

FILED

APR - 5 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	}	CalBRE No. H-39922 LA
BRADLEY SCOTT HUGHES,		OAH No. 2015080477
Respondent.		

DECISION

The Proposed Decision dated February 26, 2016 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.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

Proposed Decision, Page 1, Paragraph 5, Line 2, "real estate salesperson" is amended to read "restricted real estate salesperson".

Factual Findings, Page 2, Paragraph No. 4, Line 4, "longer need" is amended to read "longer in need".

Factual Findings, Page 3, Paragraph No. 8, Line 5 "half his" is amended to read "half of his".

Order, Page 6, Paragraph No. 5, Line 3, "Post Office Box 137000, and Sacramento, CA 95818-7000" is amended to read "Post Office Box 137013, Sacramento, CA 95818-7013".

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted salesperson license is granted to Respondent.

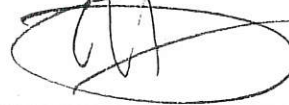
Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real

estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 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 APR 25 2016.

IT IS SO ORDERED MARCH 25, 2016

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to be 'JM', is written over a horizontal line. The signature is enclosed within a hand-drawn oval.

By: **JEFFREY MASON**
Chief Deputy Commissioner

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

In the Matter of the Accusation of:

BRADLEY SCOTT HUGHES,

Respondent.

Case No. H-39922 LA

OAH No. 2015080477

PROPOSED DECISION

Administrative Law Judge Howard Posner, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on January 28, 2016.

Judith Vasan, Staff Counsel, represented Complainant Maria Suarez, a Supervising Special Investigator of the State of California.

Attorney Frank M. Buda represented Respondent Bradley Scott Hughes.

Oral and documentary evidence was received at the hearing, and the matter was submitted January 28, 2016.

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

FACTUAL FINDINGS

1. Complainant issued this Accusation solely in her official capacity.
2. Respondent was granted a real estate salesperson license on June 12, 1981. He obtained a real estate broker license on February 14, 1986. He obtained a mortgage loan originator endorsement in December 17, 2012, but it remained inactive until it expired on January 1, 2014. On July 22, 2015, Complainant brought this Accusation to revoke his real estate broker license, and Respondent timely requested a hearing. His broker license bears an expiration date of October 31, 2015. The Bureau has delayed his renewal application and extended the expiration date under Business and Professions Code section 10177.

Criminal Conviction

3. On March 20, 2013, in the United States District Court for the Central District of California, case number CR 12-00874 SJO, Respondent was convicted on his guilty plea of bankruptcy fraud (18 U.S.C., § 157), a felony. On July 31, 2012, Respondent prepared a fraudulent deed to prevent a secured creditor from selling his client's property in a foreclosure sale. The deed purported to show that client had conveyed an interest in the property to another person who was in bankruptcy; Respondent's intent was that the foreclosure sale would be postponed because of the automatic stay in bankruptcy (11. U.S.C. § 362.) Respondent was fined \$600 and placed on formal probation for two years. The court did not order restitution because it found there was no measurable damage to the victim.

Rehabilitation, Mitigation and Aggravation

4. Respondent paid the fine the day he was sentenced. On August 12, 2014, his probation was terminated seven months early on the recommendation of his probation officer, who wrote that Respondent "has complied with the rules and regulations of supervised release and is no longer need of supervision." He has no other convictions.

5. Respondent brokers non-consumer real estate loans. He has no employees. According to the Bureau's History Certification (exhibit 2), his license was suspended for 30 days, but the record contains no other evidence about the matter, so the cause of the suspension is not known.

6. Respondent committed the crime while operating a paralegal service called Dynamic Solutions, which he started in 2008. It provided eviction defense services. In late July 2012 it had seven employees. Someone in the real estate business whose name Respondent does not recall referred a Mrs. Tran to him. Mrs. Tran's property was to be sold in foreclosure on July 31, 2012, and the referrer told Respondent that a person (identified in court papers as M.G.) who was in bankruptcy was willing to have Tran convey an interest in her property to that person. Respondent prepared a deed on the scheduled foreclosure sale date, then pasted Tran's faxed signature on it when Tran was unable to get to his office in time to sign it before the sale, and faxed the deed to the foreclosure company along with the bankruptcy documents. No deed from Tran to M.G. was ever recorded. The foreclosure sale was postponed temporarily; the property was sold in a rescheduled foreclosure. When the FBI questioned him two weeks after he sent the fraudulent deed, Respondent immediately admitted what he had done and closed the paralegal business permanently.

7. In his written statement to the Bureau and his testimony, Respondent said there was no excuse for his actions. He testified that he was not paid to prepare the deed, but did it "as a favor," although he was unable to say why he wanted to do an illegal favor for someone whose name he does not even remember.

8. Respondent is 57 years old and unmarried. While he was on probation he refrained from real estate activities. His probation conditions included a prohibition on being employed in any position that required licensing by a state agency without prior approval of

his probation officer, but Respondent "didn't see" the part about getting consent from his probation officer and assumed he had to refrain from any licensed activity. He worked instead in Web-based marketing and search engine optimization, learning the necessary skills as he went along. Since his probation ended and he resumed mortgage loan broker activity, about half his loan business has come from the Internet.

9. Respondent was granted full custody of his three-year-old daughter Ashley Hughes in 1992 because his ex-wife had a serious drug problem. When Ashley herself developed a methamphetamine addiction in 2006, Respondent became involved in her 12-step group, Cocaine Anonymous, attending meetings with her for six hours a week between 2006 and 2014, spending about \$5,000 of his own money on books, meeting supplies and refreshments, and becoming vice chair of the San Fernando zone in 2011. Ashley has been sober since January 2010. Respondent spends less time with Cocaine Anonymous than he did before 2014, but he remains involved. He is on the committee planning its 2016 summer picnic.

10. Respondent has also been involved with two community projects since before his conviction through his sister Kim Hughes, who is chair of the South Pasadena Natural Resources and Environmental Commission. Since 2009 Respondent has staffed water conservation information booths for tours of native plants in Pasadena and South Pasadena that the commission puts on; he testified he has worked at one or two of these events since his conviction. His sister works in public relations with Los Angeles Department of Water and Power, and Respondent has worked at its annual Science Bowl once or twice since his conviction. He occasionally volunteers at the Orthopedic Institute for Children.

11. Kim Hughes testified at hearing that Respondent talks constantly about the bankruptcy fraud and how wrong it was. In a character letter Respondent introduced into evidence, she said she has to try to cheer him up when the subject comes up.

12. Respondent also introduced letters from Respondent's daughter Ashley, his ex-wife (Ashley's mother, who had the drug problem), two aunts, his daughter's boyfriend, a real estate broker who has an office neighboring Respondent's, a Wells Fargo Bank in-house attorney who is also in a personal relationship with Kim Hughes, and a former loan officer in Respondent's loan company. All the letters showed awareness of his felony conviction. As a whole, they describe a person dedicated to his work and his clients, remorseful about his offense, and wanting to make amends. Another letter was from Valery Shneyder, a licensed real estate broker who met Respondent 20 years ago when Respondent was foreclosing on a property in which Shneyder owned an interest. They became friends, and Respondent now rents office space in the same suite. Shneyder knew of the conviction and has discussed it with Respondent, whom he described as an honest and sincere person who is knowledgeable and committed to his clients.

Costs

13. Complainant incurred \$1,297.60 in investigative costs, \$1,289.60 of which consisted of 20.8 hours of a Bureau investigator's time at \$62 per hour. Complainant also

incurred \$373.80 in costs of enforcement, consisting of 4.2 hours of staff attorney Judith Vasan's time at \$89 per hour. These costs, totaling \$1,671.40, are reasonable.

LEGAL CONCLUSIONS

1. Complainant has the burden of establishing cause for license discipline by clear and convincing evidence to a reasonable certainty. (*The Grubb Co., Inc. v. Dept. of Real Estate* (2011) 194 Cal.App.4th 1494, 1505; *Ettinger v. Board of Med. Quality Assurance* (1982) 135 Cal.App.3d 853, 857.)

2. As paragraph 4 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 discipline a license if the licensee has been convicted of "a crime substantially related to the qualifications, functions, or duties" of a real estate licensee. A conviction for bankruptcy fraud (Factual Finding 3) is substantially related because it involves "the uttering of a false statement" (CCR § 2910, subd. (a)(2)), and "employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end." (CCR § 2910, subd. (a)(4).) There is also cause to discipline his license because his conduct constituted fraud or dishonest dealing (§ 10177, subd. (j)), as paragraph 4 of the Accusation alleges.

3. Respondent has the burden of showing rehabilitation from his conviction. (*Martin v. Alcoholic Beverage Appeals Board* (1959) 52 Cal.2d 259.) He meets relevant criteria of rehabilitation in the Bureau's regulations:

a. Nearly three years have passed since his conviction. (Factual Finding 3; CCR § 2912, subd. (a).)

b. Respondent paid the fine. (CCR § 2912, subd. (g); Factual Finding 4.)

c. Respondent completed probation. (CCR § 2912, subd. (e); Factual Finding 4.) A federal conviction cannot be expunged. (CCR § 2912, subd. (c).)

d. He immediately ceased participating in the business practice that caused the conviction (CCR § 2912, subd. (h)); and has new and different social and business relationships since (CCR § 2912, subd. (i)) (Factual Finding 6.)

e. He has significant involvement in programs to provide social benefits or ameliorate social problems. (CCR § 2912, subd. (l); Factual Findings 9-10.)

¹ Further references to section or "§" are to the Business and Professions Code, unless preceded by "CCR," which refers to title 10 of the California Code of Regulations.

f. He has shown a change in attitude from that which existed at the time of the crime (CCR § 2912, subd. (m)), admitting responsibility for his actions without attempting to excuse his motivation for them. (Factual Findings 7, 11 and 12.)

4. Respondent has been a licensee for 35 years, and there was no clear of convincing evidence that his conduct showed him to be a threat to the public before or after July 31, 2012. But on that date he committed an act of felony fraud, apparently because he could not say no to a request from someone who referred business to him. He has shown substantial rehabilitation in the relatively short time since his conviction, and has demonstrated that he wants to be a reliable and trustworthy. But a real estate broker works without supervision, and the evidence shows that Respondent should not work in a situation where he has final approval of a transaction with a member of the public until he has established a more substantial post-conviction track record.

5. As paragraph 5 of the Accusation alleges, the Bureau is entitled, under section 10106, to have Respondent pay reasonable costs of investigation and enforcement. The Bureau's request for \$1,671.40 in costs is reasonable. (Factual Finding 13.)

ORDER

The license and licensing rights of Respondent Bradley Scott Hughes under the Real Estate Law² are revoked; but a restricted real estate salesperson license shall be issued under Business and Professions Code section 10156.5 if Respondent applies for and pays to the Bureau the appropriate fee for the restricted license within 90 days from this Decision's effective date. The restricted license shall be subject to the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under section 10156.6 of that Code:

1. The Real Estate Commissioner may suspend the restricted license if Respondent is convicted or pleads nolo contendere to a crime substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license may be suspended before hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated 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 three years after this Decision's effective date.

4. Within nine months from this Decision's effective date, Respondent shall 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

² Section 10000 et seq.

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. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 137000, and Sacramento, CA 95818-7000. The letter shall state the arrest date, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and be grounds to suspend or revoke that license.

6. Respondent shall submit with any application for license under a real estate employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker, on a form approved by the Bureau of Real Estate, certifying:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the restricted licensee relating to activities for which a real estate license is required.

7. Within one year of this Decision's effective date, Respondent shall pay the Bureau \$1,671.40 for its costs of investigation and enforcement.

DATED: February 26, 2016

DocuSigned by:
Howard Posner
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HOWARD POSNER
Administrative Law Judge
Office of Administrative Hearings