



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	
	)	No. H-7297 SF
JON HEATH STANSBURY	)	
	)	OAH No. N 9512236
Respondent.	)	
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PROPOSED DECISION

This matter was heard before Robert Walker, Administrative Law Judge, Office of Administrative Hearings, State of California, on May 7, 1996, at Oakland, California.

Larry A. Alamao, Counsel, represented the Department of Real Estate ("Department").

Maxine Monaghan, Attorney at Law, represented the respondent, Jon Heath Stansbury ("Respondent").

FINDINGS OF FACT

1. Les R. Bettencourt filed the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.
2. Respondent is licensed as a real estate salesperson and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code.
3. On December 1, 1994, in the United States District Court for the Northern District of California, Respondent was convicted of conspiracy to import marijuana, a felony and a violation of Title 21 United States Code section 963.
4. The crime of which Respondent was convicted is one involving moral turpitude.
5. Within the terms of section 2910, Title 10, California Code of Regulations, the crime of which Respondent was convicted is a crime that is substantially related to the qualifications, functions or duties of a real estate licensee.

6. Respondent's conviction grew out of his participation in the importation of ten tons of marijuana from Thailand. Respondent was recruited to participate in the importation scheme because he was in the travel business and could travel freely without raising suspicion. Between March 1, 1987, and August 26, 1988, Respondent's associates raised the money, arranged the sale, handled the money, and purchased the marijuana at a cost of \$500,000.00. Respondent traveled to Thailand, inspected the Marijuana, and dealt with the sellers. Respondent was to get a percent of the net profits. His share would have amounted to hundreds of thousands of dollars. However, the scheme was discovered as the marijuana was being unloaded from a fishing boat in Santa Cruz County.

7. In August of 1989 Respondent was planning to enter law school, and, after one of his associates was arrested, he went to the United States attorney and admitted his role in the scheme. Respondent became a cooperating defendant, and on July 13, 1994, he entered into a plea agreement with the United States Attorney. Respondent agreed to plead guilty to the charge of conspiring to import marijuana, and the United States Attorney agreed to recommend that Respondent be given a relatively light sentence.

8. On December 1, 1994, the court placed Respondent on probation for a term of three years. Among the conditions of probation were that Respondent serve six months of home detention under an electronic monitoring program, that he pay a fine of \$20,000.00, and that he participate in a drug testing and treatment program as directed by his probation officer.

9. Respondent has completed one and one-half years of his probation. He successfully completed the home detention, and in June of 1995 he paid the fine. He successfully completed a random drug testing program. Currently he mails a written report to his probation officer once a month.

10. Respondent worked as a travel agent while he was in college. In 1976 he was graduated from San Jose State University and continued to work as a travel agent. In 1992 he obtained a real estate salesperson's license. In the application for that license he did disclose that criminal charges were pending against him.

11. From 1990 through 1994 Respondent attended law school part time and was graduated. He recently took the bar examination and is awaiting the results. For approximately four years he has worked as a loan broker for Santa Cruz Mortgage Company. He did disclose to the broker of record at Santa Cruz Mortgage that criminal charges were pending against him because of his involvement in a scheme to import marijuana. At the end of 1995 Respondent moved to San Diego but continues to work with Santa Cruz Mortgage Company as a loan broker.

12. Respondent is a member of the California Association of Mortgage Brokers, and each year for the last four years has helped with a project of cleaning and painting the home of someone who was unable to do those things.

13. Respondent is divorced and has a ten year old son who stays with Respondent regularly and frequently. Respondent pays child support and contributes to the cost of school tuition.

14. Respondent submitted a number of letters from people who are familiar with his work as a loan broker - the president of Santa Cruz Mortgage, clients, and a realtor and an attorney who have referred clients to respondent. They described Respondent as hardworking, straightforward, patient, conscientious, honest, and trustworthy.

15. Since 1988 Respondent has not associated with the people who were involved in the drug scheme. He is contrite and remorseful concerning his participation in that scheme. He has no other criminal convictions and no known prior disciplinary actions against him.

#### DETERMINATION OF ISSUES

1. By reason of the matters set forth in Findings 3 through 6, cause to revoke Respondent's license exists pursuant to Business and Professions Code sections 490 and 10177(b).

2. By reason of the matters set forth in Findings 7 through 15, it is determined that Respondent has made substantial progress toward Rehabilitation and that it would not be contrary to the public interest to allow him to have a real estate salesperson's license with restrictions. Respondent has demonstrated his commitment to rehabilitation in a number of ways. He studied for and obtained a real estate license and has developed a successful career as a loan broker. He attended and completed law school. He paid his fine and successfully complete a random drug testing program. While it is true that he has not completed his probation, the events that gave rise to his conviction occurred over seven years ago. Respondent's success in satisfying the terms of his criminal probation indicates that he would be able to comply with the terms of a restricted license.

#### ORDER

All licenses and licensing rights of respondent under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:


a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

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

5. 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: June 3, 1996

  
ROBERT WALKER  
Administrative Law Judge



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III

On or about December 1, 1994, in the United States District Court for the Northern District of California, Respondent was convicted of violation of Title 21 USC Section 963 (Conspiracy to Import Marijuana), a crime involving moral turpitude which is substantially related under Section 2910, Title 10, California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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

  
LES R. BETTENCOURT  
Deputy Real Estate Commissioner

Dated at San Francisco, California,  
this 19<sup>th</sup> day of October, 1995