

1 DEPARTMENT OF REAL ESTATE
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

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FILED
MAR - 3 2005

DEPARTMENT OF REAL ESTATE

By K. Contreras

7 DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 *In the Matter of the Application of*

10 PHUONG KEVIN PHAM NGUYEN,

11 Respondent.

)
) NO. H-9109 SF

)
) STIPULATION AND WAIVER

12 _____)
13 I, PHUONG KEVIN PHAM NGUYEN, respondent herein, do hereby affirm that I have
14 applied to the Department of Real Estate for a real estate salesperson license and that to the best of my
15 knowledge I have satisfied all of the statutory requirements for the issuance of the license, including the
16 payment of the fee therefor.

17 I acknowledge that I have received and read the Statement of Issues and the Statement to
18 Respondent filed by the Department of Real Estate on February 4, 2005, in connection with my application
19 for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on
20 this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to
21 prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted
22 real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
23 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
24 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
25 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate
26 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
27 issuance to me of an unrestricted real estate salesperson license.

1 I hereby admit that the allegations of the Statement of Issues filed against me are true and
2 correct and requests that the Real Estate Commissioner in his discretion issue a restricted real estate
3 salesperson license to me under the authority of Section 10156.5 of the Business and Professions Code. I
4 understand that any such restricted license will be issued subject to and be limited by Section 10153.4 of the
5 Business and Professions Code.

6 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing
7 and the opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an
8 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate
9 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a
10 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

11 I further understand that the following conditions, limitations, and restrictions will attach to
12 a restricted license issued by the Department of Real Estate pursuant hereto:

- 13 1. The license shall not confer any property right in the privileges to be exercised
14 including the right of renewal, and the Real Estate Commissioner may by appropriate
15 order suspend the right to exercise any privileges granted under this restricted license
16 in the event of:
 - 17 a. The conviction of respondent (including a plea of nolo contendere) to a crime
18 which bears a substantial relationship to respondent's fitness or capacity as a real
19 estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California
21 Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner, or conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor
24 the removal of any of the conditions, limitations or restrictions attaching to the
25 restricted license until two years have elapsed from the date of issuance of the
26 restricted license to respondent.

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3. With the application for license, or with the application for transfer to a new employing broker, I shall submit a statement signed by the prospective employing broker on a form approved by the Department of Real Estate wherein the employing broker shall certify as follows:
 - a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and
 - b. That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

 4. My restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal. If I fail to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, I have submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of the lifting of the suspension.

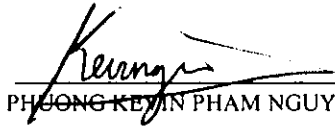
 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on respondent as if the Department had received the original signed Stipulation and Waiver.

2/14/05

Dated



PHUONG KEVIN PHAM NGUYEN, Respondent

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to respondent.

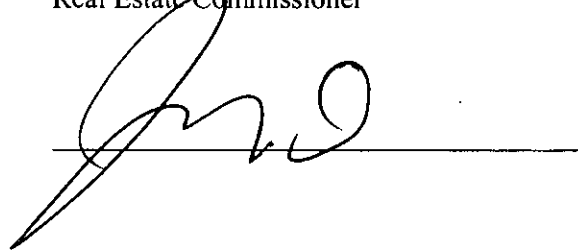
Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to respondent PHUONG KEVIN PHAM NGUYEN, if respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED

3-1-05

JEFF DAVI
Real Estate Commissioner



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2 SBN 66322
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0789

FILED
FEB - 4 2005

DEPARTMENT OF REAL ESTATE

By *K. Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 PHUONG KEVIN PHAM NGUYEN,) NO. H-9109 SF
13 Respondent.) STATEMENT OF ISSUES
14)

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Statement of Issues against PHUONG KEVIN PHAM NGUYEN, alleges as
18 follows:

19 I

20 PHUONG KEVIN PHAM NGUYEN (hereafter Respondent),
21 pursuant to the provisions of Section 10153.3 of the Business
22 and Professions Code, made application to the Department of Real
23 Estate of the State of California for a real estate salesperson
24 license on or about May 17, 2004, with the knowledge and
25 understanding that any license issued as a result of said
26 application would be subject to the conditions of Section 10153.4
27 of the Business and Professions Code.

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II

The Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

In response to Question 25 of said application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "No." Respondent failed to disclose the conviction alleged in Paragraph IV below.

IV

On or about April 5, 2000, in the Superior Court of California, County of Yolo, Respondent was convicted of violation of Penal Code Section 148(a) (RESISTING, DELAYING, OBSTRUCTING AN OFFICER), and Penal Code Section 647(f) (DISORDERLY CONDUCT - INTOXICATED IN PUBLIC), crimes involving moral turpitude, and/or crimes which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

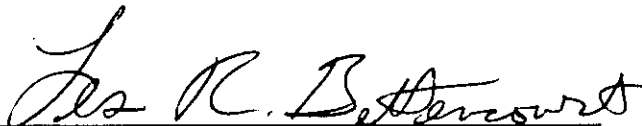
Respondent's failure in the application for licensure to disclose the convictions alleged above constitutes the attempt to procure a real estate license by fraud, misrepresentation or deceit; and/or by a making material misstatement of fact in said application; and/or by knowingly making a false statement in said application, which is cause for denial of Respondent's application for a real estate license under Sections 480(c) and/or 10177(a) of the Business and Professions Code.

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VI

The crime of which Respondent was convicted as alleged above constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and/or 10177(b) of the California Business and Professions Code.

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California
this 26th day of January, 2005