

File facts

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DEPT. OF REAL ESTATE
By *Suzanne*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-41388 LA
)
PAUL AGUILAR, JR.)
)
Respondents.)
)

The Complainant, a Supervising Special Investigator of the State of California, for cause of Accusation against Respondent PAUL AGUILAR, JR. ("Respondent"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

DRE Accusation against Paul Aguilar, Jr.

1 RESPONDENT PAUL AGUILAR, JR.

2 3.

3 DRE License History

4 PAUL AGUILAR, JR. ("AGUILAR") is presently licensed and/or has license
5 rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker
6 ("REB"), Department of Real Estate ("Department" or "DRE") license ID 00820322.

7 4.

8 AGUILAR was first licensed by the Department as a REB on or about June 6,
9 1986.

10 5.

11 According to DRE records to date, AGUILAR has one active DBA for American
12 Eagle Properties, active as of March 6, 2015.

13 6.

14 According to DRE records to date, on or about January 25, 2001, in DRE Case
15 No. H-28468 LA, AGUILAR's REB license was suspended for 90 days, stayed for two (2) years,
16 for violation of Code Section 10145 and Regulations 2831; 2832; 2834; and 2950(h).

17 7.

18 AGUILAR's REB license will expire on September 16, 2022.

19 8.

20 At all times mentioned herein, Respondent AGUILAR engaged in the
21 performance of activities requiring a real estate license pursuant to Code Section 10130, and
22 acted and ordered, caused, authorized or participated in licensed activities within the meaning of
23 Code Section 10131.

24 ///

26 DRE Accusation against Paul Aguilar, Jr.

1 6645-6547 & 6549 Darwell Ave., Bell Gardens, California ("The Property")

2 9.

3 AGUILAR was the dual agent in two (2) transactions involving real property
4 located at 6645-6547 & 6549 Darwell Ave., Bell Gardens, California ("the property").
5 AGUILAR dba American Eagle Properties was the listing agent for the property and represented
6 the Seller and two (2) separate Buyers.

7 10.

8 Buyer One's February 9, 2016 Offer

9 On or about February 9, 2016, AGUILAR prepared and submitted on behalf of
10 Raul V. ("Buyer One") a Commercial Property Purchase Agreement ("CPPA") to purchase the
11 property for \$622,500 with a \$10,000 earnest money deposit ("EMD") and a close of escrow
12 ("COE") to occur within "60 Days or sooner." At page 2 of the CPPA, in the section for "Other
13 Terms" was a typewritten note: "This offer is subject to cancellation of current escrow. Seller to
14 provide termite report ad clearance. Front unit to be vacant by close of escrow." At page 3 of
15 the CPPA, in the section for "Escrow and Title," Reliable Escrow ("Reliable") was listed as the
16 Escrow Holder, with an adjacent handwritten note: "or best priced alternative."

17 11.

18 Seller's February 12, 2016 Acceptance, Escrow Instructions

19 On or about February 12, 2016, M. M. ("Seller") accepted Buyer One's offer and
20 escrow 21272 was opened at Reliable with Escrow Instructions executed on or about February
21 16, 2016 with a COE on or before April 15, 2016 ("EI"), per the CPPA.

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12.

Amendment #1 to Escrow Instructions (Price Reduction)

On or about March 29, 2016, Buyer One requested a price reduction due to the condition of the property's roof. On or about April 4, 2016, an Amendment to the February 16, 2016 EI was prepared that reduced the purchase price from \$622,500 to \$617,500 ("Amendment #1"). Amendment # 1 was executed by Buyer One and Seller on or about April 15, 2016.

13.

Amendment #2 to Escrow Instructions (Time Extension)

When Seller's tenants in the property did not vacate and the lender required certain repairs to the property, another EI Amendment was prepared on or about April 19, 2016, to extend the COE from April 15, 2016 to "on or before May 31, 2016." ("Amendment #2"). Amendment # 2 was executed by Buyer One and Seller on or about April 20, 2016. (According to the loan closing instructions issued by Buyer One's lender, Wescom Central Credit Unit, the scheduled COE was May 10, 2016 with a disbursement date of May 16, 2016.)

14.

Amendment #3 to Escrow Instructions (Time Extension; Not Executed)

On or about May 24, 2016, another EI Amendment was prepared to extend the COE to June 24, 2016 ("Amendment #3"). According to the escrow file, Amendment #3 was not signed by the Seller or Buyer One.

15.

Amendment #4 to Escrow Instructions (Time Extension; Not Executed)

On or about May 26, 2016, another EI Amendment was prepared to extend the COE to June 30, 2016 ("Amendment #4"). According to the escrow file, Amendment #4 was not signed by the Seller or Buyer One.

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16.

Amendment #5 to Escrow Instructions (Price Reduction and Time Extension: Not Executed)

On or about June 20, 2016, another EI Amendment was prepared to both lower the purchase price to \$612,000 and extend the COE to July 12, 2016 ("Amendment #5").

According to the escrow file, Amendment #5 was not signed by Seller or Buyer One.

17.

Amendment #6 to Escrow Instructions (Price Reduction and Time Extension: Not Executed)

On or about June 30, 2016, another EI Amendment was prepared to extend the COE to August 15, 2016 and to lower the purchase price [already proposed in Amendment #5] to \$612,000, due to the tenant eviction process ("Amendment #6"). According to the escrow file, Amendment #6 was not signed by Seller or Buyer One.

18.

According to Buyer One, he declined to sign Amendments #3 through #6 until a confirmed closing date could be identified by Seller and AGUILLAR, in order to establish the financial damages resulting from the COE extensions and to negotiate a purchase price reduction. Between June 30, 2016 and July 1, 2016, Buyer One expressed to AGUILAR his intentions to purchase the property and his lender's inability to wait indefinitely as his reasons for declining to sign the subsequent EI Amendments.

19.

June 23, 2016 Notice to Buyer to Perform

On or about June 23, 2016, AGUILAR issued a Notice to Buyer to Perform (C.A.R. Form NBP, Revised 11/14) to Buyer One to sign Amendment #5 to extend COE to July 12, 2016.

DRE Accusation against Paul Aguilar, Jr.

1 20.

2 June 30, 2016 Notice to Buyer to Perform

3 On or about June 30, 2016, AGUILAR issued a second Notice to Buyer to
4 Perform (C.A.R. Form NBP, Revised 11/14) to Buyer One to sign Amendment #6 to extend
5 COE to August 15, 2016.

6 21.

7 July 6, 2016 Escrow Cancellation Instructions

8 On or about July 7, 2016, AGUILAR sent to Buyer One via e-mail a document
9 titled "Cancellation Escrow Instructions" bearing the date July 6, 2016 and Seller's signature,
10 along with the message: "...Please sign the cancelation in a timely manner or you may lose part
11 of your deposit which we have no control. (Seller)." Buyer One did not sign the Cancellation
12 Escrow Instructions that AGUILAR sent.

13 22.

14 August 22, 2016 Escrow Cancellation Instructions

15 On or about August 22, 2016, Laurie Allread, Senior Escrow Officer for Reliable
16 ("Allread") sent the same "Cancellation Escrow Instructions" [that AGUILAR sent to Buyer One
17 of July 7, 2016] via e-mail to Buyer One with the message: "Attached find cancellation
18 instructions. This is the 2nd request. Please sign and return to escrow." Buyer One did not sign
19 the July 6, 2016 Cancellation.

20 23.

21 Buyer Two's July 5, 2016 Offer

22 On or about July 5, 2016, AGUILAR prepared and submitted on behalf of Nhin
23 Dav H. and Wai Yin N. (collectively, "Buyer Two") a Residential Income Property Purchase
24 Agreement ("RIPPA") to purchase the property for \$630,000 with a \$10,000 EMD, and a COE to
25

26 DRE Accusation against Paul Aguilar, Jr.

1 occur within "45 days or sooner." At page 2 of the RPPA, in the section for "Other Terms" was
2 a typewritten note: "Subject to interior inspection. The front unit shall be delivered vacant after
3 the close of escrow," with an adjacent handwritten note: "* subject to current cancellation of
4 current escrow." At page 3 of the RPPA, in the section for "Escrow and Title" the Escrow
5 Holder was listed as "Seller's choice."

6 24.

7 Seller's July 7, 2016 Acceptance, Escrow Instructions

8 On or about July 7, 2016, Seller accepted Buyer Two's offer and AGUILAR
9 contacted Central Escrow ("Central") on July 8, 2016 via e-mail to open escrow. AGUILAR's
10 email to Central indicated, "...I am the listing and selling broker with a 5% commission. Please
11 call me to verify the escrow..." and attached a document named "Darwell offer 2." Central
12 Escrow opened escrow 1038373-MM on or about July 11, 2016, with a COE of August 22, 2016.

13 25.

14 Central Escrow's Requests for Proof of Reliable Escrow Cancellation

15 On or about August 21, 2016, Central Escrow Officer Michelle Mai ("Mai") of
16 sent an e-mail to AGUILAR to submit, among other items "fully executed cancellation from the
17 other escrow." On or about August 22, 2016, Mai sent another e-mail to AGUILAR: "Do you
18 have fully executed cancellation from the other escrow? Kindly email me a copy. Thank you."

19 26.

20 Central's Receipt of Reliable Escrow Cancellation Escrow Instructions Dated July 6, 2016

21 Prior to COE, Central received a fully executed Cancellation Escrow Instructions
22 dated July 6, 2016 for Reliable Escrow that bore signatures representing Seller and Buyer One
23 ("July 6, 2016 Cancellation").

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27.

Buyer One Did Not Sign the July 6, 2016 Cancellation

According to Buyer One, he had not agreed to cancel escrow on or about July 6, 2016, and the signature that appears on the face of the July 6, 2016 Cancellation is not his. According to Buyer One, he did not give consent for AGUILAR to sign documents on his behalf.

28.

Buyer One Expressly Decline to Sign the July 6, 2016 Cancellation

A. On July 7, 2016, at 1:43 PM, AGUILAR sent an e-mail to Buyer One: "I am sorry to inform you that our escrow period expired and you refuse to extend our escrow period... The seller has signed the cancelation. Please sign the cancelation in a timely manner or you may lose part of your deposit which we have no control. (Seller)"

B. On July 7, 2016, at 3:04 PM, Buyer One replied to AGUILAR: "...The cancellation you created is NOT mutually agreed and escrow will remain open until this matter is settled between the Seller and the Buyer..."

29.

Buyer One Did Not Submit the July 6, 2016 Cancellation to Reliable

According to Reliable Escrow, the July 6, 2016 Cancellation was not submitted to Reliable. According to Allread, Senior Escrow Officer of Reliable, she was instructed by AGUILAR on July 6, 2016 to draft Buyer One's escrow cancellation instructions. As late as August 22, 2016, Allread sent an e-mail to Buyer One: "Attached find cancellation instructions. This is the 2nd request. Please sign and return to escrow." According to Allread, she received information of Buyer Two/ the second escrow (Central) once the second escrow had closed and had no knowledge or information from AGUILAR that the second escrow opened with a different escrow company than Reliable. According to Allread, Reliable did not receive a copy

DRE Accusation against Paul Aguilar, Jr.

1 of signed cancellation instructions signed by Buyer One and Seller; Reliable had in its records the
2 Cancellation Instructions as signed by Seller only.

3 30.

4 Close of Escrow with Central Escrow While Reliable Escrow Open

5 Buyer Two's escrow with Central closed on August 25, 2016, while Buyer One's
6 escrow with Reliable was still open. According to Central's Closing Statement (for Buyer Two),
7 Listing Broker American Eagle Properties (AGUILAR dba American Eagle Properties) received
8 commission in the amount \$30,000.

9 31.

10 Buyer One's Cancellation of Escrow with Reliable in March 2018

11 Buyer One ultimately signed Escrow Cancellation Instructions on or about March
12 13, 2018 shortly after Buyer One, AGUILAR and Seller executed a settlement in Los Angeles
13 Superior Court Case No. V065787, over eighteen (18) months after Buyer Two closed escrow on
14 the property.

15 32.

16 AGUILAR Signed the July 6, 2016 Cancellation

17 On or about November 7, 2017, DRE Special Investigator Samuel Delgado ("SI
18 Delgado") sent AGUILAR a letter requesting copies of his transaction documents relating to the
19 property. In addition, SI Delgado's letter included an inquiry regarding Buyer One's "signature
20 forged on the Escrow Cancellation to allow the closure of escrow with Central." On or about
21 November 17, 2017, the DRE received a letter dated November 14, 2017 from AGUILAR which
22 included AGUILAR's statements: "I told the 2nd buyers my problem and said the deal was going
23 to be subject to the cancellation of the 1st deal and they agreed. I assumed Mr. V. [Buyer One]
24 would sign the extensions but he never did... As the Broker, Realtor I believe that I had the
25

26 DRE Accusation against Paul Aguilar, Jr.
27

1 authorization to sign the cancellation. I was not hiding or defrauding anyone at that time. I was
2 doing what I thought was best for both parties.”

3 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

4 **Grounds for Revocation or Suspension – Code Section 10176**

5 33.

6 Pursuant to Code Section 10176, “The commissioner may, upon his or her own
7 motion, and shall, upon the verified complaint in writing of any person, investigate the actions of
8 any person engaged in the business or acting in the capacity of a real estate licensee within this
9 state, and he or she may temporarily suspend or permanently revoke a real estate license at any
10 time where the licensee, while a real estate licensee, in performing or attempting to perform any
11 of the acts within the scope of this chapter has been guilty of any of the following:

12 (a) Making any substantial misrepresentation.

13 ...

14 (i) Any other conduct, whether of the same or of a different character than
15 specified in this section, which constitutes fraud or dishonest dealing...”

16 **Further Grounds for Disciplinary Action – Code Section 10177**

17 34.

18 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
19 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the
20 issuance of a license to an applicant, who has done any of the following:

21 ...

22 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
23 with Section 10000)) or Chapter 1 (commencing with Section 11000) of
24 Part 2 or the rules and regulations of the commissioner for the
25

26 DRE Accusation against Paul Aguilar, Jr.

1 administration and enforcement of the Real Estate Law and Chapter 1
2 (commencing with Section 11000) of Part 2.

3 ...

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

6 **VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE**

7 35.

8 Complainant re-alleges and incorporates by reference the preceding paragraphs as
9 set forth herein.

10 36.

11 In the course of the activities described above, and based on the facts discovered
12 by the Department, also described above, the acts and/or omissions of Respondent **PAUL**
13 **AGUILAR, JR.** are in violation of **Code Section 10176(i) and Code Sections 10177(d) and (j)**,
14 and constitute cause for the suspension or revocation of all licenses and license rights
15 Respondent **PAUL AGUILAR, JR.** under the Real Estate Law.
16

17 **COSTS**

18 37.

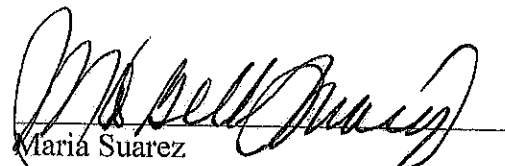
19 **Code Section 10106** provides, in pertinent part that in any order issued in
20 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
21 administrative law judge to direct a licensee found to have committed a violation of this part to
22 pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.
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26 DRE Accusation against Paul Aguilar, Jr.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all the licenses and license rights of Respondent PAUL AGUILAR, JR. under the
4 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other
5 and further relief as may be proper under other applicable provisions of law.
6

7 Dated at Los Angeles, California

8 this 10th day of June 2019
9

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11 
12 Maria Suarez
13 Supervising Special Investigator
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17 cc: PAUL AGUILAR, JR.
18 M. Suarez
19 Sacto.
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27 DRE Accusation against Paul Aguilar, Jr.