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OCT 11 2018

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPT. OF REAL ESTATE
By *Sybil Danner*

In the Matter of the Accusation of:)	DRE No. H-40898 LA
)	
CHRISTOPHER SHAWN GRAJEDA,)	OAH No. 2018011082
)	
)	
<u>Respondent.</u>)	

DECISION

The Proposed Decision dated September 4, 2018, 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 Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department'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.

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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 OCT 30 2018.

IT IS SO ORDERED October 4, 2018

DANIEL SANDRI
ACTING REAL ESTATE COMMISSIONER

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHRISTOPHER SHAWN GRAJEDA,

Respondent.

No. H-40898 LA

OAH No. 2018011082

PROPOSED DECISION

Thomas Y. Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 23, 2018, in Los Angeles, California.

Maria Suarez, complainant, brought the accusation in her official capacity as Supervising Special Investigator of the Department of Real Estate (DRE), and was represented by Julie L. To, Staff Counsel.

Christopher Shawn Grajeda, respondent, represented himself.

Oral and documentary evidence was received. The hearing concluded on July 23, 2018. The record was left open for respondent's submission of documents by July 30, 2018 and for response by complainant by August 6, 2018. Respondent, however, filed nothing further. The matter was submitted for decision on August 6, 2018.

SUMMARY

Respondent, holding a restricted salesperson license, was in the business of buying real properties in foreclosure and then selling or "flipping" them. Clients provided him monies for the business. Jehan Reyes agreed to give respondent money for purchase of two properties. Respondent spent Ms. Reyes's money not only to cover the purchase price of a property, but also for business expenses unrelated to any specific property. She obtained a judgment to recover her money, based in part on misrepresentation. Respondent misled Ms. Reyes regarding matters requiring a real estate license. Revocation is warranted.

FACTUAL FINDINGS

1. Respondent filed a timely request for hearing in response to the accusation.

2. On April 4, 2007, DRE issued respondent a real estate salesperson license, number 01790076. (Exhibit 2.)

A. On November 22, 2014, DRE suspended respondent's license under Family Code 17520 (failure to pay child support). On February 5, 2015, DRE reinstated the license under the same statute.

B. On December 21, 2015, pursuant to a stipulation and decision, described in more detail below, DRE issued respondent a restricted salesperson license, which is set to expire on December 20, 2019.

C. On June 21, 2016, DRE suspended the restricted license indefinitely. DRE terminated this suspension on February 14, 2017.

D. On January 18, 2018, DRE suspended the restricted license under Family Code 17520. DRE terminated this suspension on March 26, 2018. (Exhibit 10.)

Respondent's sole proprietorship

3. For more than a decade, respondent has operated a sole proprietorship that has bought and sold dozens of distressed properties, mostly in the Inland Empire, San Bernardino and Riverside Counties. Exhibit B is a list of approximately 100 such properties, purchased for a total of approximately \$25 million and resold for approximately \$38 million. The business was financed with funds, often from cashier's checks, supplied by several persons whom respondent characterizes as investors.

4. Respondent would seek out an investor and ask for a cashier's check payable to the investor, the person who provided the funds. He would use these checks when he needed money for an investment project, cashing them to put the money in an account he controlled. The money might be invested in real property, but not necessarily the same property discussed with or approved by the person who provided the money. Money from cashier's checks might just as well be used to pay operating expenses, such as improvements and renovations at one property or another, at respondent's discretion. Respondent testified that he explained these workings of his business to all his investors, but the testimony is doubtful, in light of later conduct by both respondent and Jehan Reyes, as described below.

Respondent's initial business dealings with Jehan Reyes

5. Jehan Reyes met respondent while he was showing a residence in November 2014. He told her he helped people invest in distressed real estate. Ms. Reyes expressed interest. She had money she wished to invest, rather than have cash on hand that might be the basis for dispute in marriage dissolution proceedings with her husband.

6. In January 2015, Ms. Reyes agreed that respondent would act as her agent in bidding for the purchase of two residences in foreclosure. She provided him funds, \$20,000

in one cashier's check for one property, \$105,000 in another cashier's check, made payable to herself, for a different property. Respondent successfully bid on only the second property, at 21030 Quileute Road, Apple Valley, California (Quileute Property). Using only the second cashier's check, respondent purchased the property for \$100,000. (Exhibit E.) On February 10, 2015, the trustee provided Ms. Reyes a refund of \$5,000 and an unrecorded Trustee's Deed upon Sale, which conveyed the property to JM Trinity, Inc., an entity controlled by Ms. Reyes. (Exhibit 4.)

7. At the time of respondent's first business dealings with Ms. Reyes, there was no written agreement between them. In buying the Quileute Property, respondent followed few of the procedures laid out in the IE Flips Agreement, which Ms. Reyes signed later, as indicated below.

8. On February 13, 2015, Ms. Reyes paid respondent \$5,000 by draft from an account in her name at JPMorgan Chase Bank, N.A. (Chase). (Exhibit 4.) This payment was like payments described in the agreement that, as indicated below, Ms. Reyes and respondent signed a few weeks later. The agreement characterized such payments, each set at \$5,000, as a finder's fee, unrelated to commissions.

9. Before signing any agreement, more business dealings between respondent and Ms. Reyes followed.

A. On February 17, 2015, Ms. Reyes obtained a cashier's check in the amount of \$25,000 from Chase. She turned the check over to respondent. The payee of the cashier's check was Ms. Reyes, but respondent endorsed it on a date not established under a handwritten note: "Pay to the order of: Christopher Shawn Grajeda."

B. On February 19, 2015, Ms. Reyes obtained another cashier's check from Chase, again made payable to herself, this time in the amount of \$15,000. Respondent endorsed this cashier's check on a date not established over a handwritten note: "Payable to Christopher Shawn Grajeda."

Respondent maintained that Ms. Reyes agreed, as had many other investors with whom respondent dealt over the years, that he could use such payments for business expenses of all kinds. As indicated below, Ms. Reyes later won a default judgment against respondent in the California Superior Court, based on her evidence that in each case funds from a cashier's check were to be invested in the purchase of only one, specifically agreed residential property.

10. Respondent's endorsements call his veracity into question because he has claimed he had a power of attorney from Ms. Reyes formally indicating his authorization to exercise his discretion in using her money. He actually provided Ms. Reyes with a form entitled "power of attorney," but Ms. Reyes did not sign it. Respondent presented no evidence to show Ms. Reyes gave him power of attorney.

The IEFlips Agreement

11. On March 16, 2015, Ms. Reyes and respondent, doing business as IE Flips, signed an agreement (IE Flips Agreement).

A. The IE Flips Agreement has ambiguities and non-sequiturs, some examples of which are found at the outset. The agreement is said to be a set of “terms of use” for investors, as if the person, such as Ms. Reyes, who agreed to invest in distressed property, controlled how respondent operated. Some parts of the agreement refer to “terms and use,” without explanation. The agreement provides for passive investment. Under its terms, respondent sought out properties to be purchased, did the bidding at auctions, arranged for eviction of occupants of the properties, and decided whether to refurbish properties before reselling them. Under the heading, “Our Service,” the agreement states: “We are on an ‘AS IS’ basis.” This is apparently shorthand for the purchaser’s investment in property purchased as is. The agreement has a provision stating that it should not be construed against the drafter.

B. Respondent agreed, among other things: “To represent you [Ms. Reyes] . . . at Trustee Sales and Auctions [and] . . . make bids at court locations on properties.” (Exhibit 4.)

C. Ms. Reyes was to pay respondent a “finder’s fee” of \$5,000 on the day any property was purchased for her under the agreement. She agreed that the fee was not commission nor an “upfront fee for commissions,” but rather “a charge for services that are rendered by ‘Flips.’” (Exhibit 4.)

D. The agreement states that respondent and persons working with him as his staff would serve papers so that any tenants of a purchased property would vacate, or the tenants might be paid cash in consideration of their vacating the property.

E. Ms. Reyes agreed that respondent and the brokerage for which he worked would be the listing agents for sale of a purchased property. She agreed to pay them a six percent commission upon sale.

F. The signatures of Ms. Reyes and respondent appear on page 7 of the agreement. Pages are appended to the IE Flips Agreement, including another signature block for Ms. Reyes on page 10, which however has no signature.

G. Appended page 9 provides that “A Specific Power of Attorney must be signed by you.” (Exhibit 4, underlining in original.) Respondent asserted that Ms. Reyes provided him a power of attorney, but presented no document or other evidence to support the assertion.

H. Appended page 10 has more terms printed above the unsigned signature block. It provides, for instance, that “cashier’s checks (payable to yourself) must

be in our possession prior to the auction date.” (*Ibid.*, underlining in original.) Appended page 10 includes provisions on how an investor might approve respondent’s purchase of a particular property. There is no indication in the IEFlips Agreement that respondent and Ms. Reyes agreed to the provisions on appended pages 9 and 10.

12. Respondent acknowledged that, since the days when he used to endorse cashier’s checks like the ones provided by Ms. Reyes, financial institutions have changed their policies and do not now allow cashier’s checks to be cashed by a party like respondent not named as payee.

13. On May 12, 2015, Ms. Reyes, individually and on behalf of JM Trinity, Inc., entered into a Residential Listing Agreement (listing agreement) regarding the Quileute Property. The listing agreement is on a form from the California Association of Realtors (C.A.R.), C.A.R. Form RLA, Revised 11/13. Ms. Reyes’s agent named in the listing agreement was respondent, whose brokerage was Intero Real Estate Services. The listing price was \$164,000. (Exhibit A.) Ms. Reyes benefitted from owning the Quileute Property. It was not established whether she sold it, but when listed with respondent the property was worth substantially more than she paid for it.

Respondent’s restricted license

14. As of October 27, 2015, several parties, including respondent, had entered into a Stipulation & Agreement (stipulation).

A. The stipulation concluded a case before the Bureau of Real Estate (now DRE), number H-39796 LA, OAH number 2015041226, entitled *In the Matter of the Accusation of SWB Properties, Inc., Ricardo Isidro Diaz, individually and as designated officer of SWB Properties, Inc., and Christopher Shawn Grajeda, Respondents* (2015 BRE case).

B. The stipulation provided that conduct and omissions set out in the accusation in the 2015 BRE case constituted cause for discipline of respondent’s license and license rights under Business and Professions Code sections 10176, subdivision (a), and 10177, subdivision (g). The accusation described the listing, sale, and purchase of a residence in Fontana, California.

(i) Respondent and certain of his business associates failed to disclose that they were representing both buyers and seller in the transaction.

(ii) Respondent and his associates induced the buyers to pay approximately \$30,000 for the release of liens against the property, to the benefit of the seller. Respondent and his associates failed to disclose to lenders that they had been friends for decades and that the seller had worked for the broker under whom respondent had transacted real estate business.

(iii) Respondent and his associates violated Business and Professions Code: section 10176, subdivision (a) (perpetrating substantial misrepresentation); section 10177, subdivision (j) (committing fraud or dishonest dealing); section 10177, subdivision (d) (violating the Real Estate Law, Business and Professions Code section 1000 et seq.); and section 10177, subdivision (g) (negligence).

C. Respondent agreed that he would be issued a restricted license governed by Business and Professions Code 10156.5 and would not be eligible to apply for an unrestricted license or for removal of any conditions, limitations, or restrictions of a restricted license for two years after the effective date of a decision by the real estate commissioner based on the stipulation.

Ms. Reyes's claims and litigation

15. Complainant submitted a declaration by Jehan Reyes (Reyes Declaration), which she signed on January 30, 2016. The declaration describes a Licensing/Subdivider Complaint (Licensing Complaint) which Ms. Reyes had submitted to DRE. The Licensing Complaint was against respondent and Mainstreet Realty, a real estate brokerage that employed respondent at the time of events in 2015 about which Ms. Reyes complained. The Reyes Declaration was admitted into evidence under Government Code section 11514.

16. As set out in the Reyes Declaration, respondent acted as Ms. Reyes's agent in early 2015, when she gave him two cashier's checks for \$45,000. The payee on each was Ms. Reyes herself. The agreement was that respondent would use the money to purchase two residential properties, one at 3101 Second Street, Norco, California (Norco Property), the other at 9493 Mountain Road, Pinon Hills, California (Pinon Hills Property). The two residential properties were in foreclosure, set to be auctioned off in court proceedings. In early April 2015, respondent endorsed the checks and used the money to purchase the properties in his name. Ms. Reyes demanded that respondent either refund her money or sign over the properties' deeds of trust, so that she and not respondent would have an ownership interest in the properties, but he did neither.

17. On June 2, 2016, Jehan Reyes filed a verified complaint to initiate an action in the Superior Court of California, County of Riverside, case number RIC 1606820, entitled *Jehan Reyes, Plaintiff, vs. Christopher Shawn Grajeda, an Individual; Avance Real Estate, Inc., dba Interio Realty; SWB Properties, Inc., dba Mainstreet Realtors; Danny Luis Morel; Ricardo Isidro Diaz; Does 1-20, Inclusive* (Reyes Action). The Reyes Action asserted nine causes of action, including, against respondent, intentional and negligent misrepresentation and breach of fiduciary duty. Attached to the Reyes Action is a Grant Deed to the residential property at 3101 Second Street, Norco, California, showing that the property was transferred to respondent and recorded in Official Records, Riverside County, on November 16, 2015.

18. Respondent believes that Ms. Reyes overreacted and made unfair claims against him. He offered to pay her back, but she insisted that he must pay more than \$45,000 and do so immediately. Respondent was unable to pay her immediately. At about the time

he was dealing with Ms. Reyes, respondent had purchased a property in foreclosure on Ironwood Street in Moreno Valley (Ironwood Property), planning as usual to evict any occupants and resell the property for a profit. The occupant of the Ironwood Property frustrated efforts at eviction for more than a year. At the time of the administrative hearing, respondent had still been unable to obtain possession of the property free and clear and was unable to sell. Unable to realize a return on his investment in the Ironwood Property, respondent's cash flow dropped substantially, disrupting his entire business.

19. In addition, Ms. Reyes put lis pendens on several properties respondent was holding in anticipation of refurbishments and resales. They were not properties he had discussed with Ms. Reyes. She sought out any property in which he had an ownership interest and put liens against any she could find. She thus interfered with respondent's ability to sell several properties, causing more interruptions in cash flow. As a result, respondent lost more than one property to foreclosure and incurred tens of thousands of dollars in losses.

20. Ms. Reyes was not respondent's only adversary. Her adult son made threats of physical violence against respondent.

21. Ms. Reyes's lawsuit quoted text messages in which respondent had apologized to her for being unable to pay her back. The lawsuit characterized the messages as admissions of liability. Respondent credibly testified that he had no intent to admit misrepresentation or liability of any kind. He was embarrassed and ashamed that he had losses, but in his communications he was only trying to appease Ms. Reyes in an attempt to save his business.

22. The Reyes Action resulted in a default judgment against respondent. DRE paid the judgement on a date not established. Ms. Reyes then filed, on February 22, 2017, a request for dismissal of the action, which the court entered on February 23, 2017. (Exhibit F.) Respondent believes that discipline against his license is inappropriate in light of the Reyes Action's dismissal.

23. Respondent asserted that discipline is further inappropriate because his conduct toward Ms. Reyes did not require a real estate license. He emphasized that purchasing distressed properties on another's behalf does not require a license. Respondent also pointed out that when he represented Ms. Reyes in listing the Quileute Property, which required a license, the transaction resulted in benefit, not harm, to Ms. Reyes.

DRE's further investigation

24. Business and Professions Code section 10176 required that DRE investigate Ms. Reyes's claims. In addition to obtaining Ms. Reyes's declaration, DRE asked respondent questions in the course of its investigation. Respondent labeled the answers a Declaration, which he signed and dated on June 1, 2016, but not under penalty of perjury. Regarding a question about his endorsing Ms. Reyes's cashier's checks, respondent stated:

"Yes, I have authorization. I even asked if I can endorse her checks and I have a signed power of attorney to do so." (Exhibit 7.)

25. Asked about his purpose in endorsing Ms. Reyes's cashier's checks, respondent provided DRE this answer: "I offer a service to purchase Trustee sales. These funds can be used for multiple purposes. In some cases, a joint venture or receive interest on those funds [*sic*]. Reyes was to receive a 10% return on her funds." (Exhibit 7.) In another answer respondent stated further that IEFlips, being his sole proprietorship, was separate from any licensed work he did under a broker's supervision and his license was not involved in the sole proprietorship's operation.

26. Exhibit 6 is the declaration of Paula Hugo, a special investigator at DRE. During investigation she performed on April 20, 2017 regarding respondent's claim that he did not use his license in operating IEFlips, she examined respondent's website, ieflips.com. She found that there were several references to respondent's being a real estate licensee.

27. Respondent produced a letter from a Mr. Vasquez, who supported the testimony that by respondent's efforts many investors have greatly profited. Mr. Vasquez wrote that at one point respondent was having difficulty repaying money Mr. Vasquez had contributed, but Mr. Vasquez persisted in believing in respondent's business acumen, industriousness, and honesty. As Mr. Vasquez expected, respondent recovered from business difficulties and, by reselling distressed property, realized substantial profit in which Mr. Vasquez shared. Respondent also presented paperwork, Exhibit D, indicating that by his services in buying and selling property he had realized substantial profits in which others shared, such as a woman who had initially entrusted him with \$20,000.

Costs

28. Complainant incurred reasonable costs: \$3,335.95 for investigation (Exhibit 8) and \$485.05 for enforcement (Exhibit 9). The reasonable costs total \$3,821.

29. Respondent testified credibly that, should he be required, he is unable to pay costs at present. Respondent had no choice but to spend a great deal of money in defending himself in the Reyes Action. In the course of litigation with Ms. Reyes, she placed lis pendens against several properties he had purchased, making it all but impossible to resell them and resulting in substantial financial loss as some properties were foreclosed upon. Respondent is trying but has not recovered from the losses.

LEGAL CONCLUSIONS

1. Complainant has the burden of showing by "clear and convincing proof to a reasonable certainty" that license discipline is warranted. (*Ettinger v. Medical Board of Quality Assurance* (1982) 135 Cal.App.3d 853, 855.) Complainant met the burden in this case.

2. Business and Professions Code section 10176 provides in part:

The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter [Chapter 3 of Part 1 of Division 4, Business and Professions Code sections 10130 through 10249.93] has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade, or induce. [¶] . . . [¶]
- (i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

3. Business and Professions Code section 10177 provides in part:

The commissioner may suspend or revoke the license of a real estate licensee . . . who has . . . : [¶] . . . [¶]

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2. [¶] . . . [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, that constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

4. Business and Professions Code section 10177.5 provides:

When a final judgment is obtained in a civil action against any real estate licensee upon grounds of fraud, misrepresentation, or

deceit with reference to any transaction for which a license is required under this division, the commissioner may, after hearing in accordance with the provisions of this part relating to hearings, suspend or revoke the license of such real estate licensee.

5. Respondent's wrongdoing, as characterized in Ms. Reyes's declaration, was misrepresentation: he took money to purchase properties for her but instead used her money for his own benefit. Respondent countered that in collecting money from Ms. Reyes he explained to her that it would be handled like money from others, placed in a fund that respondent might draw on for expenses, whether to purchase properties, refurbish them, or use in connection with resale. Respondent's testimony was credible that he gave Ms. Reyes such an explanation of their business dealings.

6. Respondent's testimony, however, was not consistent with what is set out in the IEFlips Agreement. The agreement states that respondent would collect money for purchase of particular property, though the exact property was to be identified later. Once a particular property was identified and purchased at auction, under the agreement respondent was to list the property as the real estate agent for the purchaser. Respondent's point that a real estate license is not required to act as the purchasing agent of a property in foreclosure is valid as far as it goes. But in the IEFlips Agreement he went farther and represented that he would perform a service that required a license, in listing the property purchased.

7. Also inconsistent with respondent's assertions is respondent's accepting the two cashier's checks from Ms. Reyes, dated February 17 and 19, 2015. If respondent was going to put all of Ms. Reyes's money in one fund for spending at his discretion on various properties, there was no need for separate checks from her. By accepting separate checks, respondent made it appear he would use money from one check for one particular property and money from the other check for a different property. This is especially so in light of their previous dealings. Respondent had previously taken two separate checks from Ms. Reyes and used only one, for \$105,000, to pay for one particular property, the Quileute Property. The other he had in reserve to purchase a different property, although that transaction did not proceed.

8. Respondent substantially misled Ms. Reyes. Based on ambiguous and inconsistent promises about how respondent would use her money, Ms. Reyes expected that with her February 17 and 19, 2015 checks respondent would follow the same procedure he followed with the earlier checks. Instead she was a misinformed participant in an investment business, without the benefit of security, an ownership interest in particular real property.

9. Liability for negligent misrepresentation is generally recognized when an investor suffers substantial financial harm because a professional supplies misleading information for business purposes, as respondent did. (See, e.g., *OCM Principal Opportunities Fund, L.P. v. CIBC World Markets Corp.* (2007) 157 Cal.App.4th 835.)

10. Another part of Ms. Reyes's expectation was that respondent would represent her in reselling particular properties purchased on her behalf. Such representation requires licensure. Respondent's misconduct was thus within the scope of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code. Respondent's business was more specifically governed by Business and Professions Code sections 10132 and 10131, subdivision (a), which governs the conduct of a person "who, for a compensation or in expectation of a compensation, regardless of the form or time of payment . . . (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real property or a business opportunity." Business and Professions Code section 10176 makes misconduct in such a business grounds for license discipline.

Cause for license discipline

11. Cause accordingly exists under Business and Professions Code section 10176, subdivision (a), for suspension or revocation of respondent's restricted salesperson license. The circumstances of respondent's offering Ms. Reyes, for a commission of six percent, to sell two properties on her behalf which he was to acquire in foreclosure sales, constituted a substantial misrepresentation.

12. Cause exists for suspension or revocation of respondent's restricted salesperson license under Business and Professions Code section 10176, subdivision (b). In leading Ms. Reyes to believe that he would purchase and sell separate properties with separate cashier's checks, and instead using the money for operating expenses, respondent engaged in making false promises of a character likely to influence, persuade, or induce Ms. Reyes to act as she did in entrusting him with money.

13. Cause does not exist for suspension or revocation of respondent's restricted salesperson license under Business and Professions Code section 10176, subdivision (i). The evidence did not establish that respondent intended to deal with Ms. Reyes dishonestly or set out to defraud her. Respondent honestly believed that Ms. Reyes would profit from his conduct on her behalf, just as many other investors had. As he explained at length, in several ways, and with ample sincerity at hearing, respondent thought he explained his business to Ms. Reyes well and clearly, so that she understood that he would use her money as he did. It was not intentional falsehood by respondent that led to Ms. Reyes's harm. The evidence indicates that respondent was a poor businessman in explaining and documenting how he conducted his sole proprietorship. Even so, respondent would likely not have harmed Ms. Reyes had he not endured setbacks unrelated to the properties he and she discussed. One such setback was the long delay in evicting an occupant of the Ironwood Property. Discipline is properly based on respondent's negligent misrepresentation, not any bad intent.

14. For the reasons set out in the preceding Conclusion, cause does not exist for discipline of respondent's license under Business and Professions Code section 10177, subdivisions (d) and (j). Respondent's conduct constituted negligent misrepresentation, rather than willful violation of laws and regulations or fraud and dishonesty.

15. Cause exists to discipline respondent's license under Business and Professions Code section 10177, subdivision (k). Under the Decision and Order restricting respondent's license, he was required to obey all laws. He violated Business and Professions Code section 10176, subdivisions (a) and (b), as discussed above.

16. Cause exists to discipline respondent's license under Business and Professions Code section 10177.5. Ms. Reyes obtained a final judgment in a civil action against respondent upon grounds of misrepresentation with reference to transactions, the listing of the Norco Property and the Pinon Hills Property, for which respondent was required to be licensed.

Costs

17. DRE is entitled to its reasonable investigation and enforcement costs under Business and Professions Code section 10106, subdivision (a).

18. Due process requires, however, that an order for costs must be "tailored . . . to the capacities and circumstances of those who are to be heard." (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 46, citing *Mathews v. Eldridge* (1976) 424 U.S. 319, 349.) Respondent would at present have great difficulty paying costs, in this case totaling \$3,821. In the circumstances, it would be unduly punitive to require that respondent pay costs now. Respondent will be required to pay costs before he should be entitled to a real estate license in the future, should he seek one.

19. Respondent showed that he has had considerable success in a risky business and, more important, that he never intended any harm to those who entrusted him with funds. However, respondent was responsible for signal failures in the case of Ms. Reyes. Given potentially harmful ambiguities and uncertainties in his written representations to others, notably the IEFlips Agreement, more discipline than a restricted license is appropriate for the protection of the public.

ORDER

1. All licenses and licensing rights of respondent, Christopher Shawn Grajeda, under the Real Estate Law, are revoked.

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2. Respondent is not liable for costs at present. However, under Business and Professions Code sections 10106, subdivision (a), respondent shall reimburse the Department of Real Estate its costs in the amount of \$3,821, on such terms as the Department may direct, should respondent re-apply for real estate licensure.

Dated: September 4, 2018

DocuSigned by:
Thomas Y. Lucero
THOMAS Y. LUCERO
Administrative Law Judge
Office of Administrative Hearings