

FILED
JAN 9 1998

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
JANE MISSAMORE)	NO. H-7482 SF
Respondent.)	OAH NO. N-1997090015
_____)	

DECISION

The Proposed Decision dated December 9, 1997, 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 January 29, 1998

IT IS SO ORDERED

1/6/98

JIM ANTT, JR.
Real Estate Commissioner

Jr Antt Jr

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	)	NO. H-7482 SF
JANE MISSAMORE,	)	
	)	
Respondent.	)	OAH No. N 1997090015
_____	)	

PROPOSED DECISION

On November 12, 1997, in Oakland, California, this matter was heard by Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings.

Deidre L. Johnson, Counsel, represented Complainant.

Respondent Jane Missamore appeared and represented herself.

FINDINGS OF FACT

I

Complainant Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, made the accusation in his official capacity.

II

Respondent Jane Missamore ("respondent") is presently licensed and/or has license rights as a restricted real estate broker, individually and doing business as Rainbow Realty and Rainbow Mortgage and Investments.

III

Effective April 12, 1996, in Case No. H-7238 SF, before the State of California Department of Real Estate, respondent's real estate broker license was revoked and respondent was granted the right to a restricted real estate broker license, subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated terms, conditions and restrictions imposed under authority of Section 10156.6 of the Code.

IV

Included in the above terms, conditions and restrictions was paragraph (6) that required that "respondent shall, within one (1) year from the effective date of this Decision, submit proof to the satisfaction of the Real Estate Commissioner that she has made restitution to Steve and Michele Silver, and to Anna Barrett, pertaining to the matters alleged in the Amended Accusation herein."

V

Respondent failed to submit proof to the satisfaction of the Real Estate Commissioner that she made restitution to Steve and Michele Silver, and to Anna Barrett, within one year of the effective date of the Real Estate Commissioner's adoption of the Stipulation and Agreement.

VI

Before September 26, 1997, respondent made restitution to Anne Mae Barrett.

Ms. Barrett has dismissed a civil action on file in the Sonoma County Municipal Court against respondent.

Respondent's proof that she made full restitution to Anna Mae Barrett was tendered in a letter, dated September 26, 1997, by respondent's attorney, Alex Heckathorn, to Complainant's counsel.

VII

Steve Silver gave credible testimony at the hearing of this matter.

Respondent has not paid any money to him or Michele Silver as restitution for money owed by respondent.

VIII

Steve Silver is willing to accept in full satisfaction of the money owed by respondent, the total amount of five thousand dollars (\$5,000) with two thousand five hundred dollars (\$2,500) paid no later than January 11, 1998, and the balance of two thousand five hundred dollars (\$2,500) paid by November 11, 1998.

IX

Respondent relays that a restricted license is an impediment to her ability to maintain her business operations

in that companies with whom she does business require unblemished license for associated real estate brokers.

X

Respondent has declared bankruptcy. Yet, she acknowledges that her bankrupt status does not relieve her of her obligation under the terms of her restricted license.

DETERMINATION OF ISSUES

I

Cause for disciplinary action exists under Business and Professions Code section 10177(k), by reason of the matters set forth in Findings III to VII, inclusive.

II

In that respondent is willing to meet her obligation under the terms and conditions initially imposed by the original restricted license, the public interest would not be served to permanently revoke the broker license held by respondent.

ORDER

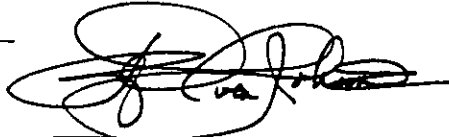
The restricted license issued by reason of the Decision and Order, effective April 12, 1996, is revoked. However, the revocation is stayed for a period of two years during which time a restricted real estate broker license shall be issued to respondent if she makes application and pays to the Department the appropriate fee for such restricted license within ninety (90) days of the effective date of this decision. The restricted license issued to respondent shall be subject to the following limitations, terms and conditions:

- 1) 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 substantial relationship to respondent's fitness or capacity as a real estate licensee.
- 2) 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 the restricted license.

- 3) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license, nor the removal of any of the conditions of the restricted license, until one (1) year has elapsed from the effective date of this decision.
- 4) Respondent shall, within two months of the close of the hearing of this matter and not later than January 12, 1998, submit proof to the satisfaction of the Real Estate Commissioner that she has made partial restitution to Steve and Michele Silver in the amount of two thousand five hundred dollars (\$2,500), and within one year of the close of the hearing of this matter and not later than November 11, 1998, submit proof to the satisfaction of the Real Estate Commissioner that she has made full restitution to Steve and Michele Silver of the balance of her debt in an amount of two thousand five hundred dollars (\$2,500).

DATED: December 09, 1997



PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

FILED
AUG 28 1997

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Accusation of

JANE MISSAMORE,

Case No. H-7482 SF

OAH No. _____

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 _____

The Office of Administrative Hearings, World Savings Tower,

1970 Broadway, Second Floor, Oakland, California 94612

on Wednesday, November 12, 1997, at the hour of 1:30 PM,
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.

DEPARTMENT OF REAL ESTATE

Dated: August 7, 1997

By Deidre L. Johnson
DEIDRE L. JOHNSON Counsel

1 DEIDRE L. JOHNSON, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, California 95818-7000

5 Telephone: (916) 227-0789

FILED
JUL 16 1997
DEPARTMENT OF REAL ESTATE

6 By Kathleen Contreras

7
8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 JANE MISSAMORE,) NO. H-7482 SF
14 Respondent.) ACCUSATION
15

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against JANE MISSAMORE, is informed and alleges as
19 follows:

20 I

21 JANE MISSAMORE (hereafter Respondent) is presently
22 licensed and/or has license rights under the Real Estate Law,
23 (Part 1 of Division 4, of the Business and Professions Code,
24 hereafter the Code) as a restricted real estate broker,
25 individually and doing business as RAINBOW REALTY and RAINBOW
26 MORTGAGE AND INVESTMENTS.

27 ///



1 II

2 The Complainant, Les R. Bettencourt, a Deputy Real
3 Estate Commissioner of the State of California, makes this
4 Accusation against Respondent in his official capacity and not
5 otherwise.

6 III

7 Effective April 12, 1996, in Case No. H-7238 SF, before
8 the State of California Department of Real Estate, Respondent's
9 real estate broker license was revoked and Respondent was granted
10 the right to a restricted real estate broker license, subject to
11 the provisions of Section 10156.7 of the Business and Professions
12 Code and to enumerated terms, conditions and restrictions imposed
13 under authority of Section 10156.6 of the Code.

14 IV

15 Included in the above terms, conditions and restrictions
16 were the following:

17 (6) Respondent shall, within one (1) year
18 from the effective date of this Decision, submit
19 proof to the satisfaction of the Real Estate
20 Commissioner that she has made restitution to
Steve and Michele Silver, and to Anna Barrett,
pertaining to the matters alleged in the Amended
Accusation herein.

21 V

22 Respondent has failed to submit proof to the
23 satisfaction of the Real Estate Commissioner that she has made
24 restitution to Steve and Michele Silver, and to Anna Barrett, as
25 above ordered, within one year of the effective date of the
26 Decision, or thereafter to the present.

27 ///



The facts alleged in Paragraphs V above constitute cause under Section 10177(k) 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 the 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 applicable provisions of law.



LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California

this 15th day of July, 1997.