others, including family members, friends, or others familiar with his previous conduct and subsequent attitudes and behavior patterns, or probation or parole officers or law enforcement officials; psychiatric or therapeutic evidence; and absence of subsequent convictions.

5. A review of those criteria applicable to the facts of this case reveals that some rehabilitation criteria have not been met. Less than two years has passed, for example, since the July 2007 conviction. It has been over two years, however, since the March 2005 incident that led to the conviction. Respondent paid the fines imposed in connection with the criminal conviction. However, he remains on probation until July 2009 and his criminal conviction has not been expunged. Respondent no longer has a business relationship with the people involved in the transaction that led to the conviction of the crime. He also fulfills his parental responsibilities, and has a stable family life. He performs community service through his involvement with his church. Most significantly, respondent has changed his attitude since the time of the underlying incident. He admits his mistake in putting himself in a position that caused harm to his professional reputation.

6. Notwithstanding the factors which indicate rehabilitation, it would not be in the public interest to grant respondent an unrestricted license at this time. However, respondent has learned from this experience, has worked without incident as a salesperson since the underlying acts, has no other convictions apart from this, and no prior record of discipline against his real estate license of almost 16 years. Although respondent is still on probation, he has completed all of its terms and conditions. Following this single episode, respondent has continued to work as a real estate salesperson and the broker who oversees respondent's work has found him to be honest and trustworthy. Complete revocation would therefore be unduly harsh in this case. The public interest should be adequately protected by the following order, which imposes a thirty-day suspension and a restricted license for three years following the suspension.

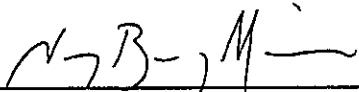
ORDER

All licenses and licensing rights of respondent Sergio Trinidad Ramos 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:

not adopted

1. The restricted license issued to respondent pursuant to this Decision shall be suspended for 30 days, effective the date the restricted license is issued.
2. 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.
3. 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.
4. 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 three years have elapsed from the effective date of this Decision.
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 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.

DATED: December 30, 2008



Nancy Beezy Micon
Administrative Law Judge
Office of Administrative Hearings

3.

On or about July 18, 2007, in the Superior Court of California, County of San Bernardino, in case no. FVA027466, Respondent was convicted of violating Government Code Section 6203 (delivering a certificate known to be false), 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. In aggravation, the notary commission issued by the Secretary of State to Respondent was revoked.

4.

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

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WHEREFORE, 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 the licenses and license rights of Respondent, SERGIO TRINIDAD RAMOS, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 23rd day of July, 2008.



Maria Suarez
Deputy Real Estate Commissioner

cc: SERGIO TRINIDAD RAMOS
Impact Realty Inc.
Maria Suarez
Sacto.