

1 estate salesperson license and that it would not be against the
2 public interest to issue said license to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's
4 petition for reinstatement is granted and that a real estate
5 salesperson license be issued to Respondent if Respondent
6 satisfies the following conditions within nine (9) months from
7 the date of this Order:

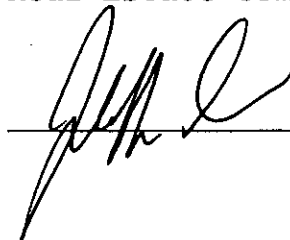
8 1. Respondent shall take and pass the real estate
9 salesperson license examination.

10 2. Submittal of a completed application and payment of
11 the fee for a real estate salesperson license.

12 This Order shall become effective immediately.

13 DATED: 4/24, 2007.

14 JEFF DAVI
15 Real Estate Commissioner

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FILED

SEP 22 2004

DEPARTMENT OF REAL ESTATE

By John R. Liberator

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7665 SF
VICKI NGA LAI YUE,)	
)	
Respondent.)	

ORDER DENYING RECONSIDERATION

On July 19, 2004, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective September 27, 2004.

On September 15, 2004, Respondent petitioned for reconsideration of the Order of July 19, 2004.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Order of July 19, 2004 and reconsideration is hereby denied.

IT IS HEREBY ORDERED Sept. 21, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

1 rehabilitation to warrant the reinstatement of her real estate
2 salesperson license at this time.

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

10 The Department has developed criteria to assist in
11 evaluating the rehabilitation of an applicant for reinstatement
12 of a license. Among the criteria relevant in this proceeding
13 are:

14 (k) Correction of business practices resulting in
15 injury to others or with the potential to cause such injury.

16 (n) Change in attitude from that which existed at the
17 time of the conduct in question as evidenced by any or all of
18 the following:

19 (1) Testimony of applicant.

20 (2) Evidence from family members, friends or
21 other persons familiar with applicant's
22 previous conduct and with her subsequent
23 attitudes and behavioral patterns.

24 (3) Evidence from probation or parole officers
25 or law enforcement officials competent to
26 testify as to applicant's social adjustments.

27 (4) Evidence from psychiatrists or other persons

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(5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

After Respondent's real estate salesperson license was revoked, Respondent continued to act as a manager/underwriter and as an unbonded signatory on the trust account of American Western Financial & Investments, Inc., a real estate broker licensee. Respondent continued to act in those capacities until the real estate license of AWFI was revoked on May 27, 2003. Respondent continued to engage in the real estate brokerage business following the revocation of her real estate license.

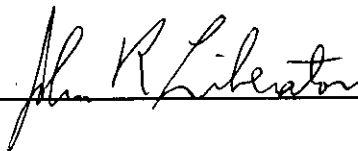
Given the violations found and the fact that Respondent has not established that she has complied with Sections 2911(k), and (n) of Title 10, California Code of Regulations, I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

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

This Order shall be effective at 12 o'clock noon on September 15, 2004.

DATED: July 19, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



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FILED

AUG 12 1999

DEPARTMENT OF REAL ESTATE

By John R. Liberator

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7665 SF
)	
VICKI NGA LAI YUE,)	OAH NO. N-1999020258
)	
Respondent.)	

ORDER DENYING RECONSIDERATION

On June 24, 1999, a Decision was rendered in the above-entitled matter. The Decision is to become effective August 16, 1999.

On July 6, 1999, Respondent petitioned for reconsideration of the Decision of June 24, 1999.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of June 17, 1999, and reconsideration is hereby denied.

IT IS HEREBY ORDERED August 10, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

FILED
JUL - 9 1999

DEPARTMENT OF REAL ESTATE

Laurie A. Ziss

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-7665 SF
VICKI NGA LAI YUE,) OAH NO. N-1999020258
Respondent.)

ORDER STAYING EFFECTIVE DATE

On June 24, 1999, a Decision was rendered in the above-entitled matter to become effective July 16, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of June 24, 1999, is stayed for a period of thirty (30) days.

The Decision of the Real Estate Commissioner of June 24, 1999, shall become effective at 12 o'clock noon on August 16, 1999.

DATED: July 8, 1999

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

VICKI NGA LAI YUE,

Respondent.

Case No. H-7665 SF

OAH No. N1999020258

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on May 12, 1999.

James L. Beaver, Counsel, represented complainant Les R. Bettencourt, Deputy Real Estate Commissioner.

Alan S. Yee, Attorney at Law, represented respondent Vicki Nga Lai Yue.

The matter was submitted on May 12, 1999.

FACTUAL FINDINGS

1. The accusation was made and filed by Les R. Bettencourt, in his official capacity as Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California.
2. Respondent Vicki Nga Lai Yue (respondent) is presently licensed and/or has licensing rights under the Real Estate Law, Part 1 of Division Four of the Business and Professions Code, as a real estate salesperson.
3. On or about July 16, 1997, in the Superior Court of Los Angeles County, Central Judicial District, County of Los Angeles, State of California, respondent was convicted of single counts of violating Penal Code section 182, subdivision (A)(1), conspiring to commit insurance fraud, and Penal Code section 550, subdivision (A)(1), insurance fraud. Each offense is a felony. Each offense involves moral turpitude. Each offense is substantially related to the qualifications, functions, or duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910.)

Respondent was sentenced on October 15, 1997. Imposition of sentence was suspended and respondent was placed on formal probation for five years. Respondent was ordered to perform 500 hours of community service, pay \$10,000 in restitution to the state restitution fund, and to pay \$6000 in restitution to Nationwide Insurance for its investigative costs.

4. The circumstances of the offenses were as follows. In June of 1995, respondent was married to Bruce Yeung (Yeung). Yeung loaned his vehicle to his brother who drove the automobile to Los Angeles, posted the automobile as collateral for a gambling bet, and lost the bet. Unable to raise the money to repay the gambling debt, Yeung's brother lost possession of the vehicle. When the brother returned to the Bay Area he convinced respondent to file a police report to the effect that the car had been stolen while in her possession. She did so. After respondent advised her husband that she had filed the police report, the two of them decided to report to Yeung's insurance company¹ that the car had been stolen.

Thereafter Yeung filed a claim with his insurance company for the vehicle. Respondent accompanied her husband when the claim was filed and made false representations to the insurance company regarding the theft of the automobile.

5. Respondent testified that they learned that the vehicle had been recovered after they had made the appointment to file the claim with the insurance company. Respondent testified that she immediately telephoned the insurance company and reported that the car had been recovered, but was advised that they should keep the appointment. Respondent further avers that during the appointment, she told the insurance agent that the car had been recovered. Respondent presented no evidence to corroborate her testimony in this regard. The testimony is not credible.

6. Respondent is 30 years old. She has been licensed since 1992. For the last four years, respondent has been employed at American Western Financial & Investment, Inc. In her present position of manager, respondent acts as a loan agent, supervises other staff and performs office functions. There have been no complaints regarding respondent's work performance at American Western Financial. There have been no prior disciplinary proceedings.

Respondent's employer did not testify at the hearing. He submitted a letter attesting to her competency and honesty.

Respondent is still on probation. She makes monthly payments of \$100 to the state restitution fund. She has paid \$1800 of her \$10,000 obligation. She also is making monthly payments of \$50 to Nationwide Insurance. She has paid \$900 of her \$3,000 obligation. Respondent has performed 250 hours of community service at the Alano Club in San Mateo.

¹ The car was registered to Bruce Yeung.

A letter from the director of the club attests that she has been a dutiful and commendable volunteer. She must perform 250 additional hours of community service.

Respondent divorced from Yeung in 1996. She has custody of their eight-year-old son. Respondent remarried last year. In addition to supporting her son, respondent sends \$100 each month to her father in Hong Kong.

7. Respondent gave a number of reasons for participating in the scheme: (1) she wanted the car back; (2) she was concerned that she and her husband would be liable for damage or injury caused while the automobile was in the possession of the gamblers; and (3) she was asked to do so by her family. Respondent realized that she had made a mistake after she first reported the vehicle stolen, but felt that she had no choice but to continue the lie. She realizes that she made a great mistake and would not do it again.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 3, cause exists under Business and Professions Code sections 490 and 10177(b) for suspending or revoking all licensing and licensing rights of respondent under the Real Estate Law. Respondent was convicted of two crimes which involve moral turpitude and which are substantially related to the qualifications, functions or duties of a licensee of the Department of Real Estate within the meaning of section 2910 of Title 10 of the California Code of Regulations.

2. The more difficult assessment is whether respondent should be permitted to retain her real estate salesperson license on a restricted basis. Although the offense occurred more than four years ago, the conviction was less than two years ago. Respondent continues to be on probation and will be on probation for three more years.

Respondent is faithfully making restitution payments to the insurance company who was defrauded, and the state restitution fund. However, she has not completed these obligations. Similarly, respondent has performed one half of her community services, but has an additional 250 hours to perform. Respondent has divorced her husband and has remarried. Respondent is fulfilling her parental obligations to her son. These are all positive and commendable steps in the rehabilitation process.

Most troubling, however, is respondent's apparent lack of candor about her representations to the insurance company following recovery of the vehicle. Her failure to accept full responsibility for her role in this scheme raises questions about the extent of her rehabilitation. Respondent has not demonstrated that she is sufficiently trustworthy that the public interest would be protected were she allowed to keep her real estate license.

ORDER

All licenses and licensing rights of respondent Vicki Nga Lai Yue under the Real Estate Law are revoked.

DATED: June 2, 1999



MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 02 1999

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

VICKI NGA LAI YUE

Respondent

Case No. H-7665 SF

OAH No. N 1999020258

By Shelly Ely

FIRST CONTINUED
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, 1515 Clay Street, Suite 206,
Oakland, California 94612

on WEDNESDAY--May 12, 1999, at the hour of 11:00 AM,
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 on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the 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: March 2, 1999

DEPARTMENT OF REAL ESTATE
By James L. Beaver
JAMES L. BEAVER Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED

FEB 04 1999

DEPARTMENT OF REAL ESTATE

By Jean A. ...

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
VICKI NGA LAI YUE,) No. H-7665 SF
Respondent.) ACCUSATION

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against VICKI NGA LAI YUE (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code") as a real estate salesperson.

II

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

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III

On or about July 16, 1997, in the Superior Court of Los Angeles Superior, Central Judicial District, County of Los Angeles, State of California, Respondent was convicted of one count of violation of Section 182(A)(1) of the California Penal Code (Conspiracy to Commit a Crime) and one count of violation of Section 550(A)(1) of the California Penal Code (Insurance Fraud), felonies and crimes involving moral turpitude which are 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 such other and further relief as may be proper under other provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 12th day of January, 1999.