

FLAG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

MAR 21 2010

DEPARTMENT OF REAL ESTATE

By H. Max

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

VICTOR HUGO FRANCO,

Respondent.

No. H-30295 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On January 28, 2004, a Decision was rendered revoking the real estate salesperson license of Respondent, but granting a restricted license which was issued on or about May 18, 2004.

On June 9, 2008, Respondent petitioned for reinstatement of Respondent's real estate salesperson license. The Attorney General of the State of California has been given notice of the filing of the 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 real estate salesperson license, in that:

I

1
2 In the Decision which revoked Respondent's real estate license there were
3 Determination of Issues made that there was cause to revoke Respondent's real estate license
4 pursuant to Business and Professions Code ("Code") Sections 490 and 10177b.

5
6 II

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

11 III

12 The Department has developed criteria in Section 2911 of Title 10, California
13 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
14 reinstatement of a license. Among the criteria relevant in this proceeding are:
15

16 Regulation 2911(j) - discharge of, or bona fide efforts toward discharging debts
17 or monetary obligation. Respondent has not provided proof that Respondent has paid, or made
18 bona fide efforts to pay, a civil judgment in the amount of approximately \$4,680
19

20 Regulation 2911(l) - involvement in community activities. Respondent has not
21 provided proof of significant or conscientious involvement in community, church, or social
22 programs.

23 Regulation 2911(n) - change in attitude. Respondent did not respond to requests
24 by the Department for additional information, and a certified letter requesting an interview was
25 not claimed. In addition, Respondent has not provided evidence from others of a change in
26 attitude.
27

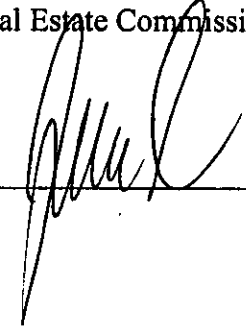
1 Given the violations found and the fact that Respondent has not established that
2 Respondent has complied with Regulation 2911(j), (l), and (n) I am not satisfied that
3 Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
5 reinstatement of Respondent's real estate salesperson license is denied.

6 This Order shall become effective at 12 o'clock noon on APR 12 2010

7
8 IT IS SO ORDERED 3/4/2010

9 JEFF DAVI
10 Real Estate Commissioner

11
12 
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

*Sacks
Gao*

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 -or- (213) 576-6910 (Direct)

FILED
FEB 6 2004

DEPARTMENT OF REAL ESTATE

By *Laura B. Crane*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	NO. H-30295 LA
12	VICTOR HUGO FRANCO,)	L-2003090583
13	Respondent.)	<u>STIPULATION AND AGREEMENT</u>
14)	

15 It is hereby stipulated by and between VICTOR HUGO
16 FRANCO (hereinafter "Respondent"), acting by and through Wayne W.
17 Watten, Esq., Counsel for Respondent, and the Complainant, acting
18 by and through Chris Leong, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of
20 the Accusation filed on August 28, 2003.

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act, shall instead and in place thereof be submitted
26 solely on the basis of the provisions of this Stipulation and
27 Agreement ("Stipulation").

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the
3 Administrative Procedure Act and the Accusation, filed by the
4 Department of Real Estate in this proceeding.

5 3. Respondent filed a Notice of Defense pursuant to
6 Section 11505 of the Government Code for the purpose of
7 requesting a hearing on the allegations in the Accusation.
8 Respondent hereby freely and voluntarily withdraws said Notice of
9 Defense. Respondent acknowledges that he understands that by
10 withdrawing said Notice of Defense he will thereby waive his
11 right to require the Commissioner to prove the allegations in the
12 Accusation at a contested hearing held in accordance with the
13 provisions of the Administrative Procedure Act and that
14 Respondent will waive other rights afforded to him in connection
15 with the hearing, such as the right to present evidence in
16 defense of the allegations in the Accusation and the right to
17 cross-examine witnesses.

18 4. In the interest of expedience and economy,
19 Respondent chooses not to contest the factual allegations in
20 Paragraphs I through V of the Accusation, but to remain silent
21 and understands that, as a result thereof, these factual
22 statements, without being admitted or denied, will serve as a
23 prima facie basis for the disciplinary action stipulated to
24 herein. The Real Estate Commissioner shall not be required to
25 provide further evidence to prove such allegations.

26 5. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation as his Decision in

1 this matter, thereby imposing the penalty and sanctions on
2 Respondent's real estate license and license rights as set forth
3 in the "Order" below. In the event that the Commissioner in his
4 discretion does not adopt the Stipulation, it shall be void and
5 of no effect, and Respondent shall retain the right to a hearing
6 and proceeding on the Accusation under all the provisions of the
7 Administrative Procedure Act and shall not be bound by any
8 admission or waiver made herein.

9 6. The Order or any subsequent Order of the Real
10 Estate Commissioner made pursuant to this Stipulation shall not
11 constitute an estoppel, merger or bar to any further
12 administrative or civil proceeding by the Department of Real
13 Estate with respect to any matters which were not specifically
14 alleged to be causes for accusation in this proceeding.

15 DETERMINATION OF ISSUES

16 By reason of the foregoing stipulations, admissions and
17 waivers and solely for the purpose of settlement of the pending
18 Accusation without a hearing, it is stipulated and agreed that
19 the following Determination of Issues shall be made:

20 The acts and omissions of Respondent, described in
21 Paragraphs I through V of the Accusation, are cause for the
22 suspension or revocation of all real estate licenses and license
23 rights of Respondent under the provisions of Sections 10177(b)
24 and 490 of the Business and Professions Code.

25 ORDER

26 WHEREFORE, THE FOLLOWING ORDER is hereby made:

27 All licenses and licensing rights of Respondent VICTOR

1 HUGO FRANCO, under the Real Estate Law are revoked; provided,
2 however, a restricted real estate salesperson license shall be
3 issued to Respondent pursuant to Section 10156.5 of the Business
4 and Professions Code if Respondent makes application therefor and
5 pays to the Department of Real Estate the appropriate fee for the
6 restricted license within 90 days from the effective date of this
7 Decision. The restricted license issued to Respondent shall be
8 subject to all of the provisions of Section 10156.7 of the
9 Business and Professions Code and to the following limitations,
10 conditions, and restrictions imposed under authority of Section
11 10156.6 of that Code:

12 1. The restricted license issued to Respondent may be
13 suspended prior to hearing by Order of the Real Estate
14 Commissioner in the event of Respondent's conviction or plea of
15 nolo contendere to a crime which is substantially related to
16 Respondent's fitness or capacity as real estate licensee.

17 2. The restricted license issued to Respondent may be
18 suspended prior to hearing by Order of the Real Estate
19 Commissioner on evidence satisfactory to the Commissioner that
20 Respondent has violated provisions of the California Real Estate
21 Law, the Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner or conditions attaching to the restricted license.

23 3. Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license nor for the
25 removal of any of the conditions, limitations or restrictions of
26 a restricted license until two (2) years have elapsed from the
27 effective date of this Decision.

1 4. Respondent shall submit with any application for
2 license under an employing broker, or any application for
3 transfer to a new employing broker, a statement signed by the
4 prospective employing real estate broker on a form approved by
5 the Department of Real Estate which shall certify:

6 (a) That the employing broker has read the Decision of
7 the Commissioner which granted the right to a restricted license;
8 and

9 (b) That the employing broker will exercise close
10 supervision over the performance by the restricted licensee
11 relating to activities for which a real estate license is
12 required.

13 5. Respondent shall, within nine (9) months from the
14 effective date of this Decision, present evidence satisfactory to
15 the Real Estate Commissioner that Respondent has, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license. If Respondent fails to
20 satisfy this condition, the Commissioner may order the suspension
21 of the restricted license until the Respondent presents such
22 evidence. The Commissioner shall afford Respondent the
23 opportunity for a hearing pursuant to the Administrative
24 Procedure Act to present such evidence.

25
26 DATED: _____

1/21/04

27 CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

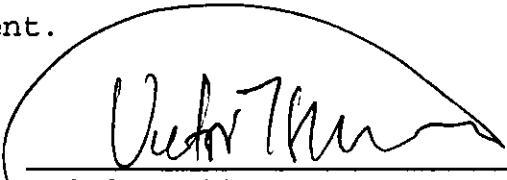
1 * * *

2 I have read the Stipulation and Agreement, have
3 discussed it with my Counsel, and its terms are understood by me
4 and are agreeable and acceptable to me. I understand that I am
5 waiving rights given to me by the California Administrative
6 Procedure Act (including but not limited to Sections 11506,
7 11508, 11509 and 11513 of the Government Code), and I willingly,
8 intelligently and voluntarily waive those rights, including the
9 right of requiring the Commissioner to prove the allegations in
10 the Accusation at a hearing at which I would have the right to
11 cross-examine witnesses against me and to present evidence in
12 defense and mitigation of the charges.

13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondent,
16 to the Department at the following fax number (213) 576-6917.
17 Respondent agrees, acknowledges and understands that by
18 electronically sending to the Department a fax copy of his actual
19 signature as it appears on the Stipulation and Agreement, that
20 receipt of the faxed copy by the Department shall be as binding
21 on Respondent as if the Department had received the original
22 signed Stipulation and Agreement.

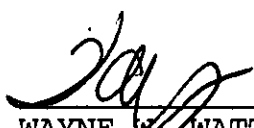
23
24 DATED: _____

1/15/04

25 
26 VICTOR HUGO FRANCO
27 Respondent

1 DATED:

1/16/04




WAYNE W. WATTEN, ESQ.
Counsel for Respondent

* * *

2
3
4 The foregoing Stipulation and Agreement is hereby
5 adopted as my Decision in this matter and shall become effective
6 at 12 o'clock noon on February 26, 2004.

7 IT IS SO ORDERED January 28, 2004

8 JOHN R. LIBERATOR
9 CHIEF DEPUTY Commissioner

10 
11 _____

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Sacto.
Hug

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 3 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation)
)
 VICTOR H. FRANCO,)
)
)
 Respondent(s).)

Case No. H-30295 LA)
OAH No. L-2003090583)

Laura B. - Olson

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JANUARY 27, 2004, at the hour of 1:30 p.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: October 3, 2003

DEPARTMENT OF REAL ESTATE

By: CHRIS LEONG
CHRIS LEONG, Counsel

cc: Victor Hugo Franco
Wayne W. Watten, Esq.
First Capital Lending, Inc.
Sacto.
OAH

Sacks Day

1 CHRIS LEONG, Counsel (SBN 141079)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6910 (Direct)

FILED
AUG 28 2003
DEPARTMENT OF REAL ESTATE
Laura B. Stone

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 VICTOR HUGO FRANCO,) NO. H-30295 LA
13 Respondent.) A C C U S A T I O N

14 The Complainant, Maria Suarez, a Deputy Real Estate
15 Commissioner of the State of California, for cause of
16 Accusation against VICTOR HUGO FRANCO ("Respondent"), is
17 informed and alleges as follows:

18 I

19 Respondent is presently licensed and/or has license
20 rights under the Real Estate Law, Part 1 of Division 4 of the
21 Business and Professions Code ("Code"), as a real estate
22 salesperson. On or about July 12, 2001, Respondent submitted a
23 Salesperson Renewal Application to the Department of Real
24 Estate to apply to renew his real estate license.

25 ///

26 ///

II

1 On or about July 12, 2001, in the Superior Court of
2 California, County of Orange, North Justice Center, Case
3 No. AN01NM04944, Respondent was charged with violating Section
4 484(a) of the California Penal Code (Petty theft). As a result
5 of a plea bargain, Respondent was convicted of violating
6 Section 602(j) PC (Trespass). The underlying conduct which
7 resulted in the conviction involved moral turpitude and was
8 substantially related under Section 2910, Title 10, Chapter 6,
9 California Code of Regulations, to the qualifications,
10 functions or duties of a real estate licensee.
11

III

12 In response to Question 3 of said renewal
13 application, to wit: "Within the past four year period, have
14 you been convicted of any violation of law? Convictions
15 expunged under Penal Code Section 1203.4 must be disclosed.
16 However, you may omit minor traffic citations which do not
17 constitute a misdemeanor or felony offense", Respondent checked
18 the box "No".
19

IV

20 Respondent's criminal conviction, as alleged above,
21 is grounds for the suspension or revocation of all licenses
22 and/or license rights of Respondent under Code Sections 490 and
23 10177(b).
24

V

25 Respondent's failure to reveal the criminal
26 conviction, as alleged above, in said renewal application,
27

1 constitutes the procurement of a real estate license by fraud,
2 misrepresentation, deceit, or by making a material misstatement
3 of fact in said application, which failure to reveal is cause
4 under Code Sections 498 and 10177(a) for the suspension or
5 revocation of all licenses and/or license rights of Respondent
6 under the Real Estate Law.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and/or license rights of
11 Respondent, VICTOR HUGO FRANCO, under the Real Estate Law. (Part
12 1 of Division 4 of the Business and Professions Code), and for
13 such other and further relief as may be proper under other
14 applicable provisions of law.

15 Dated at Los Angeles, California

16 this 22nd day of August, 2003.

17
18 
19 Deputy Real Estate Commissioner

20
21
22
23
24 cc: Victor Hugo Franco
25 First Capital Lending, Inc./Mohammad Ghaemi
26 Maria Suarez
27 Sacto.
JN