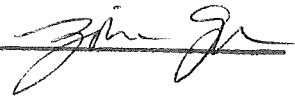


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FILED

OCT 28 2013

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of	)	CalBRE No. H-38735 LA
	)	OAH No. 2013040508
BONAVENTURE JOKO WAKAM,	)	
	)	
	)	
Respondent.	)	
_____	)	

DECISION

The Proposed Decision dated September 13, 2013, 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, but the right to a restricted license is granted to Respondent.

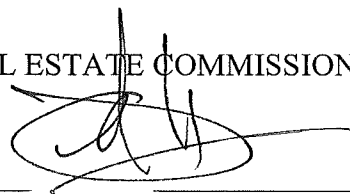
The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock
noon on November 18, 2013.

IT IS SO ORDERED _____

OCT 21 2013

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

BONAVENTURE JOKO WAKAM,

Respondent.

Case No. H-38735 LA

OAH No. 2013040508

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on August 12, 2013.

Julie L. To, Staff Counsel, represented Complainant Robin Trujillo, Deputy Real Estate Commissioner in the Bureau of Real Estate (Bureau).

Respondent Bonaventure Wakam represented himself.

Oral and documentary evidence was received and the matter was submitted August 12, 2013.

Complainant brings this Accusation to revoke Respondent's real estate salesperson license. For the reasons set out below, the license is revoked, but Respondent may apply for a restricted license.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued this Accusation in her official capacity.
2. Respondent became a licensed real estate salesperson on October 23, 1998, and a licensed real estate broker on April 13, 1999. His broker license expires April 12, 2015. On February 26, 2013, Complainant brought this Accusation to revoke his license, and Respondent timely requested a hearing.

Criminal Conviction

3. On November 2, 2011, in Ventura Superior Court case number 2011018998, Respondent was convicted on his guilty plea of leaving the scene of an accident "resulting

only in damage to property” without stopping to give the other party identification and contact information (Veh. Code, § 20002, subd. (a)), a misdemeanor. Respondent was fined \$574 and placed on summary probation for three years. Probation terms included paying “restitution as determined by further order of the Court,” but there was no evidence that restitution was ordered.

Mitigation, Aggravation and Rehabilitation

4. Respondent’s conviction resulted from an accident on August 12, 2011. He was driving home from a negotiation in Los Angeles and his car rear-ended a car stopped at a traffic light at the intersection of Ramelli Avenue and Telephone Road in Ventura, damaging its rear bumper. Police traced his address through his license plate number and went to his home (about two miles from the accident scene), where they inspected his car and saw damage on his car’s front bumper consistent with the damage to the victim’s car. Speaking to the officers in his driveway about 75 minutes after the accident, he first told them he had not been in an accident. He said he had been followed by another car and got out briefly to look at both cars, but the other car backed away and Respondent drove off. When the officer asked why he got out to look at either car if there had been no accident, Respondent changed his story and denied getting out of his car. The investigating officer noticed signs that Respondent was intoxicated: he was unsteady on his feet, he had the odor of an alcoholic beverage on his breath, his speech was slurred and his eyes were red and watery. The investigating officer asked Respondent if he had been drinking since he got home, and Respondent said he had not. The officer then asked if Respondent had been drinking at all, and Respondent said he had not. The officer therefore asked Respondent to take a field sobriety test on his driveway. (If Respondent indeed had not consumed alcohol since getting home from Los Angeles a little more than an hour before, he must have consumed enough alcohol to create the observed signs of intoxication before driving.) Respondent refused to submit to a field sobriety test and attempted to go back into his house. The officers subdued and arrested him. Respondent eventually allowed a blood sample to be taken when the police took him to a hospital for that purpose. The record does not show the result of any test on that sample.

5. Respondent’s driver license was suspended for a year (until November 2012) because he refused to submit to sobriety tests when he was arrested on August 12, 2011.

6. As a factor in aggravation, on May 17, 2010, in Ventura Superior Court case number 2009039062, Respondent was convicted on his guilty plea of driving with a blood alcohol concentration greater than .08 percent (Veh. Code, § 25152, subd. (b)), a misdemeanor. He was fined \$3,331, sentenced to five days in jail, and placed on formal probation for three years, terms of which included participating in any alcohol treatment program designated by his probation officer, and not driving with any intoxicant in his body. His 2011 conviction was a violation of his probation. The court therefore revoked his probation and then reinstated it on condition that he serve eight days in jail. He was allowed to serve eight days of work release. Respondent’s driver license was suspended for a year following this conviction.

7. Respondent paid the fines for his convictions. He remains on probation until November 2014. He has been on probation continuously since May 2010. His convictions have not been expunged. He has no other convictions and no history of license discipline.

8. In his Interview Information Statement, Conviction Detail Report and testimony at hearing, Respondent acknowledged that it was wrong to leave the scene of the accident, but said there was no damage to either vehicle. After driving away, Respondent stopped on a street near his house because he thought the car he had hit was following him. He got out, but the other car, which was indeed the one he hit, drove away. The police report corroborated Respondent's testimony on this point with hearsay statements by the victim driver and passenger, who told the police that Respondent's disheveled appearance frightened them into backing away.¹

9. Respondent has been married 29 years. His children are 29, 26 and 21. The youngest is a senior in college and the middle child is a first-year medical student.

10. Respondent owns Kham, Inc. in Ventura, where he brokers the purchase and sale of privately held businesses. He has employed no one else in his office since the real estate market crashed in about 2008.

11. Respondent is on the board of directors of the Ventura section of the Boys and Girls Clubs of America. He was its president in 2011, and now chairs the expansion committee, working to raise \$1.8 million to build a Boys and Girls Club in Saticoy. He is also a member of the local Rotary Club, of which he was president in 2009-2010. His company is involved with Rotary Club efforts to raise money for water sanitation and immunization in Africa and the Philippines, in conjunction with Rotary Clubs in those areas; the efforts are directed to eradicating polio. He also persuades the Rotary Club to give money to the Boys and Girls Clubs. He is on the board of directors of the California Association of Business Brokers, and chaired its 2013 Productivity Conference.

12. There was no evidence of Complainant's costs of investigation and enforcement.

LEGAL CONCLUSIONS

1. There is cause to revoke or suspend Respondent's license under Business and Professions Code sections 490 and 10177, subdivision (b),² as paragraph 4 of the Accusation alleges. Section 490, subdivision (a) allows a board to revoke a license if the licensee "has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued." Section 10177,

¹ The victims' statements were admitted as "administrative hearsay." (Gov. Code, § 11513, subd. (d).)

² Further references to section or "§" are to the Business and Professions Code, unless preceded by "CCR," which refers to the title 10 of the California Code of Regulations.

subdivision (b), which applies specifically to the Bureau, similarly allows it to revoke a license if the licensee has been convicted of "a crime substantially related to the qualifications, functions, or duties" of a real estate licensee. Leaving the scene of an accident (Factual Finding 3) is a substantially related crime under CCR section 2910, subdivision (a)(8), because it is an "unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator."

2. Respondent has the burden of showing rehabilitation. He meets some of the applicable criteria of rehabilitation set out in CCR section 2912, and fails to meet others:

a. Two years have not passed since his convictions (CCR §2912, subd. (a); Factual Finding 3.)

b. He has paid the fine. (CCR §2912, subd. (g); Factual finding 7.)

c. He has not completed probation (CCR §2912, subd. (e); Factual Finding 7) and his convictions have not been expunged. (CCR §2912, subd. (c); Factual Finding 7.)

d. There was no evidence of new and different social and business relationships (CCR §2912, subd. (h)), but his family life is stable. (CCR §2912, subd. (j); Factual Finding 9.)

e. He has shown significant involvement in programs designed to provide social benefits or to ameliorate social problems. (CCR §2912, subd. (i); Factual Finding 11.)

f. He has shown some change in attitude from that which existed at the time of the crimes. While he acknowledges that what he did was wrong, he seems unclear about exactly what he did. (CCR §2912, subd. (m); Factual Finding 8.) His lack of clarity is in keeping with his observed state of intoxication slightly more than an hour after the accident, and the atypical behavior of both parties (who *both* drove away, at different times, when they could have stayed and exchanged information). (CCR §2912, subd. (m); Factual Finding 8.)

3. Respondent presents a dichotomy. On one hand, he is a leader in the Ventura philanthropic community, with extensive activity in local and and international efforts to eradicate disease, and he has an unblemished record in 15 years as a licensee, which is both a strong factor in mitigation and a reason to think he poses no threat to the public as a licensee. On the other hand, he has been in trouble with the law; he has been on probation since 2010 and will be on probation for another year. The dichotomy has an obvious explanation: Respondent gets into trouble when he drinks. His driver license has been suspended for two of the last three years because of drunk driving and refusing to submit to sobriety tests. He was on probation for drunk driving when he was convicted for a hit and run that occurred when (if both his statement to the police that he had no alcohol after getting home and the officer's observations (Factual Finding 4) are credited) he had consumed enough alcohol to

show objective signs of intoxication. A substantial period of restriction, includes required participation in an alcohol program, is necessary to protect the public.

ORDER

All of Respondent Bonaventure Joko Wakam's licenses and licensing rights under the Real Estate Law are revoked, but a restricted real estate broker license shall be issued to Respondent under Section 10156.5 of the Business and Professions Code if Respondent applies for, and pays to the Bureau of Real Estate the appropriate fee for, the restricted license within 90 days from the effective date of this Decision. The restricted license shall be subject to all 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:

1. The restricted license issued to Respondent may be suspended before 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 before 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 four years have elapsed from the effective date of this Decision.

4. 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.

5. While the restricted license is in effect, Respondent shall attend meetings of an alcohol dependency support group satisfactory to the Commissioner (for example, Alcoholics Anonymous) at least once a week. At the end of each calendar month, Respondent shall provide the Commissioner documentation, verified by a responsible person other than Respondent, of his attendance at each meeting, as well as verification from a

sponsor, or someone similarly familiar with Respondent's situation, attesting to his sobriety, in a form specified by Commissioner.

6. Complainant's prayer for cost recovery is denied.

DATED: September 13, 2013

A handwritten signature in cursive script, appearing to read "Hal Posner", written over a horizontal line.

HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings