

APR 24 2010

DEPARTMENT OF REAL ESTATE

By H. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	
)	No. H-35369 LA
BYRNE MILLER,)	
)	
Respondent.)	
_____)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 12, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

(a) On or about April 2, 2009, Robin Trujillo made the First Amended Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. On April 6, 2009 the First Amended Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent BYRNE MILLER at his last known mailing address on file with the Department. The First Amended Accusation was again mailed on July 20, 2009 by certified mail, return receipt requested, and by regular mail, to Respondent at another mailing address on file with the Department. Certified mailing was returned marked "Unclaimed" on August 13, 2009. No Notice of Defense has been filed by Respondent.

(b) On January 12, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent BYRNE MILLER's default was entered herein.

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2.

Respondent BYRNE MILLER (hereinafter "MILLER"), is presently licensed under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a restricted real estate broker. Respondent was originally licensed by the Department of Real Estate of the State of California ("Department") on or about January 10, 1990.

3.

On or about April 29, 2005, Respondent was issued a restricted broker license by the Department on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order in Case No. H-30545 LA.

4.

Included in said terms, conditions, and restrictions were the following:

"5. Six months after the issuance of the restricted license, and at six month intervals thereafter during the term of any restricted license issued pursuant to this Decision, Respondent shall provide proof acceptable to the Real Estate Commissioner that, during the preceding six months, Respondent has, each and every week, attended one or more sessions of Alcoholics Anonymous, or that such attendance in any week was impractical due to travel for work, the illness of Respondent or a member of Respondent's family, vacation, incarceration, residential treatments for substance abuse, extreme personal hardship for Respondent or a member of Respondent's family, or family emergency. Respondent shall submit such proof to the Los Angeles Crisis Respondent Team Manager of the Department of Real Estate. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if such proof is not timely submitted as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until such proof is submitted or until Respondent enters into an agreement in effect until such proof is submitted or until Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition."

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5.

Respondent failed to submit proof of participation in a recognized drug and alcohol diversion program for the six month periods ending April and October 2006; April and October 2007; and April 2008.

DETERMINATION OF ISSUES

1.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

2.

Grounds exist suspend or revoke Respondent's real estate license and/or license rights, pursuant to Business and Professions Code Section 10177(k).

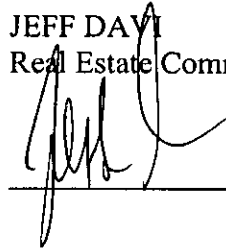
ORDER

All licenses and license rights of Respondent BYRNE MILLER under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on May 14, 2010.

DATED: 3/24/2010

JEFF DAVI
Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013

4 (213) 576-6982
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FILED

JAN 12 2010

DEPARTMENT OF REAL ESTATE
BY: Jama B. Niam

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-35369 LA
12)
13 BYRNE MILLER,) DEFAULT ORDER
14)
15 Respondent.)
16)

17 Respondent BYRNE MILLER, having failed to file a
18 Notice of Defense within the time required by Section 11506
19 of the Government Code, is now in default. It is, therefore,
20 ordered that a default be entered on the record in this
21 matter.

22 IT IS SO ORDERED

23 January 12, 2009
JEFF DAVI

24 Real Estate Commissioner

25 By:

Dolores Weeks
DOLORES WEEKS

26 Regional Manager
27

facto

FILED
APR 22 2009
DEPARTMENT OF REAL ESTATE

By Laina B. Allen

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-35369 LA
BYRNE MILLER,)
Respondent.)

AMENDED ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: BYRNE MILLER
1150 Stanford
Irvine, CA 92612

On April 29, 2005, a restricted real estate broker 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 December 22, 2004, in Case No. H-30545 LA. This Order which became effective on January 25, 2005, provided that the right to a restricted real estate broker license was subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under

1 authority of Section 10156.5 of said Code ("Code"). Among those
2 terms, conditions and restrictions, Respondent was required to
3 submit proof of ongoing participation in a recognized drug and
4 alcohol diversion program at six-month intervals during the term
5 of any restricted license.

6 On October 14, 2008, in Case No. H-35369 LA, an
7 Accusation by a Deputy Real Estate Commissioner of the State of
8 California was filed charging Respondent with a violation of
9 Section 10177(k) of the Code in that Respondent has failed to
10 provide reports of participation in a recognized drug and alcohol
11 diversion program for the periods ending April and October 2006;
12 April and October 2007; and April 2008.

13 NOW, THEREFORE, IT IS ORDERED under authority of
14 Section 10156.7 of the Business and Professions Code of the State
15 of California that the restricted real estate broker license
16 heretofore issued to Respondent and the exercise of any
17 privileges thereunder is hereby suspended pending final
18 determination made after the hearing on the aforesaid Accusation.

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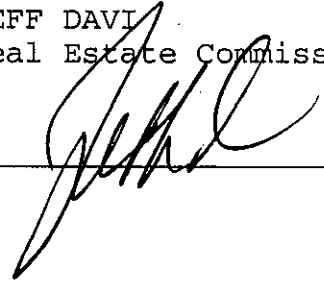
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1 IT IS FURTHER ORDERED that all license certificates
2 and identification cards issued by Department which are in the
3 possession of Respondent be immediately surrendered by personal
4 delivery or by mailing in the enclosed, self-addressed envelope
5 To:

6 Department of Real Estate
7 Attn: Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

10 This Order shall be effective immediately.

11 DATED: 4-17-09.

12 JEFF DAVIS
13 Real Estate Commissioner
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15 _____
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27

3v Laura B. Allen

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-35369 LA
BYRNE MILLER,)
Respondent.)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: BYRNE MILLER
1150 Stanford
Irvine, CA 92612

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1 under authority of Section 10156.5 of said Code ("Code"). Among
2 those terms, conditions and restrictions, Respondent was required
3 to submit proof of ongoing participation in a recognized drug and
4 alcohol diversion program at six-month intervals during the term
5 of any restricted license.

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7 Accusation by a Deputy Real Estate Commissioner of the State of
8 California was filed charging Respondent with a violation of
9 Section 10177(k) of the Code in that Respondent has failed to
10 provide reports of participation in a recognized drug and alcohol
11 diversion program for the periods ending April and October 2006;
12 April and October 2007; and April 2008.

13 NOW, THEREFORE, IT IS ORDERED under authority of
14 Section 10156.7 of the Business and Professions Code of the State
15 of California that the restricted real estate salesperson license
16 heretofore issued to Respondent and the exercise of any
17 privileges thereunder is hereby suspended pending final
18 determination made after the hearing on the aforesaid Accusation.

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1 IT IS FURTHER ORDERED that all license certificates
2 and identification cards issued by Department which are in the
3 possession of Respondent be immediately surrendered by personal
4 delivery or by mailing in the enclosed, self-addressed envelope

5 To:

6 Department of Real Estate
7 Attn: Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

10 This Order shall be effective immediately.

11 DATED: 10-28-88.

12 JEFF DAVI
13 Real Estate Commissioner
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1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6914
7

FILED
APR - 6 2009
DEPARTMENT OF REAL ESTATE

Laure B. Dim

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-35369 LA
12)
13 BYRNE MILLER,) FIRST AMENDED
14) ACCUSATION
Respondent.)

15 This Accusation amends the Accusation filed on October
16 14, 2008, in its entirety. The Complainant, Robin Trujillo, a
17 Deputy Real Estate Commissioner of the State of California, for
18 cause of Accusation against BYRNE MILLER ("Respondent"), is
19 informed and alleges in her official capacity as follows:

20 1.

21 Respondent is presently licensed by the Department of
22 Real Estate of the State of California ("Department") as a
23 restricted real estate broker under the Real Estate Law, Part 1
24 of Division 4 of the California Business and Professions Code
25 ("Code").
26

27 ///

2.

On or about April 29, 2005, Respondent was issued a restricted real estate broker license by the Department on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order in Case No. H-30545 LA.

3.

Included in said terms, conditions, and restrictions, were the following:

"5. Six months after the issuance of the restricted license, and at six month intervals thereafter during the term of any restricted license issued pursuant to this Decision, Respondent shall provide proof acceptable to the Real Estate Commissioner that, during the preceding six months, Respondent has, each and every week, attended one or more sessions of Alcoholics Anonymous, or that such attendance in any week was impractical due to travel for work, the illness of Respondent or a member of Respondent's family, vacation, incarceration, residential treatments for substance abuse, extreme personal hardship for Respondent or a member of Respondent's family, or family emergency. Respondent shall submit such proof to the Los Angeles Crisis Respondent Team Manager of the Department of Real Estate. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if such proof is not timely submitted as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until such proof is submitted or until Respondent enters into an agreement in effect until such proof is submitted or until Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition."

4.

Respondent has failed to submit proof of participation in a recognized drug and alcohol diversion program for the six month periods ending April and October 2006; April and October 2007; and April 2008.

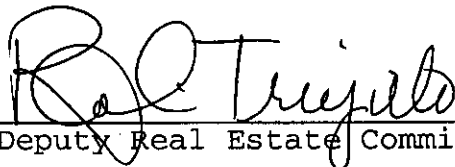
5.

The facts set forth above are grounds for the suspension or revocation of Respondent's restricted real estate broker license and all license rights under Code Section 10177(k).

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 licenses and/or license rights of Respondent, BYRNE MILLER, 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 2 day of April, 2008.


Deputy Real Estate Commissioner

cc: Byrne Miller
Robin Trujillo
Sacto.

2 MARTHA J. ROSETT, Counsel (SBN 142072)
3 Department of Real Estate
4 320 West 4th Street, Suite 350
5 Los Angeles, California 90013-1105

6 Telephone: (213) 576-6982
7 (Direct) (213) 576-6914

FILED
OCT 14 2008
DEPARTMENT OF REAL ESTATE

By Sandra B. Crow

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-35369 LA
12)
13 BYRNE MILLER,) A C C U S A T I O N
14) Respondent.)

15 The Complainant, Robin Trujillo, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against BYRNE MILLER ("Respondent"), is informed and alleges in
18 her official capacity as follows:

19 1.

20 Respondent is presently licensed by the Department of
21 Real Estate of the State of California ("Department") as a
22 restricted real estate salesperson under the Real Estate Law,
23 Part 1 of Division 4 of the California Business and Professions
24 Code ("Code").

25 ///

26 ///

2.

On or about April 29, 2005, Respondent was issued a restricted real estate broker license by the Department on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order in Case No. H-30545 LA.

3.

Included in said terms, conditions, and restrictions, were the following:

"5. Six months after the issuance of the restricted license, and at six month intervals thereafter during the term of any restricted license issued pursuant to this Decision, Respondent shall provide proof acceptable to the Real Estate Commissioner that, during the preceding six months, Respondent has, each and every week, attended one or more sessions of Alcoholics Anonymous, or that such attendance in any week was impractical due to travel for work, the illness of Respondent or a member of Respondent's family, vacation, incarceration, residential treatments for substance abuse, extreme personal hardship for Respondent or a member of Respondent's family, or family emergency. Respondent shall submit such proof to the Los Angeles Crisis Respondent Team Manager of the Department of Real Estate. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if such proof is not timely submitted as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until such proof is submitted or until Respondent enters into an agreement in effect until such proof is submitted or until Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition."

4.

Respondent has failed to submit proof of participation in a recognized drug and alcohol diversion program for the six month periods ending April and October 2006; April and October 2007; and April 2008.

5.

The facts set forth above are grounds for the suspension or revocation of Respondent's restricted real estate salesperson license and all license rights under Code Section 10177(k).

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 licenses and/or license rights of Respondent, BYRNE MILLER, 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 8 day of October, 2008.


Deputy Real Estate Commissioner

cc: Byrne Miller
Robin Trujillo
Sacto.