



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of  
  
NICHOLAS DIMITROPOULOS,  
  
Respondent.

Case No. H-8396 SF  
  
OAH Case No. N 2003050662

**PROPOSED DECISION**

This matter was heard before Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California on August 6, 2003 in Oakland, California.

Deidre L. Johnson, Staff Counsel, represented the complainant.

Michael Stevens, Attorney at Law, represented the respondent who was present.

The matter was submitted on August 6, 2003

**FACTUAL FINDINGS**

1. Les R. Bettencourt made this statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.

2. Nicholas Dimitropoulos (respondent) made application to the Department of Real Estate of the State of California (Department) for a real estate salesperson license on November 27, 2002, with the knowledge and understanding that any license issued as a result of this application would be subject to the conditions of section 10153.4 of the Business and Professions Code.

3. On July 20, 1999, in the Superior Court, County of Santa Clara, respondent was convicted of a violation of section 484-487 of the Penal Code (Theft), a crime involving moral turpitude that bears a substantial relationship to the duties, qualifications and functions of a real estate licensee.

4. Respondent was an employer/owner of a small electronics firm. He withheld money for child support payments from an employee's check pursuant to a court order and did not make those payments to the county as required by the order. He was contacted numerous times and promised to make the payments, but never did. He avoided phone calls and misled county authorities promising to call them back and then not doing so. Respondent finally paid the money to the county after he was charged with a criminal offense.

5. Respondent borrowed the money to make the payments to the county. Respondent successfully completed three years of criminal probation including 100 hours of community service. He has applied for a Penal Code section 1203.4 dismissal, but has not receive one as yet. It has been 7 years since the conduct and 4 years since the conviction.

6. Respondent has a real estate appraiser's license. He works for a stable company now and does not work for himself.

7. Respondent commingled funds that belonged to a governmental agency with his own funds. This is especially disconcerting because this is an area that respondent must be scrupulous about when dealing with real estate matters. Respondent has demonstrated significant rehabilitation such that it would not be against the public interest to allow respondent a conditional restricted license under the supervision of a broker who was willing to supervise him.

### LEGAL CONCLUSION

1. By reason of the matters set forth in Findings 3 and 4, cause for denial exists pursuant to Business and Professions Code sections 480(a) and 10177(b).

2. The matters in mitigation, extenuation and rehabilitation as set forth in Findings 5, 6 and 7 have been considered in making the following order.

### ORDER

Respondent's application for a real estate salesperson license is denied; provided, however, a conditional restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code. 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:

1. Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the 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 eighteen (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.

2. 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.

3. The restricted license issued to the 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 said 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) The conviction of Respondent (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or

(b) The 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 this restricted license.

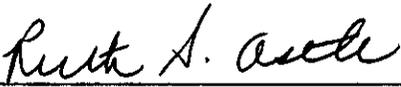
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to Respondent.

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 license is required.

DATED: 8/19/03

  
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RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings

FILED  
MAY 22 2003

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

*In the Matter of the Application of*

NICHOLAS DIMITROPOULOS,

}  
}

Case No. H-8396 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  
THE ELIHU HARRIS STATE BUILDING  
1515 CLAY STREET, SUITE 206  
OAKLAND, CALIFORNIA 94612**

on **AUGUST 6, 2003**, at the hour of **1:30 PM**, 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 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you 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 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: MAY 22, 2003

By Deidre L. Johnson  
DEIDRE L. JOHNSON, Counsel  
RE 500 (Rev. 8/97)

1 LARRY A. ALAMAO, Counsel  
State Bar No. 47379  
2 Department of Real Estate  
P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
MAY - 6 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreas*

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

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12 In the Matter of the Application of )  
13 NICHOLAS DIMITROPOULOS, ) NO. H-8396 SF  
14 Respondent. ) STATEMENT OF ISSUES  
15 )

16 The Complainant, LES R. BETTENCOURT, a Deputy Real  
17 Estate Commissioner of the State of California, for Statement of  
18 Issues against NICHOLAS DIMITROPOULOS (hereinafter "Respondent"),  
19 is informed and alleges as follows:

20 I

21 Respondent made application to the Department of Real  
22 Estate of the State of California for a real estate salesperson  
23 license on or about November 27, 2002, with the knowledge and  
24 understanding that any license issued as a result of said  
25 application would be subject to the conditions of Section 10153.4  
26 of the Business and Professions Code.

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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

On or about July 20, 1999, in the Superior Court, County of Santa Clara, Respondent was convicted of a violation of Section 484-487 of the California Penal Code (Theft), 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.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III, 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.

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  
Deputy Real Estate Commissioner

Dated at Oakland, California,  
this 16<sup>th</sup> day of April, 2003.