

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE

JUN 18 2013

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: James B. Mason

In the Matter of the Accusation of)	DRE No. H-37848 LA
)	OAH No. 2012031323
GOLDEN FEATHER REALTY INC , and)	
ERIC H. SANCHEZ, individually and as)	
designated officer of Golden Feather Realty)	
Inc.)	
Respondent(s).)	

DECISION

The Proposed Decision dated April 11, 2013, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

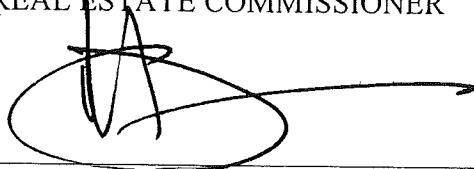
This Decision shall become effective at 12 o'clock noon on

JUL 8 2013

IT IS SO ORDERED

MAY 29 2013

REAL ESTATE COMMISSIONER



By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

Case No. H-37848-LA

GOLDEN FEATHER REALTY, INC.; and
ERIC H. SANCHEZ, individually and as
Designated Officer of Golden Feather Realty,
Inc.,

OAH No. 2012031323

Respondents.

PROPOSED DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Los Angeles, California on October 29, 2012.

James A. Demus, Real Estate Counsel, Department of Real Estate, represented complainant Robin Trujillo, Deputy Real Estate Commissioner of the State of California in her official capacity. Rizza Gonzales, Attorney at Law, represented respondents Golden Feather Realty, Inc. and Eric H. Sanchez, individually and as Designated Officer of Golden Feather Realty, Inc.

Complainant seeks to discipline the licenses and license rights of respondent Golden Feather and respondent Sanchez, individually and as Designated Officer of Golden Feather, based on allegations that they violated the Real Estate Laws and regulations governing broker escrow accounts. Complainant additionally seeks to discipline the license and license rights of respondent Sanchez based on allegations that he has been convicted of a crime substantially related to the qualifications, functions, and duties of a real estate licensee. Respondents dispute all the allegations.

The matter was submitted for decision November 19, 2012.¹ The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

¹ Pursuant to a Post-Hearing Order issued October 29, 2012, the record remained open for submissions until November 19, 2012. On October 31, 2012, respondent submitted a copy of a cashier's check, which is marked for identification and entered into

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

License History and Real Estate Activities

2. On September 7, 1989, the Department issued to Sanchez a Real Estate Salesperson license. On May 1, 2009, the Department issued Broker License number 01042267 to Sanchez, which expires May 18, 2013.

3. On May 1, 2009, the Department issued Real Estate License number 01863419 to Golden Feather with Sanchez as its Designated Officer. The license expires April 30, 2013.

4. Respondent Sanchez has 20 years' experience as a real estate professional. He has experience showing homes to qualified buyers, functioning as an agent for prospective buyers, and supervising other real estate agents. Sanchez testified, "Real Estate is my career; my main source of income." He worked for several real estate entities, including Los Amigos Realty, Pueblo Real Estate, Rancho Realty, and Central Realty until 2000 when he ventured out on his own to form his own firm—Sanchez and Associates House 2 Home—which was involved in approximately seven transactions yearly.

5. In 2009, Sanchez was invited to join Golden Feather Realty, Inc. Sanchez testified that he met Angelo Ales "through a casual introduction." "I had my two sons with me; he pulled out \$100 bills and gave them to my sons. He struck me as a good-hearted man." According to Sanchez, "he said he needed help with the business because too much was going on. He had everything—the building, the secretary; the business had a mortgage, real estate and escrow companies." "The idea was to make the company grow." Sanchez testified, "We tried to line up the mortgage and that never materialized. We then turned to the escrow; that was when I realized this thing was not going to go. This gentleman had a different agenda and the business wasn't progressing. After two escrow transactions the business shut down." Sanchez established that the two escrow transactions were for residential properties referred to as the McKinley Street and the Redman Avenue properties, and for both of which he acted as listing, selling, and escrow agent.

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evidence as Exhibit N. On November 1, 2012, complainant submitted her objections, which were marked for identification only as Exhibit 6.

The June 27, 2011 Audit

6. On June 27, 2011, the Department completed an audit of Golden Feather's books and records regarding its broker escrow activities in connection with the resale of residential properties during the period September 1, 2007 to August 31, 2010. The audit found the following:

a. Respondent Golden Feather did not maintain a trust account for escrow transactions. Trust fund monies were deposited into and disbursed from a general account maintained at Bank of America and bearing the account name Golden Feather Realty, Inc., dba Golden Feather Escrow and the account number 00383-65515. Respondents provided no evidence to the contrary.

b. The audit of escrow files in connection with the McKinley Street and the Redman Avenue properties revealed an unidentified shortage of \$2.98 and disbursements totaling \$67,678.58, for which, at the time of the audit, source documents were unavailable. Based on his "personal memory and recollection," Sanchez prepared and produced a summary detailing 13 disbursements totaling \$16,357.09 in connection with the McKinley Property. (Exh. F.) According to the summary, all but two of the McKinley Street disbursements were paid by check drawn on the Bank of America account set forth above in Factual Finding 6, subsection (a). Golden Feather and House 2 Home each received a disbursement of \$2,375. According to Sanchez's testimony, the \$2,375 payment to Golden Feather was a commission for services as a real estate agent. The payment was not by check, but rather, "the money was just left in the account." Sanchez testified, "I should have made a notation that the money was to me, but I didn't. That was an error in accounting." Sanchez testified further that the \$2,375 disbursement to House 2 Home was a commission to him "for handling the transaction." Payment was not by check, and Sanchez testified that it was "poor accounting to not write a check." Another summary identifies 11 disbursements totaling \$49,189 in connection with the Redman Avenue property. (Exh. E.) All but one of the Redman Avenue disbursements were paid by check drawn from the Bank of America account set forth above in Factual Finding 6, subsection (a). Sanchez established that Golden Feather received a cash disbursement of \$2,500 as a fee. In connection with the Redman Avenue property, Sanchez testified that he was unable to account for approximately \$2,000, which "might have been paid out in cash." Sanchez maintains that no one in connection with the Redman property who was entitled to a payment from escrow complained about not receiving a payment. Juan R. Huerta, the seller on the Redman Avenue property transaction, wrote an October 17, 2012 letter stating that "it is not true at all" that escrow owes him money. (Exh. C.)

c. The audit found that Golden Feather engaged in escrow activities in connection with Carlos Pacheco's attempted purchase of real property. In an August 16, 2010 letter, Pacheco writes that "Eric Sanchez and I had an agreement in regards to the property, we were to buy the home between the two of us and we were to remodel it to sell it. I pulled back when I found out that the price of the home was higher than initially thought. Eric Sanchez has been paying me in payments the monies that were deposited for him for

this transaction. Eric Sanchez has paid in full the monies that were involved with this transaction.” The Department was unable to examine or review the deposit and disbursements of funds in connection with the Pacheco transaction because respondents did not provide the Department with relevant escrow information and documentation.

d. Respondent Golden Feather failed to maintain control records for trust funds received and disbursed for escrow transactions in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2831 and 2950, subdivision (d), as applied through California Code of Regulations, title 10, section 2951. Respondents provided no evidence to the contrary.

e. For each escrow transaction or beneficiary, respondent Golden Feather failed to maintain separate and accurate records detailing, among other things, check numbers and the dates on which checks were disbursed, and tallying a daily running balance in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2831.1 and 2950, subdivision (d), as applied through California Code of Regulations, title 10, section 2951. Respondents provided no evidence to the contrary.

f. The audit found that respondent Golden Feather performed no monthly reconciliation because it maintained no control records of trust funds received and disbursed in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, sections 2831.2 and 2950, subdivision (d), as applied through California Code of Regulations, title 10, section 2951. Respondents provided no evidence to the contrary.

g. Respondent commingled trust funds with general business funds in violation of Business and Professions Code sections 10145 and 10176, subdivision (e), and California Code of Regulations, title 10, sections 2832. Respondents provided no evidence to the contrary.

h. The audit states that based on a review of escrow files and bank statements, “it appears that [respondent Sanchez] . . . made unauthorized disbursements of trust funds from the bank account for personal use totaling \$67,675.60 . . .” (Exh. 5.) Respondent Sanchez produced credible evidence, including front and back copies of cancelled checks (Exhs. E and F), convincingly refuting this audit finding.

i. Respondent Golden Feather failed to retain and make available the license certification of its real estate salesperson to the Department for examination in violation of Business and Professions Code section 10160 and California Code of Regulations section 2726. Respondents provided no evidence to the contrary.

j. During the audit respondent Golden Feather failed to provide the Department with broker-salesman relationship agreements it entered into with salespersons in violation of California Code of Regulations, title 10, section 2726. At the hearing, respondent Sanchez produced copies of agreements with salespersons Ruben Guillermo Allende and Albert

Lozza, Sr. (Exhs. A and B). Respondents did not address the failure of production at the time of the audit nor did respondents produce documentation of agreements with other salespersons, including Monica Allende, Hamid Reza Farazian, Angel Figueroa, and Erika Sandoval.

k. Respondent Golden Feather conducted its escrow activities using the fictitious business name "Golden Feather Escrow" without first obtaining a license from the Department in violation of Business and Professions Code section 10159.5 and California Code of Regulation, title 10, section 2731. Respondents used the fictitious business name "Golden Feather Escrow" on final settlement statements and escrow receipts. Respondents provided no evidence to the contrary.

l. Respondent Golden Feather failed to retain complete book and records in connection with its escrow activities in violation of Business and Professions Code section 10148. Bank deposit tickets, cancelled checks, and entire escrow files were missing and unavailable during the audit. Respondents provided no evidence to the contrary.

m. Respondent Golden Feather failed to disclose its financial interest in Golden Feather Escrow, the agency holding escrow, to borrowers in violation of California Code of Regulations, title 10, section 2950, subdivision (h). Respondents provided no evidence to the contrary.

7. Respondent Sanchez admits that accounting errors were made, but contends that they were not committed to deceive or defraud. Sanchez attributed the accounting errors to "not knowing what to do when handling an escrow." According to Sanchez, "I knew I didn't have the knowledge or experience to do it and I relied on Mr. Alessandro. I shouldn't have relied on Mr. Ales. I shouldn't have gone in there taking his word. I should have done some research. I should have gotten some experience or knowledge." Sanchez claimed he "approached Mr. Ales several times about help on . . . [the McKinley Street and Redman Avenue] transactions" and that "it turns out that he didn't know anything as well. Lack of knowledge, lack of support is why there are so many deficiencies in accounting." "It looked easy from the outside." According to Sanchez's testimony, he stopped because he "didn't have knowledge or experience and wanted to make sure nobody would get hurt."

8. Respondent Sanchez' testimony establishes both his incompetence and his failure as Golden Feather's Designated Officer to control and reasonably supervise the licensed activities of Golden Feather and to keep Golden Feather in compliance with the Real Estate Law.

The November 5, 2010 Conviction

9. On November 5, 2010, in *People of the State of California v. Eric Heraclio Sanchez* (Super. Ct. Los Angeles County, 2010, No. KA092316), respondent Sanchez was convicted on his plea of nolo contendere to violating Penal Code sections 530.5, subdivision (a) (unauthorized use of personal identifying information), 470, subdivision (a) (forgery), and

487, subdivision (a) (grand theft), all felonies substantially related to the qualifications, functions, and duties of a real estate licensee. The court found a factual basis for respondent's plea, suspended imposition of sentence, and placed respondent Sanchez on three years' formal probation on certain terms and conditions including paying fees and fines and completing 90 days of service to Tree Farm. On August 15, 2012, the court issued orders amending the complaint on which the conviction rests to allege misdemeanors. Pursuant to Penal Code 1203.4, the court ordered respondent Sanchez's plea set aside and vacated, entered a plea of not guilty, and dismissed the criminal complaint.

10. Respondent Sanchez testified that his November 5, 2010 convictions arose from the fact that after his step-sister caused his ailing father to transfer the title to his (the father's) residence to her. Sanchez testified that he asked his step-sister about the matter, and that she agreed to transfer title back to him and his father, which she did. According to Sanchez, he took money from the property to pay the escrow. His step-sister went to the Pomona police department and told them that she had power of attorney and that Sanchez forged her signature to get the money. The Police queried Sanchez's father, who told the police that the residence belonged to Sanchez. According to Sanchez's testimony, he was counseled to sue his father and step-sister, but, "I didn't want to do that because it would have killed my dad." Sanchez testified that the parties "worked out a deal for three years' probation and community service with restitution."

Factors in Aggravation, Mitigation, and Rehabilitation

11. During his testimony regarding the circumstances giving rise to his conviction, respondent Sanchez did not acknowledge the wrongfulness of forging his step-sister's signature.

12. Manuel Elroy Sanchez, respondent Sanchez's father, wrote an October 13, 2012 letter stating, "This letter is to clear that my son did nothing wrong against me. [A]s I stated over and over again in writing and verbally to the Pomona police detectives the day they came to my house in Fresno the Pomona House its Eric's house and the only reason it was under my name because he was going thru a divorce and I said it was ok for him to put it under my name."

13. Respondent Sanchez's clients and friends wrote letters praising his integrity, work ethic, diligence.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving by clear and convincing evidence to a reasonable certainty the allegations in the Accusation. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-6.) Clear and convincing evidence means the evidence is "so clear as to leave no substantial doubt" and is "sufficiently strong to

command the unhesitating assent of every reasonable mind.” (*Mathieu v. Norrell Corp.* (2004) 115 Cal.App.4th 1174, 1190 [citing *Mock v. Michigan Millers Mutual Ins. Co.* (1992) 4 Cal.App.4th 306, 332-333].)

First Cause of Action Alleged in the First Amended Accusation

2. The Department has authority to suspend or revoke a license where the licensee has willfully disregarded or violated the Real Estate Law, demonstrated negligence or incompetence in performing licensed acts, as a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required, or engaged in conduct constituting fraud or dishonest dealing. (Bus. & Prof. Code, § 10177, subs. (d), (g), (h), and (j).)

3. The officer designated by a corporate broker licensee shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of [the Real Estate Law], including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required. (Bus. & Prof. Code, § 10159.2.)

4. A real estate broker who accepts funds belonging to others in connection with a real estate transaction is required to deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker’s principal into a trust fund account maintained by the broker in a bank or recognized depository. (Bus & Prof. Code, § 10145, subd. (a)(1).)

5. “A licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. After notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature.” (Bus & Prof. Code, § 10148, subd. (a).)

6. “The real estate salesman’s license shall remain in the possession of the licensed real estate broker employer until canceled or until the salesman leaves the employ of the broker, and the broker shall make his license and the licenses of his salesman available for inspection by the commissioner or his designated representative.” (Bus & Prof. Code, § 10160.)

7. The Department has authority to suspend or revoke a real estate license at a time where the licensee has been guilty of “[c]ommingling with his or her own money or property the money or other property of others which is received and held by him or her.” (Bus & Prof. Code, § 10176, subd. (e).)

8. California Code of Regulations, title 10, section 2726 provides that every real estate broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation.

9. California Code of Regulations, title 10, section 2753 provides that “[t]he license certificate of a real estate salesperson licensee shall be retained at the main business office of the real estate broker to whom the salesperson is licensed.”

10. California Code of Regulations, title 10, section 2831 provides that “[e]very broker shall keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal.”

11. California Code of Regulations, title 10, section 2831.1 provides that “[a] broker shall keep a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the broker’s trust bank account and interest, if any, earned on the funds on deposit.”

12. California Code of Regulations, title 10, section 2831.2 provides that “[t]he balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month, except in those months when the bank account did not have any activities. A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

13. California Code of Regulations, title 10, section 2950 prohibits the following acts, among others, in handling of an escrow by a real estate broker exempted from the provisions of the Escrow Law:

(d) Failing to maintain books, records and accounts in accordance with accepted principles of accounting and good business practice.

[¶] . . . [¶]

(g) Withdrawing or paying out any money deposited in such trustee account or escrow account without the written instruction of the party or parties paying the money into escrow.

(h) Failing to advise all parties in writing if he has knowledge that any licensee acting as such in the transaction has any interest as a stockholder, officer, partner or owner of the agency holding the escrow.

14. California Code of Regulations, title 10, section 2951 provides that “[t]he provisions of Section 2831, 2831.1, [and] 2831.2 . . . shall apply to the handling of funds and the keeping of records by a real estate broker who is not licensed under Escrow Law . . . when acting in the capacity of an escrow holder in a real estate purchase and sale, exchange or loan transaction in which the broker is performing acts for which a real estate license is required.

15. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code sections 10145, subdivision (a)(1) and 10176, subdivision (e), and California Code of Regulations, title 10, sections 2831, 2831.1, 2832.1, 2950, subdivisions (d) and (g), and 2951 in that as set forth in Factual Finding 6, subsections a through g, inclusive, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, failed to maintain a trust account for the immediate deposit of moneys not placed into a neutral escrow depository, failed to maintain trust fund books, records, and accounts in accordance with accepted accounting principles, failed to perform monthly reconciliation of trust records, and commingled trust funds with general business funds.

16. Cause does not exist to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code sections 10145 and 10177, subdivision (j), in that as set forth in Factual Finding 6, subsection h, complainant did not establish by clear and convincing evidence that Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, made unauthorized disbursements of trust funds for personal use totaling \$67,675.60.

17. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 10160 and California Code of Regulation, title 10, section 2753, in that as set forth in Factual Finding 6, subsection i, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, failed to retain and make available the license certification of Golden Feather salespersons to the Department for examination.

18. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to California Code of Regulations section 2726 in that as set forth in Factual Finding 6, subsection j, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, failed to provide the Department with broker-salesman relationship agreements.

19. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 10159.5 and California Code of Regulation, title 10, section 2731, in that as set forth in Factual Finding 6, subsection k, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, engaged in escrow activities using the fictitious business name "Golden Feather Escrow" without first obtaining a license from the Department.

20. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 10148, in that as set forth in Factual Finding 6, subsection l, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, failed to retain complete books and records in connection with escrow activities.

21. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 2950, subdivision (h), in that as set forth in Factual Finding 6, subsection m, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, failed to disclose its financial interest Golden Feather Escrow.

22. Cause exists to suspend or revoke Real Estate License number 01863419 and Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 10177, subdivision (g), in that as set forth in Factual Findings 7 and 8, Golden Feather and Sanchez, individually and as the Designated Officer of Golden Feather, manifested incompetence in the overall conduct of licensed real estate activities.

23. Cause exists to suspend or revoke Real Estate License Broker number 01042267 pursuant to Business and Professions Code section 10177, subdivision (h), in that as set forth in Factual Findings 6, 7 and 8, respondent Sanchez, as the Designated Officer of Golden Feather, failed to exercise reasonable supervision and control over the activities of Golden Feather.

Second Cause of Action Alleged in the First Amended Accusation

24. The record of respondent Sanchez's conviction for unauthorized use of personal identifying information, forgery, and grand theft is conclusive evidence that the conviction occurred. (*Robbins v. Davi* (2009) 175 Cal. App. 4th 118). Thus, with respect to the allegations in the Second Cause of Action in the First Amended Accusation, the only dispositive question is whether Sanchez's crime is substantially related to the qualifications, functions, or duties of a real estate licensee.

25. Business and Professions Code sections 490 and 10177, subdivision (b), authorizes the suspension or revocation of a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions or duties of the business or profession for which the license was issued.

26. Business and Professions Code section 481 directs licensing authorities, such as the Department, to develop criteria to determine whether a given conviction is substantially related to the relevant professional qualifications. The Department's criteria appear in California Code of Regulations, title 10, section 2910, which provides as follows:

(a) ~~When considering whether a license should be denied, suspended or~~ revoked on the basis of the conviction of a crime, . . . the crime . . . shall be deemed substantially related to the qualifications, functions or duties of a licensee of the Department . . . if it involves:

(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.

27. The facts underlying the crime for which respondent Sanchez has been convicted involved the fraudulent taking of property as set forth in Factual Findings 9 and 10, and are therefore substantially related to the qualifications, functions, and duties of a Department licensee.

28. Cause exists pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), to suspend or revoke Real Estate License Broker number 01042267 issued to Eric H. Sanchez, by reason of Legal Conclusions 24 through 27, inclusive.

29. California Code of Regulations, title 10, section 2910, subdivision (c) provides that "[i]f the crime . . . is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime . . . [was] committed shall go only to the question of the weight to be accorded to the crime . . . in considering the action to be taken with respect to the applicant or licensee."

30. As a Department licensee with fiduciary responsibilities, respondent Sanchez's integrity is of utmost importance. The Legislature intended to ensure that licensed real estate professionals are honest, truthful and worthy of the fiduciary responsibilities they will bear. Thus, honesty and integrity are qualities bearing on one's fitness and qualifications to be a real estate licensee. If a licensee's offenses reflect unfavorably on his honesty and integrity, it may be said he lacks the necessary qualifications to be a licensed real estate professional. (See *Harrington v. Department of Real Estate* (1989) 214 Cal. App.3d 394, 402.) Significant weight is accorded the crimes for which respondent has been convicted because reflect unfavorably on his honesty and integrity as a licensed real estate professional.

31. The law recognizes that people can and do reform, and in such circumstances should not be barred from holding a professional or occupational license. (See Bus. & Prof. Code, § 482, subd. (a), which requires the Department to develop rehabilitation criteria.) Pursuant to California Code of Regulations, title 10, section 2912, the Department's criteria for evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee includes the following:

(a) The passage of not less than two years since the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department.

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.

(c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.

[¶] . . . [¶]

(e) Successful completion or early discharge from probation or parole.

[¶] . . . [¶]

(g) Payment of the fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

[¶] . . . [¶]

(i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.

(j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.

(k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.

(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

(m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:

- (1) Testimony of applicant.
- (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.
- (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
- (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.
- (5) Absence of subsequent felony or misdemeanor convictions that is reflective of an inability to conform to social rules when considered in light of the conduct in question.

32. Respondent Sanchez bears the burden of establishing his rehabilitation. (Evid. Code, § 500.)

33. All evidence presented at the hearing has been considered. Two years have elapsed since respondent's conviction, which has been expunged. However, given the nature and seriousness of Sanchez's misconduct, his rehabilitation has not been established in the brief two years that have elapsed since the time of conviction. More than a mere passage of a proscribed time period is required to establish rehabilitation. In addition, a perfunctory satisfaction of the expungement criterion is not a guarantee of rehabilitation. Rehabilitation is a "state of mind" and the law looks with favor upon who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Sanchez was oblivious to the impropriety of a real estate fiduciary forging documents transferring property in a real estate transaction. At this time, Sanchez has not achieved reformation and regeneration. The revocation of Real Estate Broker License number 01042267 issued to Eric H. Sanchez is necessary for public protection. (See *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786 (the purpose of licensing proceedings is to protect the public).)

ORDER

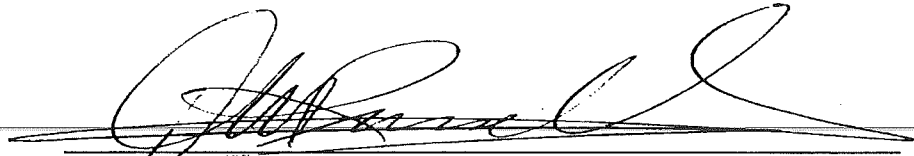
1. Real Estate License number 01863419 issued to Golden Feather Realty, Inc. with Eric H. Sanchez as its Designated Officer is revoked.

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2. Real Estate Broker License number 01042267 issued to Eric H. Sanchez is
revoked.

Dated: April 11, 2013

A handwritten signature in black ink, appearing to read "J. Russell", is written over a horizontal line.

JENNIFER M. RUSSELL
Administrative Law Judge
Office of Administrative Hearings