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FILED
AUG 24 1988

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
MASHA LEVINSON,)
Respondent.)

No. H-5928 SF

OAH No. N 31065

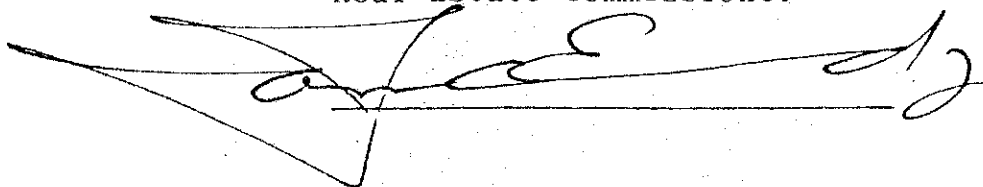
DECISION

The Proposed Decision dated August 15, 1988 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 September 13, 1988.

IT IS SO ORDERED 8-23, 1988.

JAMES A. EDMONDS, JR.
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	)	
MASHA LEVINSON,	)	CASE NO. H-5928 SF
	)	
Respondent,	)	OAH NO. N 31065
	)	
_____	)	

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in San Francisco, California on July 20, 1988.

Vera Winter Lee, Counsel, represented complainant.

Respondent Masha Levinson represented herself.

FINDINGS OF FACT

I

Edward V. Chiolo made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

Masha Levinson ("respondent") is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code. At all times mentioned respondent was licensed as a real estate salesperson. Her license expired on July 19, 1988 and has not been renewed.

III

On May 5, 1986 Mattie Fleming, a licensed real estate salesperson, prepared a Purchase Contract for the Sale and Purchase of Real Property which contained an offer from Frank Chow and others ("buyers") to purchase real property located at 1825 Santiago Street, San Francisco ("the property") from Robert and Joanne Stewart ("sellers").

IV

Buyers were in need of a loan to purchase the property and Fleming put them in touch with respondent, who was then acting in the employ of Key Equities, to arrange the loan. The parties advised respondent that this was a "rush transaction." Respondent advised Fleming that a rush appraisal would cost \$500. Buyers felt this was too high and agreed only to pay for half of the appraisal cost. Fleming contacted sellers who agreed to pay the other half. Fleming then contacted respondent's office and was mistakenly advised by a secretary there that the appraiser would be William Trout. Fleming then wrote in that name on a check dated May 16, 1986 for \$250.00 which had been provided by Frank Chow on behalf of buyers and delivered it to an address given her by respondent's office.

The appraisal on the property was done by Jim Delman. Since respondent had not yet received any funds from buyers or sellers, she paid Delman \$500 on June 2, 1986 out of her personal account in the expectation of reimbursement. Respondent subsequently received the May 16 check made out to William Trout and a \$250 check made out in her name from sellers. On the day after she received this latter check respondent received a call from sellers telling her not to cash the check and that a new one would be sent her. Instead, sellers stopped payment on the check and never issued a replacement check. When Fleming learned that sellers had reneged on their agreement to pay one-half the appraisal fees she spoke to her broker, who was also Mrs. Stewart's broker, who agreed to pay the sellers' half of the appraisal costs at close of escrow.

On or about June 5, 1986 respondent advised Frank Chow that his check had the wrong payee and asked him to write a new check, leaving the payee blank. Respondent told Chow she would return his original check. On June 5, 1986 Chow wrote another check for \$250. Respondent filled in her name as payee and cashed the check on June 12.

V

On July 1, 1986 the transaction for the purchase of the property was cancelled. On July 2 respondent crossed out William Trout's name on Chow's May 16 check, wrote in her own name as payee, and cashed the check. Respondent's contention that Chow had authorized her to do this cannot be accepted.

VI

Respondent is 28 years old. A native of Russia, respondent received a college degree in computer science before emigrating to the United States. After her arrival she attended San Francisco State for four years, majoring in business management.

While in school, respondent worked part-time as a secretary. She has worked in real estate since leaving school. Respondent has taken broker's courses and is waiting to take the real estate broker examination.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code section 10176(i) in that respondent's cashing of Chow's May 16, 1986 check without his consent constituted dishonest dealing.

II

In mitigation, it is noted that respondent was not seeking to enrich herself by cashing Chow's May 16 check, but was only seeking to obtain reimbursement for the appraisal costs she had advanced. Respondent did not cash the May 16 check until after the transaction was cancelled and it was clear she was not going to receive the sellers' half of the appraisal costs.

ORDER

1. All licenses and licensing rights of respondent Masha Levinson under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

2. A restricted real estate salesperson license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for that license within ninety (90) days of the effective date of this Decision.

3. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under the authority of section 10156.6 of that code.

- (a) The restricted license 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee.

- (b) The restricted license 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 this restricted license.
- (c) Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner may direct by a separate written order issued while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem appropriate to protect the public interest.
- (d) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the limitations, conditions or restrictions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.
- (e) Respondent shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent passes the examination.
- (f) Respondent shall, within six (6) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that she 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
- (g) Respondent shall submit with her application for licensure under an employing broker--or her application for transfer to a new employing broker--a statement signed by the prospective employing broker which shall certify:

- (1) That he has read the Decision of the Commissioner which granted the right to a restricted license; and
- (2) That he will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

DATED: August 15, 1988

Michael C. Cohn
MICHAEL C. COHN
Administrative Law Judge

MCC:jat

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F U 15
MAY 31 1988

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

In the Matter of the Accusation of

MASHA LEVINSON,

Case No. H-5928 SF

OAH No. N 31065

Respondent(s)

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 Office of
Administrative Hearings, State Bldg., Rm 2248, 455 Golden Gate Ave., San Francisco, CA 94
(one day hearing)
on the 20th day of July, 1988, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: May 31, 1988

By Vera Winter Lee
VERA WINTER LEE, Counsel

COPY

1 VERA WINTER LEE, Counsel
2 DEPARTMENT OF REAL ESTATE
185 Berry Street, Room 5816
3 San Francisco, CA 94107-1770

4 (415) 557-3220

FILED
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DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

10 - - -
11 In the Matter of the Accusation of)
12 MASHA LEVINSON,)
13 Respondent.)

No. H-5928 SF

ACCUSATION

14
15 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against MASHA LEVINSON (respondent), is informed and alleges as
18 follows:

19 I

20 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
21 Commissioner in the State of California, makes this Accusation in
22 his official capacity.

23 II

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

27 - - - - -

1 III

2 At all times mentioned below, respondent was licensed as
3 a real estate salesperson and her license expires July 19, 1988.

4 IV

5 At all times mentioned below, JOANNE O. STEWART and
6 ROBERT E. STEWART were the owners of the real property located at
7 1825 Santiago Street, San Francisco (the Property).

8 V

9 On or about May 5, 1986, MATTIE FLEMING, a licensed real
10 estate salesperson, prepared a Contract for the Sale and Purchase
11 of Real Property (Deposit Receipt) that contained an offer by
12 Frank Wai Chow, among others (Buyer), to purchase the Property.

13 VI

14 In May of 1986 and thereafter, respondent was acting in
15 the employ of Key Equities, Inc. and was contacted by the Buyer to
16 arrange a purchase money loan for the Buyer. In connection with
17 the arrangement of a loan for the Buyer, the Buyer gave to
18 respondent a fee in advance in the form of a check for TWO HUNDRED
19 FIFTY DOLLARS (\$250.00), representing the portion he was obligated
20 to pay toward the cost of an appraisal of the Property.
21 Respondent mistakenly made the check payable to an appraiser named
22 William Trout. On discovering his mistake, the Buyer sent a
23 second personal check in the amount of TWO HUNDRED FIFTY DOLLARS
24 (\$250.00), dated June 5, 1986, made payable to the respondent, to
25 replace the first check.

26 VII

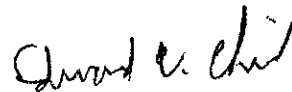
27 Respondent did not return the first check to Buyer, as

1 requested by Buyer, but instead crossed out the name William
2 Trout, wrote in her own name and deposited the check in her
3 personal checking account, and used the money for her own
4 purposes.

5 VIII

6 The facts alleged above are grounds for discipline
7 pursuant to Section 10176(i) of the Code.

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

15 

16 EDWARD V. CHIOLO
17 Deputy Real Estate Commissioner

18 Dated at San Francisco, California
19 this 2nd day of December, 1987.