FILED
APR 23 2002
DEPARTMENT OF REAL ESTATE
By Kathleen Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of MIMI DU QUACH, Respondent.	NO. H-7966 SF OAH No. N-2001070282

DECISION AFTER REJECTION

The matter came on for hearing before Nancy Rasmussen, Administrative Law Judge (hereafter ALJ) of the Office of Administrative Hearings, on September 12, 2001, in Oakland, California.

Deidre L. Johnson, Counsel, represented the Complainant.

Respondent MIMI DU QUACH (hereafter Respondent) was present and represented by Thomas C. Lasken, Attorney at Law.

On November 5, 2001, the ALJ rendered a Proposed Decision that the Department declined to adopt as the Decision herein. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with notice of the determination not to adopt the Proposed Decision of the ALJ along with a copy of said Proposed Decision. Respondent was notified that the case would be decided by the Commissioner upon the record, the transcript of proceedings held on the above date, and upon any written arguments offered by Respondent and Complainant.

I have given careful consideration to the record in this case including the transcript of proceedings held on November 5, 2001, and the arguments submitted by Complainant and Respondent.

The following shall constitute the Decision of the Real Estate Commissioner in this proceeding:

FACTUAL FINDINGS

1. Following the hearing herein on September 12, 2001, the record was held open until September 24, 2001, for Respondent to submit a letter from her sponsoring broker. Complainant was given until September 28, 2001, to submit any reply. On September 24, 2001, the Administrative Law Judge received a letter from Michael Chu dated September 19, 2001, and several pages of materials related to the Tzu Chi Foundation. The letter from Mr. Chu was marked as Exhibit F for identification. The Tzu Chi Foundation materials were marked as Exhibit U for identification. On September 27, 2001, a letter from Ms. Johnson dated September 26, 2001, was received. In her letter, she made no objection to the admission in evidence of the documents submitted by Respondent. Accordingly, Exhibit F and Exhibit U were admitted in evidence as administrative hearsay. Ms. Johnson

did submit an Amended Statement of Issues, which had been filed and served on Respondent on September 26, 2001. Ms. Johnson's letter was marked as Exhibit 4 for identification. The Amended Statement of Issues and attached proof of service were marked as Exhibit 5 and admitted in evidence. The record was closed and the matter deemed submitted on September 27, 2001.

2. Respondent MIMI DU QUACH submitted to the Department of Real Estate (Department) an application for a real estate salesperson license. The application was dated February 4, 2001, and the Department received it on February 8, 2001.

3. Respondent answered "No" to Question 25 on the application, which stated: "Have you ever been convicted of any violation of law?"

4. Respondent failed to disclose that on May 14, 1993, in the Superior Court of California, Santa Clara County Judicial District, she was convicted on a plea of nolo contendere of violating Penal Code section 476(a) (drafting checks on insufficient funds). The ALJ's finding that the conviction occurred in Municipal Court is incomplete. The certified court documents show that upon her plea, she was ordered to appear in Superior Court for sentencing. On June 22, 1993, judgment of conviction of a felony was entered in the Superior Court, imposition of sentence was suspended, and Respondent was placed on formal probation for three years. One of the conditions of probation was a four-month sentence in county jail, which was suspended pending completion of the electronic monitoring program.

5. The ALJ found that Respondent's conviction stemmed from her "… issuance in 1992 of numerous checks without sufficient funds to cover them." In fact, the elements of the offense under Penal Code section 476(a) include the express intent to defraud, the willful making and delivering of the check, and her knowledge at the time that there were insufficient funds.

Respondent and her husband owned the Manila Oriental Market in Sunnyvale, and they were experiencing serious financial difficulties. When they did not have the funds to pay their suppliers, Respondent and her husband gave the suppliers post-dated checks, hoping that they would have the funds to cover the checks by the time they were cashed.

Respondent's testimony as to whether she tried to contact vendors to communicate that there was still a lack of funds as of the "post-date" was equivocal at best. Vendors appeared to learn the truth because the checks were returned for insufficient funds. Many checks were never paid, and Respondent and her husband eventually had to close the store because of their outstanding debts. In April, 1993, they filed for bankruptcy.

6. Respondent's husband was also convicted of violating Penal Code section 476(a). Although Respondent was not ordered to make restitution on the bad checks, her husband was so ordered, and she has helped him make payments. The original restitution order was $22,000.00 or $23,000.00, and Respondent's husband still owes about $15,000.00.

7. Respondent successfully completed her criminal probation.

8. Respondent explains that when she filled out the application for a real estate salesperson license, she did not think she had to disclose her conviction, so she answered "No" to Question 25. Because the conviction had occurred over seven years earlier, Respondent thought her record was clear (like with bankruptcy). She offers no reasonable basis for this self-serving belief, however, and she did not contact an attorney or the Department to make sure this was the case. Respondent maintains that she had no intent to deceive or mislead the Department and she believed the Department would find out about her conviction through her fingerprints. However, as found, *infra*, Respondent also did not disclose the true facts to her prospective employing broker. Respondent does not recall whether she read the information preceding Questions 24 to 26 on the license application. This information, which is set off in a box bordered by a heavy black line, states, in relevant part:

> **Carefully read and provide detailed answers to questions #24-26. …**
>
> … All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed, or expunged or if you have been pardoned.

9. Respondent is a 45 year-old woman who immigrated to the United States from Vietnam in 1978. She speaks Vietnamese and five Chinese dialects. Since 1999, Respondent has worked for Express Interpreters in the medical field, acting as an

interpreter for non-English speaking patients. The owner of Express Interpreters, Nicole Duong, has been a friend of Respondent for many years and knows about her criminal conviction. Ms. Duong wrote a letter on Respondent's behalf in which she described her as hardworking, honest, and trustworthy.

10. If she is granted a real estate license, Respondent plans to work for Millennium 2000 Realty, Inc., in San Jose. Michael Chu is the president and licensed broker of the firm. When Mr. Chu agreed to hire Respondent in February, 2001, she had not told him about her conviction. He signed her application for licensure containing the false answer. Sometime later, she informed him of the conviction and its circumstances. In his letter on her behalf, Mr. Chu expressed his confidence that Respondent will be an honest and trustworthy licensee and stated that he is willing to closely supervise her if she is issued a restricted license.

The prospective broker appeared satisfied with Respondent's explanation for answering "no" on the application, whereas the ALJ found her explanation to be unreasonable and not credible. Respondent failed to inform Chu of her theory about why she thought she could answer "no"; failed to inform him of the conviction prior to his signature; let the broker sign the application unaware that she had been convicted of a crime; and waited to see if the Department's fingerprint check found the conviction or not. Only at some point after the Department notified Respondent of the conviction record, did she disclose it to her prospective broker.

11. Respondent belongs to several benevolent and/or religious organizations in the Chinese/Vietnamese Buddhist community, including the Tzu Chi Foundation USA. She does volunteer work on projects sponsored by these groups, including visiting patients in nursing homes and providing food to persons in emergency housing. Respondent has also volunteered her services to the American Cancer Society to provide cancer information to Chinese speakers.

12. Respondent submitted letters from several friends and associates attesting to her honesty and good character and her volunteer work in the community.

13. Respondent has tried to improve her employment skills by taking a computer course in adult school and studying videotapes at the library.

14. Respondent testified that she learned a painful lesson from her conviction. While she avers that she is determined not to run afoul of the law ever again, she nevertheless failed to disclose the conviction in her application.

15. Respondent has not completed all the courses required under Business and Professions Code section 10153.4.

LEGAL CONCLUSIONS

1. Respondent's conviction for drafting checks on insufficient funds, with intent to deceive, was for a crime involving moral turpitude that is substantially related to the qualifications, functions, or duties of a real estate licensee. Cause to deny Respondent's license application therefore exists under Business and Professions Code sections 480(a) and 10177(b).

2. Business and Professions Code section 480(c) authorizes the Department to deny a license application where the applicant knowingly made a false statement in the application. Business and Professions Code section 10177(a) authorizes denial where the applicant attempted to procure a real estate license by fraud, misrepresentation or deceit, or by making any material misstatement of fact in the application.

Because Respondent had no reasonable basis for believing that her "No" answer to Question 25 on the application was correct, her answer constitutes a material misstatement of fact and a knowingly false statement. Cause to deny Respondent's license application therefore exists under Business and Professions Code sections 480(c) and 10177(a).

3. Respondent testified that in the eight years since her criminal conviction, she was a productive and law-abiding member of the community. She was on formal probation until at least June of 1996. The conviction has not been expunged. She is still helping her husband repay restitution to the victims. Respondent's failures to disclose the conviction, both on the application, under penalty of perjury, and to her prospective employing broker, raise questions about her honesty and her trustworthiness, and the extent of her rehabilitation to date. The ALJ found that questions were only raised about Respondent's honesty and truthfulness in completing "official documents." However, the evidence indicates that Respondent was also not honest with her prospective broker, and that her testimony on other matters involved questionable credibility. Respondent is

responsible for knowing the status of her conviction and criminal record. Her recent willingness to let her application be processed without disclosure of the conviction bears a striking resemblance to her prior deceitful willingness to let her business checks to vendors be processed by them without disclosure that there were insufficient funds. The right to a real estate license would provide Respondent with the opportunity to mishandle funds belonging to consumers in the event she were to again experience financial difficulty. The best interests of the public would not be served by granting licensure at this time, even on a restricted basis. The making of a false and material misstatement on the license application, along with the prior conviction of a crime involving fiscal misrepresentation, jointly and severally, support outright denial of Respondent's application.

ORDER

The application of Respondent MIMI DU QUACH for a real estate salesperson license is denied.

This Decision shall become effective at 12 o'clock noon on May 13, 2002.

IT IS SO ORDERED April 19, 2002.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Z

FILED

DEC - 5 2001

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of MIMI DU QUACH, Respondent.	No. H-7966 SF N-2001070282

NOTICE

TO: MIMI DU QUACH, Respondent and THOMAS C. LASKEN, her Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated November 5, 2001, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated November 5, 2001, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on September 12, 2001, and any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of September 12, 2001, at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of Complainant to be considered by me must be submitted within 15 days after receipt of the argument of Respondent at the Sacramento office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: November 28, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Z

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of: MIMI DU QUACH, Respondent.	 No. H-7966 SF OAH No. N 2001070282

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on September 12, 2001, in Oakland, California.

Department of Real Estate Counsel Deidre L. Johnson represented complainant Les R. Bettencourt, Deputy Real Estate Commissioner, State of California.

Thomas C. Lasken, Attorney at Law, 1107 7th Street, 3rd Floor, Sacramento, California 95814, represented respondent Mimi Du Quach, who was present.

The record was held open until September 24, 2001 for respondent to submit a letter from her sponsoring broker. Complainant was given until September 28, 2001 to submit any reply. On September 24, 2001, the administrative law judge received a letter from Michael Chu dated September 19, 2001 and several pages of materials related to the Tzu Chi Foundation. The letter from Mr. Chu was marked as Exhibit F for identification. The Tzu Chi Foundation materials were marked as Exhibit G for identification. On September 27, 2001, a letter from Ms. Johnson dated September 26, 2001 was received. In her letter, she made no objection to the admission in evidence of the documents submitted by respondent. Accordingly, Exhibit F and Exhibit G were admitted in evidence as administrative hearsay. Ms. Johnson did submit an amended statement of issues, which had been filed and served on respondent on September 26, 2001. Ms. Johnson's letter was marked as Exhibit 4 for identification. The amended statement of issues and attached proof of service were marked as Exhibit 5 and admitted in evidence.

The record was closed and the matter deemed submitted on September 27, 2001.

FACTUAL FINDINGS

1. Respondent Mimi Du Quach submitted to the Department of Real Estate (Department) an application for a real estate salesperson license. The application was dated February 4, 2001, and the Department received it on February 8, 2001.

2. Respondent answered "No" to Question 25 on the application, which stated: "Have you ever been convicted of any violation of law?"

3. Respondent failed to disclose that on May 14, 1993, in the Municipal Court of California, Santa Clara County Judicial District, she was convicted on a plea of nolo contendere of violating Penal Code section 476(a) (drafting checks on insufficient funds). On June 22, 1993, imposition of sentence was suspended and respondent was placed on formal probation for three years. One of the conditions of probation was a four-month sentence in county jail, which was suspended pending completion of the electronic monitoring program.

4. Respondent's conviction stemmed from her issuance in 1992 of numerous checks without sufficient funds to cover them. She and her husband owned the Manila Oriental Market in Sunnyvale, and they were experiencing serious financial difficulties. When they did not have the funds to pay their suppliers, respondent and her husband gave the suppliers post-dated checks, hoping that they would have the funds to cover the checks by the time they were cashed. Many checks were never paid, however, and respondent and her husband eventually had to close the store because of their outstanding debts. In April 1993, they filed for bankruptcy.

5. Respondent's husband was also convicted of violating Penal Code section 476(a). Although respondent was not ordered to make restitution on the bad checks, her husband was so ordered, and she has helped him make payments. The original restitution order was $22,000 or $23,000, and respondent's husband still owes about $15,000.

6. Respondent successfully completed her criminal probation.

7. Respondent explains that when she filled out the application for a real estate salesperson license, she did not think she had to disclose her conviction, so she answered "No" to Question 25. Because the conviction had occurred over seven years earlier, respondent thought her record was clear (like with bankruptcy). She offers no reasonable basis for this self-serving belief, however, and she did not contact an attorney or the Department to make sure this was the case. Respondent maintains that she had no intent to deceive or mislead the Department and she believed the Department would find out about her conviction through her fingerprints. Respondent does not recall whether she read the information preceding Questions 24 to 26 on the license application. This information, which is set off in a box bordered by a heavy black line, states, in relevant part:

> **Carefully read and provide detailed answers to questions #24-26.** …
> …All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed, or expunged or if you have been pardoned. …

8. Respondent is a 45 year-old woman who immigrated to the United States from Vietnam in 1978. She speaks Vietnamese and five Chinese dialects. Since 1999, respondent

has worked for Express Interpreters in the medical field, acting as an interpreter for non-English speaking patients. The owner of Express Interpreters, Nicole Duong, has been a friend of respondent for many years and knows about her criminal conviction. Ms. Duong wrote a letter on respondent's behalf in which she described her as hardworking, honest and trustworthy.

9. If she is granted a real estate license, respondent plans to work for Millennium 2000 Realty, Inc. in San Jose. Michael Chu is the president and licensed broker of the firm. When Mr. Chu agreed to hire respondent in February 2001, she had not told him about her conviction. Sometime later, she informed him of the conviction and its circumstances. In his letter on her behalf, Mr. Chu expressed his confidence that respondent will be an honest and trustworthy licensee and stated that he is willing to closely supervise her if she is issued a restricted license.

10. Respondent belongs to several benevolent and/or religious organizations in the Chinese/Vietnamese Buddhist community, including the Tzu Chi Foundation USA. She does volunteer work on projects sponsored by these groups, including visiting patients in nursing homes and providing food to persons in emergency housing. Respondent has also volunteered her services to the American Cancer Society to provide cancer information to Chinese speakers.

11. Respondent submitted letters from several friends and associates attesting to her honesty and good character and her volunteer work in the community.

12. Respondent has tried to improve her employment skills by taking a computer course in adult school and studying videotapes at the library.

13. Respondent learned a painful lesson from her conviction, and she is determined not to run afoul of the law ever again.

14. Respondent has not completed all the courses required under Business and Professions Code section 10153.4.

LEGAL CONCLUSIONS

1. Respondent's conviction for drafting checks on insufficient funds was for a crime involving moral turpitude that is substantially related to the qualifications, functions or duties of a real estate licensee. Cause to deny respondent's license application therefore exists under Business and Professions Code sections 480(a) and 10177(b).

2. Business and Professions Code section 480(c) authorizes the Department to deny a license application where the applicant knowingly made a false statement in the application. Business and Professions Code section 10177(a) authorizes denial where the applicant attempted to procure a real estate license by fraud, misrepresentation or deceit, or by making any material misstatement of fact in the application.

Because respondent had no reasonable basis for believing that her "No" answer to Question 25 on the application was correct, her answer constitutes a material misstatement of fact and a knowingly false statement. Cause to deny respondent's license application therefore exists under Business and Professions Code sections 480(c) and 10177(a).

3. In the eight years since her criminal conviction, respondent has been a productive and law-abiding member of the community. Although her failure to disclose the conviction on her application raises a question about her honesty and her trustworthiness in completing official documents, respondent appears, by all accounts, to be an honest, reliable and trustworthy person in her personal and professional life. It would not be contrary to the public interest to grant her a restricted real estate license at this time.

ORDER

NOT ADOPTED

The application of respondent Mimi Du Quach for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to her pursuant to section 10156.5 of the Business and Professions Code. 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 authority of section 10156.6 of that Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

   a. Respondent's conviction, including by a plea of nolo contendere, of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

   b. Receipt of evidence 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.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to respondent.

3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate, which shall certify as follows:

a. That the employing broker has read the decision which is the basis for the issuance of the restricted license; and

b. That the employing 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 real estate license is required.

4. Respondent's restricted real estate salesperson license is issued subject to the requirements of section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within 18 months of the issuance of the restricted license, submit evidence satisfactory to the Real Estate Commissioner of 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 timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective 18 months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, respondent has submitted the required evidence of course completion and the Commissioner has given written notice to respondent of lifting of the suspension.

5. Pursuant to section 10154, if respondent has 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.

NOT ADOPTED

DATED: November 5, 2001

Nancy L. Rasmussen
NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings

DEIDRE L. JOHNSON, Counsel
State Bar No. 66322
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
SEP 26 2001
DEPARTMENT OF REAL ESTATE
By Kathleen Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of MIMI DU QUACH, Respondent.	NO. H-7966 SF <u>AMENDED STATEMENT OF ISSUES</u>

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, for a first Amended Statement of Issues against MIMI DU QUACH (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 8, 2001.

II

Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, makes this first Amended 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".

IV

On or about May 14, 1993, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 476(a) of the California Penal Code (Drafting Checks on Insufficient Funds), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

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

VI

Respondent's failure to reveal the conviction set forth in Paragraph IV above in said application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) 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 under other provisions of law.

Charles W. Koenig

CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 25th day of September, 2001.

FILED

JUL 10 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MIMI DU QUACH

Case No. H-7966 SF

OAH No.

Respondent

NOTICE OF HEARING ON APPLICATION

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, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on WEDNESDAY--SEPTEMBER 12, 2001, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearing 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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 subpenas 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 for 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: JULY 10, 2001

By Larry Alamao
LARRY ALAMAO, Counsel

RE 500 (Rev. 8/97)

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
JUN 20 2001
DEPARTMENT OF REAL ESTATE
By Shelly Ely

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of MIMI DU QUACH, Respondent.	NO. H-7966 SF STATEMENT OF ISSUES

The Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against MIMI DU QUACH (hereinafter "Respondent"), is informed and alleges as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 8, 2001.

II

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".

IV

On or about May 14, 1993, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 476(a) of the California Penal Code (Drafting Checks on Insufficient Funds), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

V

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

VI

Respondent's failure to reveal the conviction set forth in Paragraph IV above in said application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate license under Sections 498 and 10177(a) 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 under other provisions of law.

Les R. Bettencourt

LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 1st day of June, 2001.