

FILED

APR 12 2016

BUREAU OF REAL ESTATE

By Hyun Hanney

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	CalBRE No. H-40048 LA
)	
JUDE RAYMOND LOPEZ,)	OAH No. 2015120861
)	
Respondent.)	

DECISION

The Proposed Decision dated March 4, 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.

The Decision suspends or revokes one or more real estate licenses.

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 7/11/16 02:20P.

IT IS SO ORDERED 4/7/2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JUDE RAYMOND LOPEZ,

Respondent.

Case No. H-40048 LA

OAH No. 2015120861

PROPOSED DECISION

Administrative Law Judge Angela Villegas, State of California, Office of Administrative Hearings, heard this matter on February 24, 2016, in Los Angeles, California.

Diane Lee, counsel for the Bureau of Real Estate, Department of Consumer Affairs, State of California (Bureau), represented complainant.

Respondent represented himself.

Evidence was received, and the matter was submitted for decision February 24, 2016.

FACTUAL FINDINGS

1. Complainant Maria Suarez, a Supervising Special Investigator of the State of California, filed the Accusation in her official capacity. Respondent filed a Notice of Defense requesting a hearing.
2. On March 10, 1993, the Bureau issued real estate broker license number B/01155119 to respondent. Respondent's license has no disciplinary history. The license will expire March 9, 2017, unless renewed.
3. On August 27, 2015, in the United States District Court for the Central District of California, respondent was convicted on his guilty plea of two counts of violating title 18 United States Code sections 2 and 152(3) (aiding and abetting an offense against the United

States; knowingly and fraudulently making a false declaration under penalty of perjury), both felonies.¹

4. The court placed respondent on five years' formal probation for each count (to run concurrently), on condition that he obey all laws, serve 10 months' home detention, pay a special assessment of \$200, and pay \$21,000 in restitution (\$1,500 each to 14 individuals and couples).

5. Respondent's conviction arose from his work for a company, Crown Point, which engaged in a scheme to defraud homeowners who were on the brink of losing their homes to foreclosure. The company would promise homeowners relief from mortgage debt and the ability to keep their homes, if they followed Crown Point's advice and paid money to Crown Point. Crown Point's advice would not, in actuality, accomplish either of the things promised. Respondent's primary role at Crown Point was preparing answers to unlawful detainer complaints for Crown Point's clients who had lost their homes to foreclosure and were being evicted.

6. The specific charges to which respondent pled guilty did not arise from his unlawful detainer work for Crown Point. Rather they arose from a pair of voluntary bankruptcy petitions bearing forged signatures, which were filed with the bankruptcy court on behalf of two Crown Point clients.²

7. (a) Respondent defended his role with Crown Point. Although he knew Crown Point's advice would not actually help the clients, the clients unrealistically expected to be able to keep their homes without paying their mortgages. Since "you can't cheat an honest man" (respondent's testimony), the clients' motives were suspect. Respondent saw his role as simply helping the clients delay the inevitable loss of their homes.

(b) Respondent no longer has contact with the principals of Crown Point, one of whom has fled the country and the other of whom is serving a federal prison term. If he were faced with a similar work opportunity today—a prospect he described as unlikely given the current real estate market—he would not get involved. In hindsight, he reflected, a better course of action would have been to inform authorities of Crown Point's activities.

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¹ The conviction date alleged in the Accusation, August 24, 2015, is the date on which the court sentenced respondent, but judgment was not entered until August 27, 2015. (Exs. 3 and 4.)

² Respondent argued the signatures were authentic and presented evidence he contended proved it. (Exs. D and E.) Notwithstanding this argument and evidence, neither respondent's conviction nor the basis for it can be denied in this administrative proceeding. (*Arenstein v. California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179, 190. Accord, *Arneson v. Fox* (1980) 28 Cal.3d 440, 444-449.)

8. Respondent is still on probation and home detention. He will remain on home detention until July 2016. He is paying \$50 per month toward his restitution, as authorized by his probation officer, but has not paid the full amount because his income is limited to Social Security and whatever he can earn as a limousine driver. He is complying with the terms of his probation.

9. Respondent has one additional criminal conviction.³ In approximately July 2012, he was convicted after jury trial in the Superior Court of California, County of Los Angeles, of violating Penal Code section 166, subdivision (a)(4) (willful disobedience of a court order), a misdemeanor. The court sentenced him to 60 days in county jail. The conviction arose from respondent's violation of a restraining order against contact with his grandsons; the restraining order had been issued on grounds that respondent helped his daughter conceal the children in Mexico. (See Factual Finding 10.)

10. (a) Respondent believes the 2012 conviction occurred because his grandsons' other grandfather was a member of Congress (now retired), who used unfair influence to sway the court, both in issuing the underlying restraining order and in the criminal case arising from its violation. The motivation for this Congressman to attack respondent derived from a custody dispute between the Congressman's son and respondent's daughter, who have three sons together. Respondent's daughter took the three boys to Mexico, without their father's permission, for four years, from 2007 to 2011. Respondent believes the Congressman sought to exact vengeance on him because of his daughter's actions.

(b) Respondent also believes the Congressman interfered with the criminal prosecution leading to his 2015 conviction, and suspects this led him to be dealt with more harshly than would otherwise have been the case. (Respondent's testimony; exs. A-C.)

11. Respondent is 69 years old. He lives with his wife of 43 years and their adult son, in a home he has owned since 1979. He has a good relationship with his family, including his grandsons, whom he now has the right to visit under supervision. The grandsons remain under the former Congressman's guardianship, and respondent's daughter is still in a "custody battle" (respondent's testimony) over them.

12. Respondent does not use his broker's license regularly or commercially. When he completes his home detention and is able to move more freely, he hopes to get an office job, perhaps in a call center. He does not plan to go back into the real estate business, but wishes to maintain his license to help family members and friends. Respondent has not undertaken community service or education since his conviction, in part because he has no plans to learn a new trade, and in part because his movements are constrained by his home

³ The additional conviction was not pled as cause for discipline or in aggravation. Respondent spontaneously testified about it at the administrative hearing and disclosed it in his Interview Information Statement (ex. 5).

detention. As evidence that he is trustworthy, respondent points to his long history of stability, his record of military service in the Vietnam era, his history of non-discipline with the Bureau, and the absence of any criminal problems in his life—until the Congressman became involved.

13. The Bureau's reasonable costs of enforcement in this matter total \$267 (ex. 6), and its reasonable costs of investigation total \$1,097.05 (*id.*), for a grand total of \$1,364.05. Respondent cannot afford to pay these costs in a lump sum.

LEGAL CONCLUSIONS

1. Complainant established cause to discipline respondent's broker license based on his criminal conviction. (Factual Findings 3-6.) (Bus. & Prof. Code, §§ 490; 10177, subd. (b).) Respondent's crime is substantially related to the qualifications, functions, or duties of a real estate licensee because it involved "[c]ounterfeiting, forging or altering of an instrument or the uttering of a false statement" (Cal. Code Regs., tit. 10 (Regulation), § 2910, subd. (a)(2)); "[t]he employment of . . . falsehood or misrepresentation to achieve an end" (Regulation, § 2910, subd. (a)(4)); and an "unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator" (Regulation, § 2910, subd. (a)(8)).

2. Under the criteria of Regulation section 2912, respondent did not demonstrate sufficient rehabilitation to keep his license.

3. Respondent's conviction was very recent, less than one year ago, on serious charges involving dishonesty as part of a scheme to defraud people facing the desperate circumstance of losing their homes. (Factual Findings 3-7.) (Regulation, § 2912, subd. (a).) The fact that the victims of the scheme may have been complicit (Factual Findings 6 and 7) did not lessen respondent's responsibility for his actions. Similarly, even if the Congressman used influence to spur respondent's prosecution, that did not erase respondent's own culpability. (Factual Findings 3-7 and 10.)

4. In addition, although respondent has made payments toward his restitution, he has not yet substantially reduced his obligation. (Factual Findings 4 and 8.) (Regulation, § 2912, subd. (b).) The conviction has not been expunged or otherwise purged (Factual Findings 3-8) (Regulation, § 2912, subd. (c)), and respondent is still on home detention and probation. (Factual Finding 4 and 8.) (Regulation, § 2912, subd. (e).)

5. On the other hand, respondent did understand that a better course of action might have been to report his employers' scheme to authorities, and averred he would stay away from anything similar in the future. (Factual Finding 7.) (Regulation, § 2912, subs. (h) and (m).) In addition, respondent no longer stays in touch with Crown Point's principals. (Factual Finding 7.) (Regulation, § 2912, subd. (i).)

6. Nevertheless, despite respondent's generally good relationship with his family, the custody of his grandsons remains a source of conflict with the now-retired Congressman, with the potential for further adverse consequences. (Factual Findings 10 and 11.) (Regulation, § 2912, subd. (j).) Moreover, respondent has not undertaken any education or community service since his conviction, though his opportunities to do so have been limited to a degree by the constraints on his liberty. (Factual Findings 12.) (Regulation, § 2912, subds. (k) and (l).) In sum, respondent did not demonstrate sufficient rehabilitation at this time to overcome the grounds for license discipline.

7. Complainant established entitlement to reimbursement of the Bureau's reasonable costs of enforcement and investigation, totaling \$1,364.05. (Factual Finding 13.) (BPC, § 10106.)

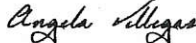
8. Given respondent's limited income and earning potential, he cannot afford to pay this sum. (Factual Findings 8 and 13.) To avoid punishing respondent for exercising his right to a hearing (*Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, 44-45), the Bureau's costs will be reduced by half, to \$682, and respondent will be allowed to repay that amount in a payment plan to be determined by the Real Estate Commissioner or a designee.

ORDER

1. All licenses and licensing rights of respondent Jude Raymond Lopez under the Real Estate Law are revoked.

2. Respondent shall pay the Bureau of Real Estate's costs of enforcement and investigation, in the amount of \$682, under a payment plan to be determined by the Real Estate Commissioner or a designee.

Dated: March 4, 2016

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ANGELA VILLEGAS
Administrative Law Judge
Office of Administrative Hearings