

1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

**COPY ORIGINAL**

**FILED**

JAN 15 2004

DEPARTMENT OF REAL ESTATE

By Shelly El

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of) NO. H-8572 SF  
12 NELSON P. NGUYEN, )  
13 Respondent. )  
14 )

STIPULATION AND  
WAIVER

15 It is hereby stipulated by and between NELSON P. NGUYEN  
16 (hereinafter "Respondent") and his attorney, JEFFREY M. WEISS,  
17 and the Complainant, acting by and through David B. Seals,  
18 Counsel for the Department of Real Estate, as follows for the  
19 purpose of settling and disposing of the Statement of Issues  
20 filed on November 7, 2003 in this matter:

21 A. Respondent acknowledges that he has received and  
22 read the Statement of Issues and the Statement to Respondent  
23 filed by the Department of Real Estate in connection with his  
24 application for a real estate salesperson license. Respondent  
25 understands that the Real Estate Commissioner may hold a hearing  
26 on this Statement of Issues for the purpose of requiring further  
27 proof of Respondent's honesty and truthfulness and to prove other

1 allegations therein, or that she may in her discretion waive the  
2 hearing and grant Respondent a restricted real estate salesperson  
3 license based upon this Stipulation and Waiver. Respondent also  
4 understands that by filing the Statement of Issues in this matter  
5 the Real Estate Commissioner is shifting the burden to Respondent  
6 to make a satisfactory showing that Respondent meet all the  
7 requirements for issuance of a real estate salesperson license.  
8 Respondent further understands that by entering into this  
9 stipulation and waiver Respondent will be stipulating that the  
10 Real Estate Commissioner has found that Respondent has failed to  
11 make such a showing, thereby justifying the denial of the  
12 issuance to Respondent of an unrestricted real estate salesperson  
13 license.

14 B. Respondent hereby admits that the allegations of the  
15 Statement of Issues filed against Respondent are true and correct  
16 and requests that the Real Estate Commissioner in her discretion  
17 issue a restricted real estate salesperson license to Respondent  
18 under the authority of Section 10156.5 of the Business and  
19 Professions Code. Respondent understands that any such  
20 restricted license will be issued subject to and be limited by  
21 Section 10153.4 of the Business and Professions Code.

22 C. Respondent is aware that by signing this Stipulation  
23 and Waiver, Respondent is waiving Respondent's right to a hearing  
24 and the opportunity to present evidence at the hearing to  
25 establish Respondent's rehabilitation in order to obtain an  
26 unrestricted real estate salesperson license if this Stipulation  
27 and Waiver is accepted by the Real Estate Commissioner. However,

1 Respondent is not waiving Respondent's right to a hearing and to  
2 further proceedings to obtain a restricted or unrestricted  
3 license if this Stipulation and Waiver is not accepted by the  
4 Commissioner.

5 D. Respondent further understands that the following  
6 conditions, limitations, and restrictions will attach to a  
7 restricted license issued by the Department of Real Estate  
8 pursuant hereto:

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

14 a. The conviction of Respondent (including a plea of nolo  
15 contendere) to a crime which bears a substantial  
16 relationship to Respondent's fitness or capacity as a  
17 real estate licensee; or

18 b. The receipt of evidence that Respondent has violated  
19 provisions of the California Real Estate Law, the  
20 Subdivided Lands Law, Regulations of the Real Estate  
21 Commissioner, or conditions attaching to this  
22 restricted license.

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

27 ///

1           elapsed from the date of issuance of the restricted  
2           license to Respondent.

3           3. With the application for license, or with the application  
4           for transfer to a new employing broker, Respondent shall  
5           submit a statement signed by the prospective employing  
6           broker on a form approved by the Department of Real Estate  
7           wherein the employing broker shall certify as follows:

8           a. That broker has read the Statement of Issues which is  
9           the basis for the issuance of the restricted license;  
10          and

11          b. That broker will carefully review all transaction  
12          documents prepared by the restricted licensee and  
13          otherwise exercise close supervision over the  
14          licensee's performance of acts for which a license is  
15          required.

16          4. Respondent's restricted real estate salesperson license is  
17          issued subject to the requirements of Section 10153.4 of  
18          the Business and Professions Code, to wit: Respondent is  
19          required, within eighteen (18) months of the issuance of  
20          the restricted license, to submit evidence satisfactory to  
21          the Commissioner of successful completion, at an  
22          accredited institution, of two of the courses listed in  
23          Section 10153.2, other than real estate principles,  
24          advanced legal aspects of real estate, advanced real  
25          estate finance, or advanced real estate appraisal. If  
26          Respondent fails to timely present to the Department  
27          satisfactory evidence of successful completion of the two

1 required courses, the restricted license shall be  
2 automatically suspended effective eighteen (18) months  
3 after the date of its issuance. Said suspension shall not  
4 be lifted unless, prior to the expiration of the  
5 restricted license, Respondent has submitted the required  
6 evidence of course completion and the Commissioner has  
7 given written notice to Respondent of the lifting of the  
8 suspension.

9 5. Pursuant to Section 10154, if Respondent has not satisfied  
10 the requirements for an unqualified license under Section  
11 10153.4, Respondent shall not be entitled to renew the  
12 restricted license, and shall not be entitled to the  
13 issuance of another license which is subject to Section  
14 10153.4 until four years after the date of the issuance of  
15 the preceding restricted license.

16 12/16/2003  
17 DATED

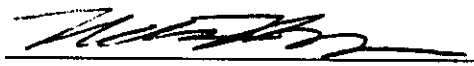
  
18 DAVID B. SEALS, Counsel  
19 DEPARTMENT OF REAL ESTATE

20 \* \* \*

21 I have read the Stipulation and Waiver, have  
22 discussed it with my counsel, and its terms are understood by  
23 me and are agreeable and acceptable to me. I understand that I  
24 am waiving rights given to me by the California Administrative  
25 Procedure Act (including but not limited to Sections 11506,  
26 11508, 11509, and 11513 of the Government Code), and I  
27 willingly, intelligently, and voluntarily waive those rights,  
including the right of a hearing on the Statement of Issues at

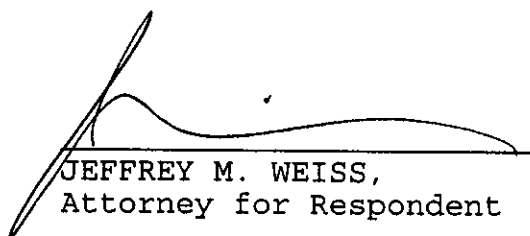
1 which I would have the right to cross-examine witnesses against  
2 me and to present evidence in defense and mitigation of the  
3 charges.

4  
5 12/4/03  
6 DATED

  
NELSON P. NGUYEN,  
Respondent

7  
8 *I have reviewed the Stipulation and Waiver as to form and content and*  
9 *have advised my client accordingly.*

10  
11 12-9-03  
12 DATED

  
JEFFREY M. WEISS,  
Attorney for Respondent

13  
14 I have read the Statement of Issues filed herein and  
15 the foregoing Stipulation and Waiver signed by Respondent. I am  
16 satisfied that the hearing for the purpose of requiring further  
17 proof as to the honesty and truthfulness of Respondent need not  
18 be called and that it will not be inimical to the public interest  
19 to issue a restricted real estate salesperson license to  
20 Respondent.


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1                    Therefore, IT IS HEREBY ORDERED that a restricted real  
2 estate salesperson license be issued to Respondent if Respondent  
3 has otherwise fulfilled all of the statutory requirements for  
4 licensure. The restricted license shall be limited, conditioned,  
5 and restricted as specified in the foregoing Stipulation and  
6 Waiver.

7                    This Order is effective immediately.

8                    IT IS SO ORDERED December 23, 2003.

9                    PAULA REDDISH ZINNEMANN  
10                    Real Estate Commissioner

11                      
12                    \_\_\_\_\_

13                    BY: **John R. Liberator**  
14                    **Chief Deputy Commissioner**

1 DAVID B. SEALS, Counsel (SBN 69378)  
2 Department of Real Estate  
3 P. O. Box 187000  
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5 Telephone: (916) 227-0789  
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FILED  
NOV - 7 2003

DEPARTMENT OF REAL ESTATE

By *Kathleen Conteras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )

12 NELSON P. NGUYEN, )

13 Respondent. )

No. H-8572 SF

STATEMENT OF ISSUES

14  
15 The Complainant, Les R. Bettencourt, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against NELSON P. NGUYEN (hereinafter "Respondent")  
18 alleges as follows:

19 I

20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about October 30, 2002 with the knowledge and  
23 understanding that any license issued as a result of said  
24 application would be subject to the conditions of Section 10153.4  
25 of the California 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.

III


On or about March 14, 2000, in the Superior Court of California, County of Yolo, Respondent was convicted of violation of California Penal Code Section 484g(a) (Fraudulent Use of Access Cards or Account Information), a crime involving moral turpitude and/or which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the 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 above 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.

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1                   WHEREFORE, the Complainant prays that the above-  
2 entitled matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent, and for such other and further relief as  
6 may be proper under other provisions of law.

7  
8                     
9                   LES R. BETTENCOURT  
                  Deputy Real Estate Commissioner

10 Dated at Oakland, California,  
11 this 27th day of October, 2003.