



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

PIERRE ANDRE HARBIN,

Respondent.

Case No. H - 30961 LA  
OAH No. L 2005090707

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on December 21, 2005.

James R. Peel, Staff Counsel, represented Complainant, Maria Suarez, a Deputy Real Estate Commissioner in the Department of Real Estate, State of California (Department).

Respondent, Pierre Andre Harbin, was present throughout the hearing and represented himself.

Oral and documentary evidence was received and the matter argued. The matter was submitted on December 21, 2005.

FACTUAL FINDINGS

1. Complainant, Maria Suarez, a Deputy Real Estate Commissioner in the Department, filed the Accusation in this proceeding in her official capacity.

2. Respondent is presently licensed and/or has license rights under the Real Estate Law (Business and Professions Code (Code), Part 1 of Division 4.

3. Respondent was licensed by the Department as a real estate broker from April 19, 1989, through July 31, 2000. Respondent renewed his license effective June 14, 2001. It expired on June 13, 2005.<sup>1</sup>

4. At the time of applying for the renewal of his license on June 11, 2001, Respondent answered "No" in response to Question 3 which asked: "Within the past four year period, have you been convicted of any violation of law?"

5. On March 19, 1999, in the California Superior Court, County of Los Angeles, Respondent, upon a plea of nolo contendere, was convicted of violating Penal Code section 273.5, subdivision (a), infliction of corporal injury on a spouse, a misdemeanor. The court placed Respondent on summary probation for three years on certain terms and conditions including enrollment in a twelve month domestic violence counseling program, serving thirteen days in the Los Angeles County jail, and paying of a fine and assessments.

6. Respondent had difficulty completing the counseling program and paying the monetary amounts required by the court. He was twice found to have violated the terms of his probation and additional time in county jail was imposed. He finally completed the program and paid all outstanding amounts. His probation was terminated on September 16, 2002. The conviction has not been expunged.

7. Respondent has no other criminal convictions. In twenty years in the real estate business, no complaints have been filed against his license.

8. Respondent was first licensed as a broker in Michigan in 1984. He moved to California in 1985, and was first licensed there in 1989.

9. Presently, Respondent is working for a temporary help company. His primary work assignments are in apartment management and leasing.

10. Respondent was active in the Consolidated Realty Board. He and his wife were active with the Westchester YMCA. They made contributions to help relief efforts in Mali and Niger.

11. Respondent and his wife are going through a divorce at the present time. They have a three year old son.

12. Respondent has had some personal problems over the years and now is trying to get back to being a broker. He has an offer to be an office manager in a realty office.

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<sup>1</sup> The Department retains jurisdiction over expired licenses. Business and Professions Code section 10103.

13. Respondent stated that he answered "no" to the question about criminal convictions because he didn't know that domestic violence had anything to do with crime. He said he never made the connection with the question on his renewal application and his family situation. He indicated that he had no intention to mislead. He admitted that his answer was a mistake, and he accepted responsibility for that. While Respondent's admission of having made a mistake is understandable, his assertion that he didn't know his conviction was a crime is hard to accept given the difficulty he had in completing the terms of his probation, the additional jail time he had to serve, and numerous court appearances he had to make.

15. Respondent completed all of the courses required by the criminal court and has paid all fines and assessments. It has been over three years since he completed his probation. He has no other convictions or administrative actions against his license. It is clear that he is seeking to improve his situation.

### LEGAL CONCLUSIONS

1. The crime of which Respondent was convicted involves moral turpitude and is substantially related to the qualifications, functions, or duties of a licensee of the Department, pursuant to the California Code of Regulation, title 10, section 2910, subdivision (a) (8), in that in that there was the threat of doing substantial injury to the person of another.

2. Cause exists, pursuant to Business and Professions Code sections 498 and 10177, subdivision (a), to suspend or revoke all licenses and license rights of Respondent under the Real Estate Law, in that Respondent failed to disclose his 1999 conviction in his license renewal application to the Department thereby making a material misstatement of fact or by knowingly making a false statement of fact required to be revealed in said application.

3. Respondent substantially meets the Department's criteria for Rehabilitation set forth in California Code of Regulations, title 10, section 2911. Three and one half years have passed since Respondent's sole conviction. Respondent has completed all of the terms and conditions imposed by the court. He has paid all fines and assessments. He has no other criminal convictions or administrative actions against his license. He is endeavoring to rebuild his life. His failure to disclose his criminal conviction on his renewal application is a serious matter, however. Under these circumstances, a restricted broker's license is appropriate.

### ORDER

All licenses and licensing rights of Respondent Pierre Andre Harbin 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:

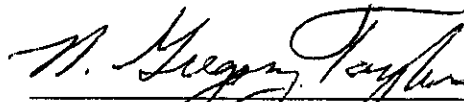
1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

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 years have elapsed from the effective date of this Decision.

4. Respondent shall, within nine 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.

DATED: January 19, ~~2005~~  
2006

  
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N. GREGORY TAYLOR  
Administrative Law Judge  
Office of Administrative Hearings

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FILED  
JUN - 7 2004  
DEPARTMENT OF REAL ESTATE

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6  
7  
8 Telephone: (213) 576-6982  
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By 

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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11 In the Matter of the Accusation of ) No. H-30961 LA  
12 PIERRE ANDRE HARBIN, ) ACCUSATION  
13 Respondent. )  
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15 The Complainant, Maria Suarez, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of accusation  
17 against PIERRE ANDRE HARBIN, alleges as follows:

I

19 The Complainant, Maria Suarez, a Deputy Real Estate  
20 Commissioner of the State of California, makes this Accusation in  
21 her official capacity.

II

23 PIERRE ANDRE HARBIN (hereinafter referred to as  
24 "Respondent") is presently licensed and/or has license rights  
25 under the Real Estate Law (Part 1 of Division 4 of the Business  
26 and Professions Code, hereinafter referred to as the "Code").  
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1 III

2 Respondent was licensed by the Department of Real  
3 Estate of the State of California as a real estate broker from  
4 April 19, 1989, through July 31, 2000. Respondent renewed his  
5 license effective June 14, 2001.

6 IV

7 In response to Question 3 of Respondent's renewal  
8 application filed with the Department on June 11, 2001, to wit,  
9 "Within the past four year period, have you been convicted of any  
10 violation of law?", Respondent answered "No".

11 V

12 On or about March 19, 1999, in the Superior Court of  
13 California, County of Los Angeles, in Case No. 9CR22546,  
14 Respondent was convicted of violating Penal Code Section 273.5(a)  
15 (inflict corporal injury on spouse), a crime involving moral  
16 turpitude.

17 VI

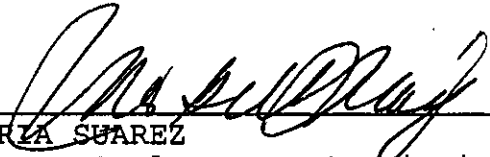
18 Respondent's failure to disclose the matter set forth  
19 in Paragraph V, above, in said application constitutes the  
20 procurement of a real estate broker license by misrepresentation,  
21 fraud, or deceit, or by making a material misstatement of fact in  
22 said application, or by knowingly making a false statement of  
23 fact required to be revealed in said application, which failure  
24 is cause under Sections 498 and 10177(a) of the Code for  
25 suspension or revocation of all licenses and license rights of  
26 Respondent under the Real Estate Law.

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

9 Dated at Los Angeles, California,

10 this 6<sup>th</sup> day of May 2004.

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14 MARIA SUAREZ  
15 Deputy Real Estate Commissioner  
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24 cc: Pierre Andre Harbin  
25 Maria Suarez  
26 Sacto.  
27 GD



**LICENSE CERTIFICATION**

RE 599 (Rev. 10/89)

Sacramento, CA 95818-7000

LICENSEE NAME	LICENSE ID#	LICENSE TYPE
Pierre Andre Harbin	00942538	Broker
DATE DOCUMENT RECEIVED (If applicable)	<b>LICENSE CHANGE TRANSACTION</b>	

As of 01-01-99:

Main office and mailing address; 5900 Wilshire Boulevard, 26<sup>th</sup> Floor, Los Angeles 90036

Dbas; Harbin Brokerage  
Harbin Mortgage  
Harbin Locations

Broker license expired 07-31-00;

Dbas canceled as of 08-01-00:

Harbin Brokerage  
Harbin Mortgage  
Harbin Locations

06-11-01 Mailing address only changed to P. O. Box 361276, Los Angeles 90036 as of 06-11-01

06-11-01 Broker license issued as of 06-14-01;

Main office address is 2286 23<sup>rd</sup> Street, Los Angeles 90018 as of 06-14-01;

Mailing address is P. O. Box 361276, Los Angeles 90036 as of 06-14-01

Broker license expires 06-13-05

License issued as officer of Sevarg Financial Corporation as of 09-13-99;

Main office and mailing address is 4144 Business Street, Long Beach 90807-2701  
as of 09-13-99;

Illegible Officer license canceled as of 09-21-99

**LICENSE CERTIFICATION**

RE 599 (Rev. 10/89)

Sacramento, CA 95818-7000

LICENSEE NAME	LICENSE ID#	LICENSE TYPE
Pierre Andre Harbin	00942538	Broker
DATE DOCUMENT RECEIVED (if applicable)	<b>LICENSE CHANGE TRANSACTION</b>	

I, Lawrence J. Cannon, the Official Custodian of Records, hereby certify the foregoing is true and correct as extracted from the records of the Department of Real Estate this 24th day of July, 2004.

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Deputy Real Estate Commissioner  
of the State of California