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FILED
DEC 08 2006

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7125 SF
)	H-7501 SF
HESHMATT KASHKOOLI,)	
)	
)	
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On May 23, 1995 a Decision was rendered in Case No. H-7125 SF revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. Respondent's license was revoked pursuant to the provisions of Sections 490 and 10177(b) of the Code on the ground that on or about December 21, 1993, in the Municipal Court of the State of California, County of Santa Clara, Respondent was convicted of the crime of Theft in violation of Penal Code Sections 484 and 488, a crime involving moral turpitude that is substantially related under the provisions of Section 2910 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations") to

1 the qualifications, functions and/or duties of a real estate
2 licensee.

3 No restricted real estate salesperson was ever issued
4 to Respondent.

5 On September 30, 1997, in Case No. H-7501 SF, an Order
6 To Desist And Refrain was issued requiring Respondent to desist
7 and refrain from engaging in activity requiring a real estate
8 license unless and until duly licensed.

9 On June 14, 1996, Respondent petitioned for
10 reinstatement of said license. On September 30, 1997 said
11 petition was denied pursuant to the provisions of Section 2911 of
12 the Regulations on the ground that Respondent violated Section
13 10130 of the California Business and Professions Code (herein
14 "Code") based on the facts described in the Desist and Refrain
15 Order in Case No. H-7501 SF.

16 On November 18, 1999, in the Municipal Court of the
17 State of California, County of Santa Clara, Respondent was
18 convicted of the crime of Spousal Battery in violation of Penal
19 Code Sections 242 and 243(a), a misdemeanor and a crime involving
20 moral turpitude that is substantially related under the
21 provisions of Section 2910 of the Regulations to the
22 qualifications, functions and/or duties of a real estate
23 licensee.

24 On September 27, 2005, Respondent petitioned for
25 reinstatement of said real estate salesperson license, and the
26 Attorney General of the State of California has been given notice
27 of the filing of said petition.

1 The Department has developed criteria in Section 2911
2 of the Regulations to assist in evaluating the rehabilitation of
3 an applicant for reinstatement of a license. Among the criteria
4 relevant in this proceeding are:

5 Section 2911(n). Change in attitude from that which
6 existed at the time of the conduct in question as evidenced by
7 any or all of the following: (1) Testimony of applicant. (2)
8 Evidence from family members, friends or other persons familiar
9 with applicant's previous conduct and with his subsequent
10 attitudes and behavioral patterns. (3) Evidence from probation or
11 parole officers or law enforcement officials competent to testify
12 as to applicant's (4) Evidence from psychiatrists or other
13 persons competent to testify with regard to neuropsychiatric or
14 emotional disturbances. (5) Absence of subsequent felony or
15 misdemeanor convictions that are reflective of an inability to
16 conform to societal rules when considered in light of the conduct
17 in question. Respondent attributes the crime resulting in
18 Respondent's conviction to the fact he was upset because his girl
19 friend had left him. Respondent's conviction for Spousal Abuse
20 subsequent to the denial of Respondent's initial petition for
21 reinstatement indicates Respondent had not yet changed his
22 attitude from that which existed at the time the grounds for
23 disciplinary action occurred. Consequently, Respondent has
24 failed to demonstrate a change in the attitude that resulted in
25 Respondent's theft conviction.

26 Since Respondent has not established that Respondent
27 has complied with Section 2911(n) of the Regulations, I am not

1 satisfied that Respondent is sufficiently rehabilitated to
2 receive an unrestricted real estate salesperson license.
3 Additional time and evidence of correction as a restricted real
4 estate salesperson is necessary to establish that Respondent is
5 rehabilitated.

6 I am satisfied, therefore, that it will not be against
7 the public interest to issue a restricted real estate salesperson
8 license to Respondent.

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

12 A restricted real estate salesperson license shall be
13 issued to Respondent pursuant to Section 10156.5 of the Business
14 and Professions Code, if Respondent satisfies the following
15 conditions prior to and as a condition of obtaining a restricted
16 real estate salesperson license within nine (9) months from the
17 date of this Order:

18 1. Respondent shall take and pass the real estate
19 salesperson license examination.

20 2. Respondent shall submit a completed application and
21 pay the fee for a real estate salesperson license.

22 The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the
24 Business and Professions Code and to the following limitations,
25 conditions and restrictions imposed under authority of Section
26 10156.6 of that Code:

27 ///

1 A. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 B. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

12 C. Respondent shall not be eligible to apply for the
13 issuance of an unrestricted real estate license nor the removal
14 of any of the limitations, conditions or restrictions of a
15 restricted license until two (2) years have elapsed from the date
16 of the issuance of the restricted license to respondent.

17 D. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by
21 the Department of Real Estate which shall certify:

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

25 2. That the employing broker will exercise close
26 supervision over the performance by the restricted licensee

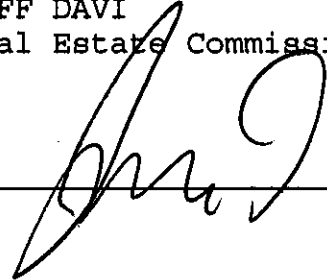
27 ///

1 relating to activities for which a real estate license is
2 required.

3 This Order shall become effective at 12 o'clock noon
4 on ~~DEC 9 2006~~ _____.

5 DATED: 12-6-06, 2006.

6 JEFF DAVI
7 Real Estate Commissioner

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FILED
OCT 14 1997

DEPARTMENT OF REAL ESTATE

By Shelly Ely

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
HESHMATT KASHKOOLI,)	NO. H-7125 SF
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On May 23, 1995, a Decision was rendered herein revoking the real estate salesperson license of Respondent but granting Respondent the right to apply for a restricted real estate salesperson license upon terms and conditions. Respondent failed to apply for said restricted salesperson license.

On June 14, 1996, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone

1 sufficient rehabilitation to warrant the reinstatement of
2 Respondent's real estate salesperson license in that Respondent,
3 following the revocation of his real estate license, solicited or
4 obtained listings of real property for sale on behalf of the
5 owners of such property and for a compensation, or in expectation
6 of compensation. Said acts include, but are not limited to
7 3063 Berryessa Road, Santa Clara, California

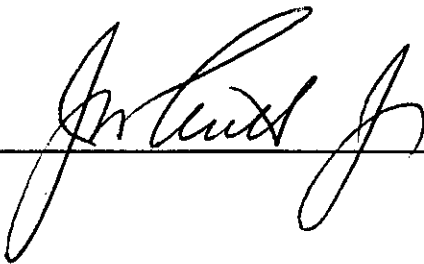
8 By performing said acts, Respondent has violated
9 Section 10130 of the Business and Professions Code. Consequently,
10 Respondent has not established rehabilitation in accordance with
11 Section 2911 of Title 10, California Code of Regulations.

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

15 This Order shall be effective at 12 o'clock noon on
16 November 3, 1997.

17 DATED: 9/30, 1997.
18

19 JIM ANTT, JR.
20 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) NO. H-7125 SF
))
HESHMATT KASHKOOLI,) OAH NO. N 9410134
))
) Respondent.)
_____)

PROPOSED DECISION

This matter was heard at San Francisco on April 4, 1995, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings, State of California. The Department of Real Estate was represented by Larry A. Alamao, Counsel. The respondent was present and was represented by Jim Peckham, Attorney at Law.

FINDINGS OF FACT

I

The Accusation herein was made by Les R. Bettencourt solely in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

HESHMATT KASHKOOLI (hereinafter "Respondent") is, and at all times mentioned herein was, licensed by the Department of Real Estate as a real estate salesperson.

III

On or about December 21, 1993, in Case No. C9362638 in the Municipal Court, Santa Clara County Judicial District, State of California, Respondent was convicted, upon his plea of nolo contendere, of violation of Penal Code section 484/488 (Theft), 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. Imposition of sentence was suspended, and he was placed on court probation for one year on various terms and conditions, including a \$150 fine.

IV

The circumstances resulting in the conviction were that on October 9, 1993, Respondent shoplifted a leather jacket, in the price range of several hundred dollars, from a Nordstrom's department store.

V

At the time he shoplifted the jacket, Respondent was upset because his girl friend had left him. He is remorseful for what he did. He has no other convictions, and there has been no previous disciplinary action against his license.

DETERMINATION OF ISSUES

I

By reason of the facts set forth in Finding III, cause exists to suspend or revoke Respondent's license under Section 490 and/or 10177(b) of the Business and Professions Code.

II

By reason of the facts set forth in Finding V, the following order is appropriate.

ORDER

All real estate licenses and license rights of Respondent Heshmatt Kashkooli are revoked; provided, however, that a restricted real estate salesperson license shall be issued to him pursuant to Section 10156.5 of the Business and Professions Code (all further references to Sections are to sections of that Code) if he makes application and pays the fee therefor within ninety days from the effective date of this decision. The restricted license shall be subject to all of the provisions of Section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6:

- A. The restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of Respondent's conviction of, or plea of nolo contendere to, a crime which is substantially related 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 any provision of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the restricted license.

- C. Respondent shall submit with any application for a license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing broker, on a form approved by the Department of Real Estate, which shall certify:
- 1) That the employing broker has read the decision of the Real Estate Commissioner which granted the right to a restricted license.
 - 2) That the employing broker will exercise close supervision over the performance by Respondent relating to activities for which a real estate license is required.
- D. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, or for the removal of any of the conditions, limitations or restrictions of the restricted license, until one year has elapsed from the date of issuance of the restricted license.

DATED: MAY 12, 1995



JERRY MITCHELL
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

94 HESHMATT

By Lynda Morriel
Lynda Morriel

In the Matter of the Accusation of

HESHMATT KASHKOOLI,

Case No. H-7125 SF

OAH No. N:9410134

Respondent

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 BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on Tuesday, April 4, 1995 (1 hour) at the hour of 10:00 am,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge 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 Administrative Law Judge directs otherwise.

Dated: November 9, 1994

DEPARTMENT OF REAL ESTATE

By Larry A. Alamao
LARRY A. ALAMA, Counsel

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Dept. of Real Estate

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FILED
AUG 31 1994

DEPARTMENT OF REAL ESTATE

1 LARRY A. ALAMAO, Counsel
Department of Real Estate
2 185 Berry Street, Room 3400
San Francisco, California 94107-1770

3
4 Telephone: (415) 904-5917

By Lynda Montiel
Lynda Montiel

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 HESHMATT KASHKOOLI,)
13 Respondent.)
14 _____)

No. H-7125 SF
ACCUSATION

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against HESHMATT KASHKOOLI (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

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

24 II

25 The Complainant, LES R. BETTENCOURT, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity.

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III

On or about December 21, 1993, in the Municipal Court, Santa Clara County Judicial District, Respondent was convicted of violation of Section 484/488 of the California Penal Code (Theft), 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 25th day of August, 1994