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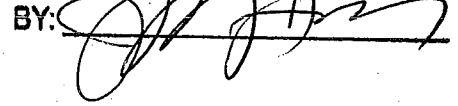
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DEC 19 2011

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

* * * * *

In the Matter of the Application of)
)
)
FRED RABBAN,)
)
)
Respondent.)
_____)

No. H-37428 LA

L-2011090630

DECISION

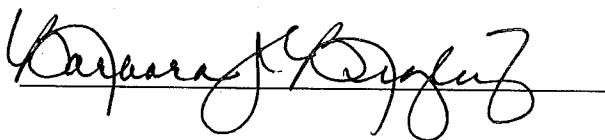
The Proposed Decision dated November 18, 2011 of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a mortgage loan originator license is denied. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on JAN 09 2012.

IT IS SO ORDERED 12/13/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues of:

Fred Rabban

Respondent.

Case No. H-37428 LA

OAH No. 2011090630

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on November 9, 2011.

Cheryl D. Keily, Staff Counsel, represented Complainant Sylvia Yrigollen, Deputy Real Estate Commissioner in the Department of Real Estate (Department).

Michael Rabban represented respondent Fred Rabban.

Oral and documentary evidence was received and the matter was submitted November 9, 2011. At hearing the Department moved to amend the Statement of Issues to delete Business and Professions Code section 480 as a ground for denying the application. Respondent did not object, and the motion was granted.

The Department of Real Estate brings this Statement of Issues to deny Respondent's application for a mortgage loan originator license endorsement. Because the Department is legally precluded from granting the application, it must be denied.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Statement of Issues in her official capacity.
2. On May 25, 2010, Respondent, a licensed real estate broker, applied for a mortgage loan originator license endorsement. The Department refused to grant the application, Respondent timely requested a hearing, and this proceeding ensued.

Criminal Conviction

3. On July 28, 1997, in the United States District Court, Central District of

California, in Case No. CR 97-176, respondent was convicted on his guilty plea of aiding and abetting false statements to the Federal Deposit Insurance Corporation in violation of Title 18, Section 1014 of the United States Code, as well as Title 18, Section 2(a), which provides, "Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal." He was fined \$5,000, sentenced to one day in jail with credit for time served, and placed on three years supervised release that included 30 days home detention.

4. Respondent's real estate broker's license was revoked because of the conviction. A September 30 1998 Proposed Decision (adopted by the Department as its Decision on October 19, 1998, effective November 17, 1998)¹ found that although respondent denied any wrongdoing and claimed that he had merely introduced a real estate purchase loan applicant to a loan broker and attended their first meeting, respondent had in fact assisted the applicant (an undercover FBI agent) to state an inflated income for loan qualification purposes by falsely claiming to have a job with a substantial salary. Even after respondent was told that there were false statements on the loan application, and that the point of the purchase was actually to launder money, he advised the borrower to make a larger down payment so that the lender would not investigate to find out whether she really had the job she claimed to have. Respondent was thus convicted of a crime involving fraud, dishonesty, and money laundering.

5. In 2002, the Department granted respondent's petition to have his broker's license reinstated. He has held that license ever since.

6. At the hearing of this matter, respondent denied any wrongdoing, reiterating that he had merely put the loan applicant and loan broker together. He introduced two letters from character witnesses. One of them attested to his good character and the other said that in 1997 she had advised respondent not to plead guilty, and that respondent "knows now never to plead on something when you are not guilty."

LEGAL CONCLUSIONS

1. Cause exists to deny the license under Business and Professions Code 10166.05, subdivision (b), as alleged in paragraph 5 of the Statement of Issues. Subdivision (b)(2), enacted in 2009, requires that the Department deny an application for a mortgage loan originator endorsement unless the applicant has never been convicted of a felony at "any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering." Subdivision (b)(2) is substantially identical to — and indeed was enacted to implement — a 2008 federal statute, Title 12 United States Code section 5104(b)(1)(B). The Department has promulgated regulations making it clear that this is a lifetime ban, and an absolute one: California Code of Regulations title 10, section 2945.3 provides, "A felony conviction at any time in the applicant's personal history where such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering is cause

¹ Department of Real Estate No. H-27602, OAH No. L-1998040112

for denial of the application. These restrictions constitute a ban on the real estate licensee's ability to apply for a license endorsement. These restrictions are not subject to mitigation or rehabilitation."²

2. Respondent was convicted of the crime of defrauding the Federal Deposit Insurance Corporation, which involved fraud, dishonesty and money laundering (Factual Findings 3 and 4). A violation of Title 12 United States Code section 1014 carries a maximum penalty of 30 years in prison and a fine of \$1,000,000, which makes it Class B felony under 18 United States Code section 3559(a). Because he was convicted of a felony involving dishonesty, and money laundering, Respondent comes within the absolute ban on applying for a mortgage originator license endorsement, and the Department is prohibited from granting his application.

ORDER

The application of Fred Rabban for a mortgage loan originator license endorsement is denied.

DATED: November 18, 2011



HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings

² Business and Professions Code section 10166.05, subdivision (b) provides that "any pardon of a conviction shall not be considered a conviction for purposes of this subdivision." Respondent was not pardoned.

1 CHERYL D. KEILY, Counsel (SBN 94008)
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) 576-6905

FILED

AUG 05 2011

DEPARTMENT OF REAL ESTATE

BY: 

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Application of) NO. H-37428 LA
13 FRED RABBAN,)
14) STATEMENT OF ISSUES
15 Respondent.) Mortgage Loan
16) Originator License

17 The Complainant, Sylvia Yrigollen, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Statement of Issues against FRED RABBAN, aka Farhad Rabban,
20 ("Respondent"), is informed and alleges as follows:

21 1.

22 The Complainant, Sylvia Yrigollen, a Deputy Real
23 Estate Commissioner of the State of California, makes this
24 Statement of Issues against Respondent in her official capacity.

25 2.

26 Respondent is presently licensed and/or has license
27 rights under the under the Real Estate Law (Part 1 of Division 4

1 of the Business and Professions Code, hereinafter "Code") as a
2 real estate broker.

3 3.

4 On or about May 25, 2010, Respondent made application
5 to the State of California Department of Real Estate
6 (hereinafter "the Department") for a mortgage loan originator
7 license endorsement (hereinafter "license endorsement").

8 CRIMINAL CONVICTION

9 4.

10 On or about July 28, 1997, in the United States
11 District Court, Central District of California, in Case No. CR
12 97-176, Respondent was convicted of violating Title 18, Section
13 1014 and 2(a) of the United States Code (Aiding and Abetting,
14 False Statements to the Federal Deposit Insurance Corporation),
15 a felony, and a crime involving fraud, dishonesty, a breach of
16 trust, or money laundering.

17 5.

18 The facts alleged in Paragraph 4, above, constitute
19 cause for denial of Respondent's application for a license
20 endorsement under Section 480(a) (Denial of License by Board -
21 Conviction of Crime) and Section 10166.05(b)(2) (Conviction of
22 Felony Crime) of the Code.

23 PRIOR LICENSE DISCIPLINE

24 6.

25 On or about December 28, 1998, in Case No. H-27602 LA,
26 Respondent's real estate broker license was revoked pursuant to
27

1 Code Sections 10177(b) and 490 based on the felony conviction
2 alleged in Paragraph 4, above.

3 7.

4 The acts resulting in the disciplinary action taken
5 with respect to Respondent's real estate broker license, as
6 alleged herein above in Paragraph 6, constitute cause for the
7 denial of a license endorsement under Section 480(a)(3) and
8 Section 10166.05(a) (Revocation of Mortgage Loan Originator
9 License) of the Code.

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Statement of Issues, and
12 that upon proof thereof, a decision be rendered that the
13 Commissioner refuse to authorize the issuance of, and deny the
14 issuance of, a license endorsement to Respondent FRED RABBAN,
15 and for such other and further relief as may be proper under the
16 provisions of law.

17 Dated at Sacramento, California

18 this 3rd day of August, 2011.
19

20
21
22 
23 Sylvia Yrigollen
24 Deputy Real Estate Commissioner

25
26 cc: FRED RABBAN
27 Sylvia Yrigollen
Sacto.