

FILED

NOV 06 2019

DEPT. OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:) DRE No. H-41433 LA
SERGIO ALVAREZ,)
Respondent(s).)
_____)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 1, 2019, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, SERGIO ALVAREZ ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses and/or license rights on grounds of conviction of a crime that is substantially related to the qualifications, functions or duties of a real estate licensee and Respondent's failure to timely report said conviction.

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") 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. 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 Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On July 12, 2019, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to

Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on July 25, 2019.

2.

On October 1, 2019, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code") as a real estate salesperson. Respondent's real estate salesperson license will expire on April 19, 2020.

3.

To date, the Department has incurred investigation costs of \$987.20.

4.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on July 25, 2019, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

The allegations contained in the Accusation, constitute cause under Sections 490 and 10177(b) (conviction of a crime substantially related to the qualifications, functions or duties of a real estate licensee) of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

2.

Respondent's failure to report his felony complaint and/or felony conviction constitutes cause for discipline under Code Section 10186.2 of the license and license rights of Respondent under the Real Estate Law.

3.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

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ORDER

All licenses and licensing rights of Respondent SERGIO ALVAREZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on NOV 26 2019.

DATED: October 31, 2019.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER



1 Department of Real Estate
2 320 West Fourth St, Ste 350
3 Los Angeles, CA, 90013

FILED

OCT 01 2019

DEPT. OF REAL ESTATE

By R. Posad

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. **H-41433 LA**
12)
13 SERGIO ALVAREZ,) DEFAULT ORDER
14 Respondent.)

15 Respondent SERGIO ALVAREZ, having failed to file a Notice of Defense
16 within the time required by Section 11506 of the Government Code, is now in default. It is,
17 therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED OCT 01 2019

19 DANIEL J. SANDRI
20 ACTING REAL ESTATE COMMISSIONER

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22 By: 
23 JEFFREY OBOYSKI
24 Assistant Commissioner, Enforcement
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26
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EXHIBIT (A)

Kevin H. Sun, Counsel (SBN 276539)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Fax: (213) 576-6917
Email: Kevin.Sun@dre.ca.gov
Attorney for Complainant

FILED
JUL 25 2019
DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-41433 LA
)	
SERGIO ALVAREZ,)	<u>ACCUSATION</u>
)	
)	
Respondent.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against SERGIO ALVAREZ ("Respondent") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, 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.

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Real
4 Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real
5 estate salesperson ("RES"), Department of Real Estate¹ ("Department") license ID 01267403.

6 b. The Department originally issued Respondent's RES license on or about April
7 20, 2000.

8 c. Respondent's license is scheduled to expire on April 19, 2020.

9 CAUSE FOR DISCIPLINE

10 (CRIMINAL CONVICTION)

11 4.

12 July 20, 2018; Penal Code ("PC") Sections 487(a) and 186.11(a) – Felony

13 a. On April 4, 2017, in the Superior Court of California, County of San
14 Bernardino, in Case No. 16CR-040037, The People of the State of California vs. Sergio
15 Alvarez, a felony complaint was filed against Respondent for (1) Corporation Code ("CC")
16 Section 25541 (offer/sale of security using fraudulent practices), a felony, (2) 7 counts of CC
17 Section 25401 (misrepresentation or omission in the sale of a security), felonies, (3) PC Section
18 470(d)/473(a) (forgery relating to an item exceeding \$950 in value), a felony, (4) PC Section
19 530.5(a) (identity theft), a felony, and (5) PC Section 487(a) (grand theft), a felony.

20 b. On May 18, 2018, Respondent pled no contest to and was convicted for PC
21 Section 487(a) (grand theft), a felony, with enhancement for PC Section 186.11(a) (aggravated
22 white collar crime - fraud/excessive taking of less than \$500,000).

23 c. On July 20, 2018, the Court sentenced Respondent to formal probation for 5
24 years under certain terms and conditions, including, in part, 34 days jail, payment of \$104,575
25 restitution, stay away from victims, and payment of other fine.

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27 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate
under the Department of Consumer Affairs.

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5.

The crime of which Respondent was convicted, as set forth in Paragraph 4 above, by its facts and circumstances, bears substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee and constitutes cause under **Code Sections 490 and 10177(b)** for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

SECOND CAUSE FOR DISCIPLINE

(FAILURE TO REPORT)

6.

Respondent did not report in writing to the Department a felony complaint being filed against him and/or his felony conviction within thirty (30) days: Case No. 16CR-040037 – felony complaint filed April 4, 2017 and convicted on May 18, 2018.

7.

Respondent's failure to report his felony complaint and/or felony conviction constitutes cause for discipline under **Code Section 10186.2²** of the license and license rights of Respondent under the Real Estate Law.

COSTS

8.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

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² Pursuant to Business and Professions Code 10186.2: (a)(1) A licensee shall report any of the following to the department: (A) The bringing of an indictment or information charging a felony against the licensee. (B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor. (c) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government. (2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the conviction, or the disciplinary action. (b) Failure to make a report required by this section shall constitute a cause for discipline.

1 PRAYER

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

8
9 Dated at San Diego, California this 12 day of July, 2019.

10
11 V. Kilpatrick
12 Veronica Kilpatrick
13 Supervising Special Investigator
14

15 cc: SERGIO ALVAREZ
16 Veronica Kilpatrick
17 Sacto.
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