

FILED
MAY - 4 2009
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

[Handwritten signature]

In the Matter of the Accusation of) No. H-35353 LA
))
 RODRIGO GALVAN,) L-2008120342
))
) Respondent.)
_____)

DECISION

The Proposed Decision dated April 1, 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.

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 MAY 26 2009.

IT IS SO ORDERED 4-28-09

JEFF DAVI
Real Estate Commissioner

[Handwritten signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RODRIGO GALVAN,

Respondent.

Case No.: H-35353 LA

OAH No.: L2008120342

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on March 19, 2009.

Shari Sveningson, Staff Counsel, represented the Complainant.

Respondent appeared in person and represented himself.

Oral and documentary evidence and evidence by way of official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, concludes and orders as follows:

FACTUAL FINDINGS

Parties

1. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, brought the Accusation in her official capacity.
2. Respondent is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a real estate broker.

Criminal Conviction

3. On or about February 15, 2005, Respondent, in the scope and duties of a real estate broker, signed the name of another person – a business associate – on a grant deed. He did that act with the intent to defraud. Accordingly, Respondent was subjected to criminal

proceedings. Thereafter, on April 27, 2006, in the Superior Court of California, County of Los Angeles, in Case No. VA094048, Respondent was convicted of violating Penal Code section 470, subdivision (a) (Forgery), a felony. The crime involves moral turpitude.

4. Respondent's conduct set forth in Finding 3 constitutes the forging and altering of an instrument and uttering of a false statement; the employment of deceit to achieve an end; and the doing of an unlawful act with the intent of conferring an economic benefit upon Respondent. Accordingly, the crime bears a substantial relationship under California Code of Regulations, title 10, section 2910, to the qualifications, functions or duties of a real estate licensee.

Rehabilitation

5. As a result of the conviction Respondent was ordered to pay fines, make restitution and perform 240 hours of community service. He has made restitution in part and has paid the fines. He has completed community service. He was ordered to serve 36 months of probation and report monthly to a probation officer. At present he is in compliance with probation.

6. Respondent is now active as a volunteer for LA Mission People in Progress providing housing for the homeless. He has been so active since November 8, 2008.

7. Respondent is commended for the rehabilitation set forth in Findings 5 and 6. However, given the gravity of the 2006 conviction there is insufficient rehabilitation for continued licensure. In particular:

- The crime is recent.
- The conviction is yet to be expunged or otherwise abrogated.
- Respondent is still on probation and is yet to fulfill the conditions of his probation including the full payment of restitution.
- Respondent has yet to take responsibility for the crime. He minimizes the severity of the offense.
- There were no character letters or character witnesses. There was no evidence from his probation officer.

8. In the absence of a sustained period of rehabilitation, Respondent's recent conduct set forth in Finding 3 demonstrates that Respondent presently lacks the character trait of honesty which is necessary for continued licensure.

LEGAL CONCLUSIONS

Applicable Authority

1. These proceedings are brought under the provisions of section 10100, Division 4 of the Business and Professions Code and Government Code sections 11500 through 11528.

Violations

2. Cause exits for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law pursuant to Business and Professions Code sections 490 and 10177, subdivision (a), by reason of Findings 3 and 4.

Penalty Considerations

2. California Code of Regulations, title 10, section 2912, sets forth criteria of rehabilitation that have been developed by the Department, pursuant to Business and Professions Code section 482, subdivision (a), to evaluate the rehabilitation of a licensee who is subject to disciplinary action on account of a crime or act committed by the Respondent. Additionally, the public interest must be considered, in that the objective of an administrative proceeding relating to licensing is to protect the public. *Fahmy v. MBC* (1995) 38 Cal.App. 4th 810, 817 *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng. Rep. 1385.


3. Respondent's recent conviction is directly related to his real estate license. Additionally, by reason of Finding 7, Respondent has yet to comply with the criteria of rehabilitation. Accordingly, it would be against the public interest to now permit Respondent to act as a real estate broker. Respondent is encouraged to complete the rehabilitative process and, in the event of a petition for reinstatement, document same and provide full disclosure to the Department.

//
//
//
//
//
//
//

ORDER

All licenses and licensing rights of Respondent Rodrigo Galvan under the Real Estate Law are hereby revoked.

Dated: April 1, 2009


RICHARD J. LOPEZ
Administrative Law Judge
Office of Administrative Hearings

RJL:rfm

Shari Galvan

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
OCT - 7 2008
DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35353 LA
RODRIGO GALVAN,)	<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 RODRIGO GALVAN, ("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.

///

///

///

///

///

2.

1 Respondent is presently licensed and/or has license
2 rights under the Real Estate Law, Part 1 of Division 4 of the
3 California Business and Professions Code ("Code"), as a real
4 estate broker.
5

6 (CRIMINAL CONVICTION)

7 3.

8 On or about April 27, 2006, in the Superior Court of
9 California, County of Los Angeles, in case no. VA09404801,
10 Respondent was convicted of violating California Penal Code
11 Section 470(A) (Forgery), a felony. This crime involves moral
12 turpitude, which bears a substantial relationship under Section
13 2910, Title 10, Chapter 6, California Code of Regulations to the
14 qualifications, functions or duties of a real estate licensee.
15

16 4.

17 The crime of which Respondent was convicted, as
18 described in Paragraph 3 above, constitutes cause under Sections
19 490 and 10177(b) of the Code for the suspension or revocation of
20 the license and license rights of Respondent under the Real
21 Estate Law.

22 //

23 //

24 //

25 //

26 //

27

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, RODRIGO GALVAN, under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code) and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California

September 30, 2008.

10
11 
12 _____
13 Maria Suarez
14 Deputy Real Estate Commissioner
15
16
17
18
19

20 cc: RODRIGO GALVAN
21 Maria Suarez
22 Sacto.
23
24
25
26
27