

fact

FILED

JUL - 6 2010

DEPARTMENT OF REAL ESTATE

BY: *James B. Deon*

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-35285 LA
)	
)	
EDWIN ALEXANDER HAMILTON,)	
)	
Respondent)	
)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Edwin Alexander Hamilton
3289 Box Elder Ct.
Simi Valley, CA 93065

On May 12, 2009, a restricted real estate salesperson license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of April 17, 2009, in Case No. H-35285 LA. This Order, which became effective on May 12, 2009, granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business

1 and Professions Code and to enumerated additional terms,
2 conditions and restrictions imposed under authority of Section
3 10156.6 of said Code. Among those terms, conditions and
4 restrictions, was the requirement that:

5
6 "Respondent shall, with nine months from the
7 effective date of this Decision, present evidence
8 satisfactory to the Real Estate Commissioner that
9 he has, since the most recent issuance of an
10 original or renewal real estate salesperson
11 license, taken and successfully completed the
12 continuing education requirements of Article 2.5
13 of Chapter 3 of the Real Estate Law for renewal of
14 a real estate license. If respondent fails to
15 satisfy this condition, the Commissioner may order
16 the suspension of the restricted license until
17 Respondent presents such evidence. The
18 Commissioner shall afford Respondent the
19 opportunity for a hearing pursuant to the
20 Administrative Procedure Act to present such
21 evidence."

22 The Commissioner has determined that as of
23 February 12, 2010, Respondent has failed to satisfy this
24 condition, and as such, is in violation of Section 10177(k) of
25 the Business and Professions Code. (Respondent has no right
26 to renew the restricted license if this condition isn't
27 satisfied by the date of its expiration. (Section 10156.7 of
the Business and Professions Code.)

28 NOW, THEREFORE, IT IS ORDERED under authority of
29 Section 10156.7 of the Business and Professions Code of the
30 State of California that the restricted real estate
31 salesperson license heretofore issued to respondent and the
32 exercise of any privileges thereunder is hereby suspended
33 until such time as Respondent provides proof satisfactory to

1 the Department of compliance with the condition(s) referred to
2 above, or pending final determination made after hearing (see
3 "Hearing Rights" set forth below).

4 IT IS FURTHER ORDERED that all license certificates
5 and identification cards issued by Department which are in the
6 possession of respondent be immediately surrendered by
7 personal delivery or by mailing in the enclosed,
8 self-addressed envelope to:

9 Department of Real Estate
10 Attn: Flag Section
11 P. O. Box 187000
12 Sacramento, CA 95818-7000

13 HEARING RIGHTS: Pursuant to the provisions of
14 Section 10156.7 of the Business and Professions Code, you have
15 the right to a hearing to contest the Commissioner's
16 determination that you are in violation of Section 10177(k).
17 If you desire a hearing, you must submit a written request.
18 The request may be in any form, as long as it is in writing
19 and indicates that you want a hearing. Unless a written
20 request for a hearing, signed by or on behalf of you, is
21 delivered or mailed to the Department at 320 West 4th Street,
22 Room 350, Los Angeles, California, 90013, within 20 days after
23 the date that this Order was mailed to or served on you, the
24 Department will not be obligated or required to provide you
25 with a hearing.

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

This Order shall be effective immediately.

DATED: _____ *4/26/2010*

JEFF DAVI
Real Estate Commissioner

Jeff Davi

FILED
APR 22 2009

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

K. Mederholt

* * * * *

In the Matter of the Accusation of)
EDWIN ALEXANDER HAMILTON,)
Respondent.)

No. H-35285 LA
L-2008100845

DECISION

The Proposed Decision dated March 19, 2009, 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, 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 ~~APR 22 2009~~ MAY 12 2009

IT IS SO ORDERED

4-17-09

JEFF DAVI
Real Estate Commissioner

Jeff Davi

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

EDWIN ALEXANDER HAMILTON,

Respondent.

Case No. H-35285 LA

OAH No. 2008100845

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California, on February 3, 2009.

Shari L. Sveningson, Real Estate Counsel, represented complainant Maria Suarez, Deputy Real Estate Commissioner, State of California.

Respondent Edwin Alexander Hamilton was present and represented himself.

The record was held open to allow respondent to submit character references and other documents. Respondent submitted a character reference letter and an expungement order from the Superior Court of California, County of Ventura. Respondent's submissions were received on March 9, 2009, marked collectively as Exhibit B, and received in evidence as administrative hearsay. The matter was deemed submitted on March 9, 2009.

FACTUAL FINDINGS

1. Complainant Maria Suarez, Deputy Real Estate Commissioner, issued the accusation in her official capacity.

2. Respondent Edwin Alexander Hamilton holds a real estate salesperson license that was issued by the department on April 22, 2005.

3. On December 8, 2006, in the Superior Court of California, County of Ventura, respondent was convicted, on his plea of nolo contendere, of a violation of Penal Code section 273.55, subdivision (a) (inflict corporal injury on spouse/cohabitant), a misdemeanor that is substantially related to the qualifications, functions and duties of a real estate licensee.

4. Respondent returned to court on January 12, 2007, whereupon imposition of sentence was suspended and respondent was placed on formal probation for 36 months under terms and conditions that included attendance in a 52 session domestic violence counseling

program, payment of \$300 to Ventura County women's shelters, participation in 16 hours in the Direct Work Program, attendance in parenting classes for 10 sessions, payment of fines and fees, and serving 30 days in jail with credit for one day time served and with approval for work release.

Respondent complied with all terms of his probation. The court granted respondent an early release from probation on December 8, 2008. On February 17, 2009, the court granted respondent's petition for expungement pursuant to Penal Code section 1203.4 and set aside respondent's conviction.

5. Respondent's offense occurred on September 21, 2006. He grabbed, pushed and pinned down his wife during an argument.

6. Respondent acknowledges and takes responsibility for his offense. His relationship with his wife has improved. They continue to live together with their child. He has learned to deal with their disagreements and arguments without resort to violence. He regrets his prior conduct, but feels he has matured and changed.

7. Respondent works for 2000 Realty as a salesperson. He would like to retain his license, even on a restricted status, in order to provide for his family.

8. Respondent is a member and lay leader at Misión Hispana Biblica. His wife is a member of the same church.

9. Respondent is a board member and financial director for the Simi Valley Community Care Center. He has volunteered in the center's food pantry for three years. A February 14, 2009 letter from Donna Martens, Executive Director, Simi Valley Community Care Center, describes respondent as showing excellent character and having the ability to handle any task or situation.

LEGAL CONCLUSIONS

1. Under Business and Professions Code sections 490 and 10177, subdivision (b), the commissioner may suspend or revoke the license of a real estate licensee who has been convicted of a crime involving moral turpitude.¹ Respondent's December 8, 2006 conviction was a crime involving moral turpitude that is substantially related to the qualifications, functions and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(8) (unlawful act with intent or threat of substantial injury).) Cause exists to suspend or revoke respondent's license pursuant to sections 490 and 10177, subdivision (b).

¹ Business and Professions Code section 10177, subdivision (b), was amended, effective January 1, 2008, to eliminate the moral turpitude requirement, but the pre-2008 version of the statute is applicable in this matter because respondent's conviction occurred before the amendment.

2. The department's regulations set forth criteria for evaluating the rehabilitation of a licensee. (Cal. Code Regs., tit. 10, § 2912.) More than two years have elapsed since respondent's conviction. He complied with the terms of his probation. His probation was terminated early. Respondent's conviction was expunged by the court. He takes responsibility for his offense. He has learned to deal with domestic disagreements without resort to violence. His family situation is stable. He attends church and participates in charitable activities. It would not be against the public interest to allow respondent to retain his real estate license on a restricted basis.

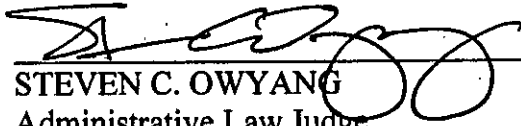
ORDER

All licenses and licensing rights of respondent Edwin Alexander Hamilton under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 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 Business and Professions Code section 10156.7 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 or for the removal of any of the conditions, limitations or restrictions of a restricted license until two 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 he has, since the most recent issuance of an original or renewed 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 he presents such evidence. The commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: March 19, 2009



STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

*Auto
2/2/08*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SHARI SVENINGSON, Counsel (SBN 195298)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6907

FILED
SEP - 5 2008
DEPARTMENT OF REAL ESTATE

R. Medvedoff

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35285
)	
EDWIN ALEXANDER HAMILTON,)	<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 EDWIN ALEXANDER HAMILTON, ("Respondent") alleges as follows:

1.

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

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 salesperson.

3.

(CRIMINAL CONVICTION)

On or about December 8, 2006, in the Superior Court of California, County of Ventura, in case no. 2006036264 M A, Respondent was convicted of violating Penal Code 273.5(a) (Inflict Corporal Injury on Spouse/Cohabitant), a misdemeanor. This crime involves moral turpitude, which 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.

4.

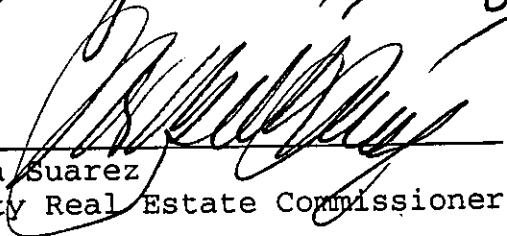
The crime of which Respondent was convicted, as described in Paragraph 3 above, constitutes cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

//
//
//
//

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, EDWIN ALEXANDER HAMILTON, 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.

August 27, 2008.

10
11
12 
13 Maria Suarez
14 Deputy Real Estate Commissioner
15
16
17
18
19
20
21
22
23

24 cc: EDWIN ALEXANDER HAMILTON
25 Pepe Donatelli
26 Maria Suarez
27 Sacto.