

filed

1 Bureau of Real Estate
1651 Exposition Blvd.
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

FILED

JUN 16 2014

BUREAU OF REAL ESTATE

By *J. Coronado*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	CalBRE No. H-38873 LA
JUAN MANUEL CORONA,)	OAH No. 2013070733
Respondent.)	

ORDER DENYING RECONSIDERATION

On May 7, 2014, a Decision was rendered in the above-entitled matter. Said Decision was to become effective on May 29, 2014, and was stayed by separate Order to June 29, 2014.

On June 3, 2014, Respondent petitioned for reconsideration of the Decision of May 7, 2014.

///
///

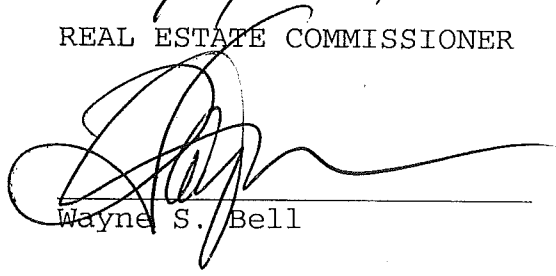
1 I have given due consideration to the petition of
2 Respondent. I find no good cause to reconsider the Decision of
3 June 29, 2014, and reconsideration is hereby denied.

4 Therefore, the Decision of the Real Estate
5 Commissioner of May 7, 2014, shall become effective at 12
6 o'clock noon on June 29, 2014.

7 IT IS SO ORDERED

6/14/2014

8 REAL ESTATE COMMISSIONER

9
10 
11 _____
12 Wayne S. Bell

13
14
15
16
17
18
19
20
21 cc: Juan Manuel Corona
22 Frank M. Buda, Esq.
23 Maria Suarez
24 Sacto
OAH

MAY 27 2014

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	CalBRE NO. H-38873 LA
JUAN MANUEL CORONA,)	
)	OAH NO. 2013070733
Respondent.)	
)	

ORDER STAYING EFFECTIVE DATE

On May 7, 2014, a Decision was rendered in the above-entitled matter to become effective May 29, 2014.

IT IS HEREBY ORDERED that the effective date of the Decision of May 7, 2014, is stayed for a period of 30 days to allow Respondent JUAN MANUEL CORONA to file a petition for reconsideration.

The Decision of May 7, 2014, shall become effective at 12 o'clock noon on June 29, 2014.

DATED: May 27, 2014.

REAL ESTATE COMMISSIONER

[Signature]

FILED

BEFORE THE BUREAU OF REAL ESTATE

MAY 08 2014

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

By *J. Aronoff*

In the Matter of the Accusation of)	CalBRE No. H-38873 LA
)	
JUAN MANUEL CORONA,)	OAH No. 2013070733
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated March 20, 2014, of the Administrative Law Judge, Howard Posner, 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. 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 29 2014.

IT IS SO ORDERED 5/7/2014.

REAL ESTATE COMMISSIONER

Wayne Bell
WAYNE BELL

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JUAN MANUEL CORONA,

Respondent.

Case No. H-38873 LA

OAH No. 2013070733

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 20, 2014.

Lisette Garcia, Staff Counsel, represented Complainant Robin Trujillo, Deputy Real Estate Commissioner of the Bureau of Real Estate (Bureau).

Respondent Juan Manuel Corona appeared, represented by attorney Alexis Galindo.

Oral and documentary evidence was received, and the matter was submitted February 20, 2014.

Complainant brings this Accusation to revoke Respondent's real estate salesperson license. For the reasons set out below, the license is revoked.

FACTUAL FINDINGS

Jurisdiction and Background

1. Complainant issued the Accusation solely in her official capacity.
2. Respondent was issued a real estate salesperson license on December 10, 2010. The license bears an expiration date of December 9, 2014. Complainant brought this Accusation to revoke his license on May 15, 2013, and Respondent timely requested a hearing.

Criminal Conviction

3. On September 27, 2012, in the Superior Court of California, County of Los Angeles, case number BA381391, Respondent was convicted on his no contest plea of

battery inflicting serious bodily injury (Pen. Code, § 243, subd. (d)), a misdemeanor. Respondent was sentenced to one day in jail with credit for one day served, fined \$190, ordered to complete 30 days of "Cal Trans or community service," and placed on summary probation for three years. He was ordered to pay (according to Respondent's testimony at hearing, the only evidence on the subject) "about \$5,000" in restitution to the victim.

4. The incident leading to the conviction took place after midnight in January 2011, after a birthday celebration for Respondent at a club in Hollywood. Respondent, his fiancée [REDACTED], and [REDACTED] sister and brother were outside on the sidewalk while the rest of the guests were aboard the chartered party bus. Both Respondent and the victim were under the influence of alcohol. At hearing, Respondent testified that the victim was drunk and bothering the two women. When the victim approached Respondent and crowded him, Respondent pushed him away and the victim tripped over the curb and fell. Baustista testified similarly at hearing. She said the victim invaded Respondent's personal space, backed up when Respondent "touched" him, and fell because he was drunk.

5. The police report indicates that the incident happened differently from the way Respondent and Bautista described it at hearing. The report quotes Respondent saying to the police after he was arrested, "How would you like it if some fool was hitting up on your lady? I asked him three times to stop so I [REDACTED] him up because he wouldn't listen. I didn't mean to [REDACTED] him up bad though. I just wanted him to get his hands off my girlfriend." The statement is inconsistent with simply pushing the victim away, but is explained and supplemented by a hearsay statement in the police report by a witness who said he saw Respondent punch the victim, causing him to fall and hit the back of his head on the pavement. The version of the facts in the police report is the more credible and is incorporated as a factual finding.

Failure to Disclose Conviction

6. Respondent did not disclose the September 2012 conviction to the Bureau. He testified at hearing that he believed it was something he did not need to disclose until he renewed his license, but he did not ask the Bureau or anyone at the Bureau about when he was required to disclose the conviction.

Failure to Disclose Restricted License

7. On October 30, 2006, the Department of Insurance adopted an administrative law judge's decision denying Respondent's application for a personal lines broker-agent license, but granting a restricted license. The basis for denial was that Respondent had three misdemeanor convictions (described in Factual Findings 9-11 below) between 2001 and 2005.

8. Question 25 on the real estate salesperson license application Respondent submitted on September 7, 2010, asked, "Have you ever had a denied, suspended, restricted or revoked business or professional license (including real estate) in California or any other state?" Respondent checked the "no" box. At hearing, he testified that the question was

“confusing.” He was unable to say what was confusing about it. He also testified that a few weeks after submitting the application, he sent a letter to the Bureau (then the Department of Real Estate) about the restricted insurance license, but he introduced no other evidence of such a letter, and as of January 17, 2013, the Bureau had no record of receiving such a letter.

Mitigation, Aggravation and Rehabilitation

9. On June 12, 2001, in the Superior Court of California, County of Los Angeles, case number 1AL01585, Respondent was convicted on his no contest plea of receiving stolen property (Pen. Code, § 496, subd. (a)), a misdemeanor. The court found there was a factual basis for the plea. Respondent was fined \$100, sentenced to 15 days in jail with credit for three days served and the option to perform 12 days of community in lieu of the remaining jail time, and placed on summary probation for two years. In his testimony at hearing and in his Conviction Detail Report, Respondent said a friend gave him some items, which Respondent did not know were stolen, to put in Respondent’s car. The police report contradicts Respondent’s version of the crime. It relates that when the investigating officer asked if there were anything in Respondent’s car that the officer should know about, Respondent answered, “Yes, there’s a stolen stereo in the car.” The version in the police report is the more credible one. Respondent completed probation, and the conviction was dismissed under Penal Code section 1203.4 on January 27, 2009.

10. On August 16, 2002, in the Superior Court of California, County of Los Angeles, case number 2JM04480, Respondent was convicted on his no contest plea of failing to obey a peace officer’s lawful order (Pen. Code, § 2800), a misdemeanor. The court found there was a factual basis for the plea, fined Respondent \$100, ordered him to complete five days of community labor, and placed him on summary probation for one year. Respondent went to see some friends race their cars late at night, and tried to flee in his car when the police arrived. He completed probation, and the conviction was dismissed under Penal Code section 1203.4 on January 7, 2009.

11. On August 31, 2005, in the Superior Court of California, County of Los Angeles, case number 2JM04480, Respondent was convicted on his no contest plea of disorderly conduct, specifically soliciting or agreeing to engage in prostitution (Pen. Code, § 647, subd. (b)), a misdemeanor. The court found there was a factual basis for the plea. Respondent was fined \$527 (with an option to serve four days in jail or perform four days of community service in lieu of part of the fine) and placed on summary probation for two years. At hearing, Respondent testified that he was in the passenger seat of his friend’s car when his friend pulled over to talk to a woman who turned out to be an undercover police officer, and he was arrested for being in the wrong place at the wrong time. Again, the police report contradicts his account. The undercover officer reported that it was the front passenger, Respondent, who waved her over to the car and offered her \$20 to perform oral sex on him. The police version is more credible than Respondent’s. Respondent completed probation, and the conviction was dismissed under Penal Code section 1203.4 on January 30, 2009.

12. Asked at hearing, "Is there any conviction for which you take responsibility for having been guilty?" Respondent replied that the only one was the 2002 conviction for fleeing the police (Factual Finding 10). Thus Respondent has four convictions, and maintains that he was not guilty as to three of them, despite police reports to the contrary. His testimony makes him not credible as a witness and shows an unwillingness to take responsibility for his actions.

13. Respondent performed the community service for his 2012 conviction by assisting the janitors at Garfield High School. He was ordered to begin paying restitution to the victim in December 2013, and does not know how much he has paid. He testified that he is "trying" to make monthly restitution payments. He remains on probation until September 2015.

14. Respondent worked in insurance from 2005 until he took the real estate license test in May 2010. He renewed his insurance license in 2009 as a restricted license. It expired in 2013, and Respondent did not want to renew it until the present administrative action is resolved.

15. Respondent has worked as salesperson at Century 21 Allstars in Pico Rivera since March 2012. Richard Estrada, a licensed real estate salesperson who has been general manager of that office since 2007, testified at hearing that he has seen no displays of anger from Respondent, has not seen him drunk, and has had no complaints about Respondent that he can remember. The office has 150 full-time salespersons and another 50 part-time salespersons. Respondent is a full-time salesperson. He gets along well with other agents and is respected by them. Julio Aguilar, another license salesperson at Century 21 Allstars in Pico Rivera, testified that he has worked with Respondent on a few transactions, has found him to be competent and punctual, and has never seen Respondent beat anyone up.

16. Respondent is 31 years old and unmarried with no children. Maribel Bautista and Respondent have been dating for about 10 years and plan to be married next year.

17. Respondent introduced no evidence of education or vocational training since his 2012 conviction, and testified that he is not involved in community or charitable activities.

18. The Bureau introduced evidence that it incurred investigation costs \$1,916.50, nearly all of it for 29.75 hours of an investigator's time in obtaining and analyzing records from courts and the Department of Insurance, interviewing Respondent, and writing a report. It also submitted evidence of \$1,090.25 in enforcement costs, consisting of 12.25 hours of attorney time at \$89 per hour. These costs, totaling \$3,006.75, are reasonable.

LEGAL CONCLUSIONS

1. As paragraph 9 of the Accusation alleges, there is cause to revoke or suspend Respondent's license under Business and Professions Code sections 490 and 10177.

subdivision (b).¹ 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, 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. Respondent’s conviction for battery (Factual Findings 3 and 4) is substantially related under CCR section 2910, subdivision (a)(8), because it was an unlawful act “with the intent or threat of doing substantial injury to the person or property of another.”

2. As paragraph 12 of the Accusation alleges, Respondent’s failure to notify the Bureau of his 2012 conviction (Factual finding 6) is cause to revoke or suspend his license. Section 10186.2, subdivision (a)(1)(b), which is part of the Real Estate Law (§ 10000 *et. seq.*) requires a licensee to report any criminal conviction to the Bureau in writing within 30 days. Respondent’s failure to do so is a ground to revoke or suspend his license under section 10177, subdivision (d) because it violated the Real Estate Law.²

3. As paragraph 6 of the Accusation alleges, Respondent’s failure to disclose his restricted insurance license on his application is cause to suspend or revoke his license under sections 475, subdivision (a)(1) and 10177, subdivision (a). A license may be suspended or revoked if the licensee procured the license “by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license[.]” Respondent’s statement that he had never had a license restricted was a material misstatement.

4. Respondent has the burden of showing rehabilitation. He fails to meet important rehabilitation criteria set out in CCR section 2912:

a. It has been less than two years since his last conviction. (Factual Finding 4.) CCR §2912, subdivision (a) provides for passage of two years since the last conviction, and more than two years if, as here, there is a history of substantially related convictions.

b. He has not paid the required restitution. (CCR §2912, subd. (b); Factual Finding 13.)

¹ 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.

² The Accusation also alleges that the failure to notify the Bureau about the conviction is a ground for license discipline under section 10177, subdivision (g) because it “[d]emonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.” This allegation does not state a ground for license discipline. While a licensee is required to report convictions to the Bureau, reporting a conviction is not an act for which a license is required. An unlicensed person who reports a conviction to the Bureau would not be engaging in unlicensed real estate practice.

c. He has not completed probation. (CCR §2912, subd. (e); Factual Finding 13.) There was no evidence that he has paid the fine (CCR §2912, subd. (g).)

d. There was no evidence of new and different social relationships. (CCR §2912, subd. (h).)

e. He has not undertaken vocational training or education for economic self-improvement, and has no involvement in programs designed to provide social benefits or to ameliorate social problems. (CCR §2912, subds. (k) and (l); Factual Finding 17.)

f. Respondent has not shown a change of attitude since committing the crime. (CCR §2912, subd. (m.) He denies culpability for the crime, as he does for three of his four convictions and for his material misstatement in response to the application question about restricted licenses. He is unwilling to take responsibility for his actions.

5. In paragraph 16 of the Accusation, the Bureau requests an award of its investigation and enforcement costs. Its requested costs of \$3,006.75 are reasonable. (Factual Finding 18.)

6. There are three separate grounds for revoking Respondent's license — two of which involve concealing information from the Bureau — and little reason to be assured that his continued licensure would not endanger the public. To the contrary, he has a history of not taking responsibility for his actions and concealing required information from the Bureau. His brief history as a licensee is not a significant factor in mitigation.

ORDER

All of Respondent Juan Manuel Corona's licenses and licensing rights under the Real Estate law are revoked.

Respondent shall pay Complainant's investigative and enforcement costs of \$3,006.75 within one year of this decision's effective date.

DATED: March 20, 2014



HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings