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FILED

MAY 18 2009

DEPARTMENT OF REAL ESTATE

By H. Max

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of  
EUGENE ANTHONY GUZMAN,  
Respondent.

No. H-1194 FR

ORDER DENYING REINSTATEMENT OF LICENSE

On September 19, 1994, in Case No. H-1194 FR, a Decision was rendered revoking Respondent's real estate broker license effective October 11, 1994, but, granting Respondent the right to the issuance of a restricted broker license on terms and conditions. A restricted broker license was issued to respondent on October 11, 1994 and Respondent has operated as a restricted licensee since that time.

On July 10, 2006, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real estate broker license.

1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*  
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and  
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the  
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5 The Department has developed criteria in Section 2911 of Title 10, California  
6 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for  
7 reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(n) Change in attitude from that which existed at the time of the  
9 conduct in question as evidenced by any or all of the following:

10 (1) Testimony of applicant

11 Beginning on January 18, 2008, the Deputy Commissioner assigned to review  
12 Respondent's petition repeatedly asked Respondent to submit additional information in support  
13 of Respondent's petition, including a bankruptcy petition, a bankruptcy discharge, and copies of  
14 three transaction files handled by Respondent while working in a licensed capacity. Respondent's  
15 failure to comply with these requests made it difficult to conclude that Respondent has corrected  
16 his business practices or changed the attitude resulting in his license discipline.

17 Consequently, I am not satisfied that Respondent is sufficiently rehabilitated to  
18 receive an unrestricted real estate broker license. Additional time and evidence of correction is  
19 necessary to establish that Respondent is rehabilitated.

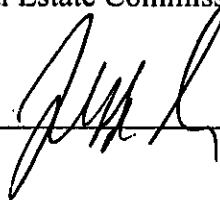
20 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for  
21 reinstatement of his real estate broker license is denied.

22 This Order shall become effective at 12 o'clock noon on JUN - 3 2009

23 DATED: \_\_\_\_\_

24 4-21-09

25 JEFF DAVI  
26 Real Estate Commissioner

27 



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: ) No. H-1194 FRESNO  
)  
EUGENE ANTHONY GUZMAN, ) OAH No. N-9309097  
GUZMAN REALTY, INC., )  
)  
Respondents. )

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PROPOSED DECISION

On August 8, 1994, in Sacramento, California, Muriel Evens, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David Peters, Counsel, represented the complainant.

Ruth L. McCluskey, Attorney at Law, represented respondents.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The Complainant, Jerry E. Fiscus, a Deputy Real Estate Commissioner, made the Accusation in his official capacity.

II

Respondent Eugene Anthony Guzman and respondent Guzman Realty, Inc., are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

At all times relevant, respondent Guzman was licensed as a real estate broker and as designated broker officer for respondent Realty. At all times relevant, respondent Realty was licensed as a broker corporation acting by and through its designated officer respondent Guzman.

At all relevant times respondents were performing acts for which a real estate license is required, for or in expectation of a compensation.

### III

On or about September 10, 1990, the United States Small Business Administration (SBA) took title to certain real property commonly known as "Tulare Town and Country Club," located at 1775 Gem Street, Tulare.

### IV

Beginning on or after September 10, 1990, the SBA published, or caused to be published, a notice of sealed bid sale of the Gem Street property. Said bids were to be opened by the SBA on or about October 31, 1990.

### V

On or before October 31, 1990, respondent Guzman represented to the SBA that respondents would be submitting a bid on the Gem Street property on behalf of a buyer named Ajit Singh Jahal.

### VI

On or before October 31, 1990, respondent Guzman created a false SBA Sealed Bid Submission Form dated October 30, 1990, purportedly signed by Jahal, but actually signed by respondent Guzman, offering to purchase the Gem Street property from the SBA for \$605,000. Respondents had no written authority from Jahal to sign Jahal's name or make any offer on the Gem Street or other property.

Respondent Guzman submitted the bid to the SBA. In reliance upon the representations of respondents, including the SBA Sealed Bid Submission Form, the SBA accepted the bid on the Gem Street property.

Jahal declined to accept the bid award, claiming he was not the bidder. In violation of the terms and conditions of the sealed bid sale, respondents were unable to demonstrate their ability to obligate the bidding entity (Jahal).

As a result of the failure of Jahal/Guzman to follow through on the bid award, the SBA was delayed in transferring the property, which resulted in increased insurance and maintenance expenses, and had to accept a lower bid for the sale.

#### VII

Respondents had sold property in the past to relatives of Jahal. Jahal lives in England with his adult son, and speaks little English. He and respondent Guzman communicated their business discussions through Jahal's son. Respondent Guzman met Jahal more than a year prior to the SBA property bid in question. While respondent Guzman showed Jahal several commercial properties, Jahal did not purchase any of them. When respondent Guzman saw the notice for the SBA property, he contacted Jahal. All communications regarding the SBA property were done by telephone and FAX. Respondent Guzman did not explain why he failed to get a committal from Jahal by FAX.

#### VIII

There was no evidence of any prior discipline.

#### DETERMINATION OF ISSUES

Cause for discipline of respondents' license for violation of Business and Professions Code section 10176(a) was established by Finding VI.

#### ORDER

##### I

All licenses and licensing rights of respondent Guzman (respondent) under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of 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 nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.
4. Respondent shall, within nine (9) months from the effective date of this Decision, 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 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.

## II

All licenses and licensing rights of respondent Guzman Realty, Inc. (respondent Realty) under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent Realty pursuant to section 10156.5 of the Business and Professions Code if respondent Realty makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent Realty shall be subject to all of the provisions of section 10156.7 of the Business and Professions

Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent Realty may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent Realty's conviction or plea of nolo contendere to a crime which is substantially related to respondent Realty's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent Realty may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent Realty has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent Realty shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

Dated: August 23, 1994



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MURIEL EVENS  
Administrative Law Judge  
Office of Administrative Hearings



**FILED**  
FEB 23 1994

**BEFORE THE DEPARTMENT OF REAL ESTATE**  
**STATE OF CALIFORNIA**

By Laurie A. Zjar

**In the Matter of the Accusation of**

EUGENE ANTHONY GUZMAN,  
GUZMAN REALTY, INC.,

Case No. H-1194 FRESNO

OAH No. N9309097

Respondent

**FIRST AMENDED**  
**NOTICE OF HEARING ON ACCUSATION**

**To the above named respondent:**

**You are hereby notified** that a hearing will be held before the Department of Real Estate at the  
Office of Administrative Hearings, 501 J Street, Suite 220 (Second  
Floor Hearing Rooms), Sacramento, CA 95814

on Monday, August 8th, 1994, at the hour of 9:00 AM,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

**DEPARTMENT OF REAL ESTATE**

**Dated:** February 23, 1994

By David A. Peters  
**DAVID A. PETERS** *Counsel*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
SEP 23 1993  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

EUGENE ANTHONY GUZMAN,  
GUZMAN REALTY, INC.,

By Laurie A. Zain

Case No. H-1194 FRESNO

OAH No. N9309097

Respondent

**NOTICE OF HEARING ON ACCUSATION**

**To the above named respondent:**

You are hereby notified that a hearing will be held before the Department of Real Estate at the  
Office of Administrative Hearings, 501 J Street, Suite 220 (Second  
Floor Hearing Rooms), Sacramento, CA 95814

on Friday, February 11, 1994, at the hour of 9:00 AM.  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: September 23, 1993

By David A. Peters  
DAVID A. PETERS *Counsel*

1 DAVID A. PETERS, Counsel  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

**FILED**  
AUG 20 1993  
DEPARTMENT OF REAL ESTATE

5 Telephone: (916) 227-0789

By Laurie A. Zyan

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of )	
12	EUGENE ANTHONY GUZMAN, )	NO. H-1194 FRESNO
13	GUZMAN REALTY, INC., )	<u>ACCUSATION</u>
14	Respondents. )	

15 The Complainant, Jerry E. Fiscus, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against EUGENE ANTHONY GUZMAN (hereinafter "respondent GUZMAN")  
18 and GUZMAN REALTY, INC. (hereinafter "respondent REALTY"), is  
19 informed and alleges as follows:

20 I

21 The Complainant, Jerry E. Fiscus, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation in  
23 his official capacity.

24 II

25 Respondent GUZMAN and respondent REALTY are presently  
26 licensed and/or have license rights under the Real Estate Law

27 ///

1 (Part 1 of Division 4 of the California Business and Professions  
2 Code) (hereinafter "Code").

3 III

4 At all times herein mentioned, respondent GUZMAN was  
5 licensed as a real estate broker and as designated broker officer  
6 for respondent REALTY.

7 IV

8 At all times herein mentioned, respondent REALTY was  
9 licensed as a broker corporation acting by and through its  
10 designated officer respondent GUZMAN.

11 V

12 Whenever reference is made in an allegation in this  
13 Accusation to an act or omission of "Respondents", such allegation  
14 shall be deemed to mean the act or omission of each of the  
15 Respondents named in the caption hereof, acting individually,  
16 jointly, and severally.

17 VI

18 At various times herein mentioned, Respondents were  
19 performing acts for which a real estate license is required for or  
20 in expectation of a compensation.

21 VII

22 On or about September 10, 1990, the United States Small  
23 Business Administration (hereinafter "the SBA") took title to  
24 certain real property commonly known as "Tulare Town and Country  
25 Club" located at 1775 Gem Street, Tulare, California (hereinafter  
26 "the Subject Property").

27 ///

VIII

1  
2 Beginning on or after September 10, 1990, the SBA  
3 published or caused to be published a notice of sealed bid sale of  
4 the Subject Property. Said bids were to be opened by the SBA on  
5 or about October 31, 1990.

6 IX

7 On or before October 31, 1990, respondent GUZMAN  
8 represented to the SBA that Respondents would be submitting a bid  
9 on the Subject Property on behalf of a buyer named Ajit Singh  
10 Jahal (hereinafter "Jahal").

11 X

12 On or before October 31, 1990, respondent GUZMAN created  
13 a false and fraudulent SBA Sealed Bid Submission Form dated  
14 October 30, 1990 purportedly signed by Jahal (but actually signed  
15 by respondent GUZMAN) offering to purchase the Subject Property  
16 from the SBA for the sum of \$605,000.00.

17 In truth and in fact Jahal had not authorized  
18 Respondents to make such a bid on the Subject Property nor had  
19 Jahal authorized or approved respondent GUZMAN signing Jahal's  
20 name.

21 XI

22 On or about October 31, 1990, Respondents, in order to  
23 induce the SBA into selling the Subject Property, submitted or  
24 caused to be submitted to the SBA the false and fraudulent bid  
25 described in Paragraph X above. In reliance upon the  
26 representations of Respondents, including the SBA Sealed Bid

27 ///

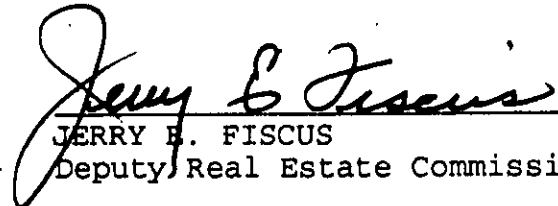
1 Submission Form, the SBA accepted the said bid on the purchase of  
2 the Subject Property.

3 Respondents' representations described above were false  
4 and misleading and were known by Respondents to be false and  
5 misleading when made or were made with no reasonable grounds for  
6 believing said representations to be true.

7 XII

8 The acts and omissions of Respondents set forth above,  
9 constitute the making of substantial misrepresentations and/or  
10 fraud or dishonest dealing, and are cause under Sections 10176(a)  
11 and/or 10176(i) of the Business and Professions Code for  
12 suspension or revocation of all licenses and license rights of  
13 Respondents under the Real Estate Law.

14 WHEREFORE, Complainant prays that a hearing be conducted  
15 on the allegations of this Accusation and that upon proof thereof,  
16 a decision be rendered imposing disciplinary action against all  
17 licenses and license rights of Respondents, under the Real Estate  
18 Law (Part 1 of Division 4 of the Business and Professions Code)  
19 and for such other and further relief as may be proper under the  
20 provisions of law.

21   
22 JERRY B. FISCUS  
Deputy Real Estate Commissioner

23 Dated at Fresno, California,  
24 this 17<sup>th</sup> day of August, 1993.

25  
26  
27