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DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Kathleen Contreras

In the Matter of the Accusation of)
FRANCIS CHAK-CHI WONG,)
Respondent.)

NO. H-6231 SF
OAH NO. N-35081

DECISION

The Proposed Decision dated April 12, 1990, 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.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on *May 31*, 1990.

IT IS SO ORDERED *May 9*, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

by: *John R. Liberator*
JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:) Case No. H-6231 SF
)
FRANCIS CHAK-CHI WONG,) OAH No. N 35081
)
)
Respondent.)
)
)
_____)

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 March 21, 1990.

John Van Driel, Counsel, represented the Department of Real Estate.

Respondent Francis Chak-Chi Wong was present and was represented by Dale N. Chen, Attorney at Law, 601 Montgomery Street, Suite 20227, San Francisco, California 94111.

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

Francis Chak-Chi Wong ("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 has been licensed as a real estate salesperson subject to Business and Professions Code section 10153.4. Respondent's license is scheduled to expire on November 28, 1992.

III

On May 1, 1989, in the Municipal Court of California, San Mateo County Judicial District, respondent was convicted,

upon his plea of nolo contendere, of a violation of Penal Code section 484/490.5 (petty theft of retail merchandise), a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee.

IV

Following his conviction, respondent was placed on one year's probation and was ordered to pay fines and penalties of \$363.00, which amount respondent paid on May 3, 1989.

V

Respondent's conviction resulted from an incident which occurred on December 31, 1988. In the early evening, respondent and his wife went to a Montgomery Ward's store to purchase sheets, pillows and blankets for guests who were planning to spend the night at their home. Just after entering the store, respondent heard an announcement that the store would be closing at 6:00 p.m. By the time respondent selected a set of sheets, pillow cases and a comforter and took them to the cashier it was between 6:05 and 6:10. The sales clerk refused to ring up the sale, saying she was closed, and pointed to another cash register. The clerk at that register also refused to ring up the sale.

Respondent became frustrated and angry and, according to his written "Statement in Mitigation," "decided to walk through the exit with my selection of goods, believing this would draw attention from the store personnel, who would then choose to ring up my sale." Instead, respondent's action drew the attention of a security guard, who chose to cite him for shoplifting.

VI

Respondent has been licensed for the past two years as an insurance agent and has been employed by Surety Life Insurance. During his tenure there respondent has been promoted four times and now serves as an executive sales director. He is responsible for selling life insurance and for managing and training new agents.

Using his real estate salesperson license, respondent has been involved in property management for the past six months. In that position respondent takes tenant complaints, rents and leases vacancies, collects rents of about \$30,000.00 per month, maintains a trust account, makes disbursements and supplies the property owner with records.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 490 and 10177(b) in that respondent has been convicted of a crime involving moral turpitude and which is substantially related to the qualifications, functions and duties of a real estate licensee.

II

Respondent clearly exhibited poor judgement when he let his anger and frustration control his actions. Despite that fact, and despite the fact that respondent's conviction is less than one year old and he remains on criminal probation, it is determined that it would not be against the public interest to permit respondent to retain his license upon appropriate terms and conditions.

ORDER

1. All real estate licenses and licensing rights issued to respondent Francis Chak-Chi Wong by the Department of Real Estate 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 within thirty (30) 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 the authority of Section 10156.6 of that Code:

- (a) 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 bears a significant relation to respondent's fitness or capacity as a real estate licensee.
- (b) 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 this restricted license.
- (c) 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 two (2) years have elapsed from the date of issuance of the restricted license to respondent, or until his criminal probation is terminated, whichever is longer.

- (d) Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that he 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.
- (e) Respondent shall submit with any application for licensure under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:
- (1) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (2) That the employing broker will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

2. The restricted real estate salesperson license issued to respondent shall also be subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: respondent shall, within eighteen (18) months of the issuance of respondent's original real estate salesperson license under the provisions of Section 10153.4 of the Business and Professions Code, submit evidence satisfactory to the Commissioner of the successful completion, at an accredited institution, of two 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 respondent fails to present satisfactory evidence of successful completion of those courses, the restricted license shall be automatically suspended effective eighteen (18) months after issuance of respondent's original real estate salesperson license. That suspension shall not be lifted until respondent has submitted the required evidence of course completion and the

Commissioner has given written notice to respondent of the lifting of the suspension.

DATED: April 12, 1990

Michael C. Cohn
MICHAEL C. COHN
Administrative Law Judge

MCC:wc

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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
FRANCIS CHAK-CHI WONG,

}

Case No. H-6231 SF
OAH No. N 35081

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., 455 Golden Gate Ave., Rm 2248, San Francisco
on the 21st day of March, 19 90, 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: February 8, 1990

By John Van Driel
JOHN VAN DRIEL, Counsel *cu*

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

(415) 557-3220

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)
FRANCIS CHAK-CHI WONG.)
Respondent.)

No. H-6231 SF
ACCUSATION

The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against FRANCIS CHAK-CHI WONG (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 California Business and Professions Code (Code) as a real estate salesperson subject to Section 10153.4 of the Code.

II

The Complainant, EDWARD V. CHIOLO, 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 May 1, 1989, in the Municipal Court of California, San Mateo County Judicial District, respondent was convicted of violation of Section 484 w/490.5 of the California Penal Code (SHOPLIFTING), 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.

Edward V. Chio

EDWARD V. CHIOLO
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 6th day of SEPTEMBER, 1989.