

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5 -or- (916) 227-0792 (Direct)

FILED
AUG -2 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 LI LI,) No. H-8663 SF
13)
14 Respondent.)

15 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: LI LI

17 On July 21, 2004, a restricted real estate
18 salesperson license was issued by the Department of Real Estate
19 to Respondent on the terms, conditions and restrictions set
20 forth in the Real Estate Commissioner's Decision of June 18,
21 2004 in Case No. H-8663 SF. This Decision granted the right to
22 the issuance of a restricted real estate salesperson license
23 subject to the provisions of Section 10156.7 of the Business and
24 Professions Code (hereinafter the "Code") and to enumerated
25 additional terms, conditions and restrictions imposed under
26 authority of Section 10156.6 of said Code.

27 ///

1 On July 13, 2005 in Case No. H-9317 SF, an Accusation
2 by a Deputy Real Estate Commissioner was filed charging
3 Respondent with violations of Sections 490 and 10177(b) of the
4 Code.

5 NOW, THEREFORE, IT IS ORDERED under authority of
6 Section 10156.7 of the Code that the restricted real estate
7 salesperson license heretofore issued to Respondent and the
8 exercise of any privileges thereunder is hereby suspended
9 pending final determination made after hearing on said
10 Accusation.

11 IT IS FURTHER ORDERED that all license certificates
12 and identification cards issued by the Department which are in
13 the possession of Respondent be immediately surrendered by
14 personal delivery or by mailing in the enclosed, self-addressed
15 envelope to:

16 Department of Real Estate
17 Attn: Flag Section
18 P. O. Box 187000
19 Sacramento, CA 95818-7000

20 This Order shall be effective immediately.

21 DATED: 8-1-05

22 JEFF DAVI
23 Real Estate Commissioner
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27



FILED
JUL - 1 2004

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

By Kathleen Contreras

* * *

In the Matter of the Accusation of)
LI LI,) NO. H-8663 SF
Respondent.) OAH NO. N-2004030410

DECISION

The Proposed Decision dated June 8, 2004, 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.

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

This Decision shall become effective at 12 o'clock noon
on July 21, 2004.

IT IS SO ORDERED June 18, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

By: Robin T. Wilson
ROBIN T. WILSON
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

LI LI,

Respondent.

Case No. H-8663 SF

OAH No. N2004030410

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California on May 19, 2004.

Complainant Les R. Bettencourt, Deputy Real Estate Commissioner of the State of California, was represented by Larry A. Alamao, Assistant Chief Counsel, Department of Real Estate.

Respondent Li Li was represented by Roger D. Wintle, Attorney at Law, 99 Almaden Boulevard, Suite 710, San Jose, CA 95113.

The matter was submitted on May 19, 2004.

FACTUAL FINDINGS

1. Respondent Li Li is licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate salesperson. Respondent's license has been renewed through May 25, 2006.

2. On October 10, 2002, respondent was convicted in Santa Clara County, on her plea of nolo contendere, of a misdemeanor violation of Penal Code sections 484/488 (petty theft), a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee.

3. Upon conviction, respondent was placed on 90 days' probation and was fined \$380. She was ordered to serve one day in jail, with credit for a day already served. And she was ordered to stay out of Nieman Marcus.

4. The incident that resulted in respondent's conviction occurred on July 31, 2002. Respondent was arrested after she took three items of clothing from the Nieman

Marcus store at the Stanford Shopping Center. Respondent had placed the three items in a Nordstrom bag she had brought with her and had left Nieman Marcus without paying for the items. Respondent told the arresting officer she was sorry, that she knew she had done wrong. She also told him she stole the items "because the clothes are so expensive and my husband says I spend too much money." She admitted she brought the Nordstrom bag into the store so she could hide stolen items in it. Because of this, respondent was charged with a misdemeanor violation of Penal Code sections 459/460, subdivision (b) (second degree burglary - entering with intent to commit theft). When respondent entered her nolo contendere plea, the burglary charge was dismissed and the petty theft charge was entered in its place.

5. On May 14, 2003, respondent's plea was set aside and vacated and the complaint against her was dismissed pursuant to Penal Code section 1203.4.

6. Respondent, who immigrated to the United States from China 13 years ago, has been licensed as a real estate salesperson since 2000. Before that, she worked in computer sales. Respondent is married and has a 17-year-old son.

7. Concerning the events of July 31, 2002, respondent testified, contrary to the statement she gave the police officer, that she carried a shopping bag into Nieman Marcus because that was "just [her] habit" since in China shops do not provide bags for customers. Respondent said that when she went into the store she was in a bad mood because she had had an argument with her husband. She first testified that she does not know why she placed clothing items into the bag or why she walked out of the store without paying for them. She later testified she was not sure how the merchandise got into her bag since she was talking on her cell phone, and she implied that she walked out of the store because the phone signal was not clear. Regarding her "admission" to the police officer that she had entered the store with the intent to steal, respondent testified she really did not have that intent. But, she says, she made the admission because her English is poor, so she just agreed with the officer, and because in China one will be treated better if they confess instead of denying a crime.

8. Respondent works as a salesperson at ReMax Valley Properties in San Jose. She does residential sales. Respondent does not handle client trust funds. Her employer does not maintain a trust account and all deposit checks go directly to the title company handling the escrow. Respondent's broker, Dennis Badagliacco, testified that respondent is a very diligent salesperson who works hard for her clients. She always gets her paperwork in on time and he has never had a complaint about her.

9. Respondent's petty theft conviction has been her only brush with the law. Her community involvement includes helping at her son's school, organizing fundraising drives for poor children in China, and serving as vice president of her homeowner's association.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 2, cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 490 and 10177, subdivision (b), in that she has been convicted of a crime involving moral turpitude and that is substantially related to the qualifications, functions and duties of a real estate licensee.

2. In title 10, California Code of Regulations, section 2912, the department has established criteria for the purpose of evaluating the rehabilitation of a licensee who has been convicted of a crime. Respondent has met a number of the applicable criteria: Her conviction has been expunged (subd. (c)), she has successfully completed probation (subd. (e)), she has paid the fine imposed at the time of conviction (subd. (g)), and she appears to have a stable family life and to be fulfilling her parental responsibilities (subd. (j)). Respondent has also shown some involvement in community programs to provide social benefits or ameliorate social problems (subd. (l)). But two years have not yet passed since respondent's conviction (subd. (a)), and she failed to demonstrate a change in attitude from that which existed at the time of the crime (subd. (m)). In fact, respondent seems now to be less willing to take responsibility for her crime than she was at the time of her arrest. This lack of evidence of a change in attitude is something of a concern but is not controlling in this case. Considering all the evidence presented, it is determined that the public interest would be sufficiently protected if respondent is allowed to retain her salesperson license on a restricted basis. In making this determination, it is noted that respondent presents no real threat to the public--in part because she does not directly handle trust funds, that her crime appears to have been an isolated incident, and that respondent has the support of her broker who will, under the terms set forth below, be required to closely monitor her performance under the restricted license.

ORDER

All licenses and licensing rights of respondent Li Li are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. 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 restricted license issued to respondent 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 is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent 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 for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
 - (a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewed real estate license, taken and successfully completed the continuing education requirements of article 2.5 of chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: June 8, 2004


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

FILED
MAR 11 2004

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

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

LI LI,

} Case No. H-8663 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
THE ELIHU HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 206
OAKLAND, CA 94612**

on **MAY 19, 2004**, 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: MARCH 11, 2004

By

Larry Alamao
LARRY A. ALAMA, Counsel

1 DEIDRE L. JOHNSON, Counsel
2 SBN 66322
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
FEB - 5 2004

DEPARTMENT OF REAL ESTATE

By Stephen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H- 8663 SF
13 LI LI,)
14) ACCUSATION
Respondent.)

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against LI LI, is informed and alleges as follows:

18 I

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

23 II

24 The Complainant, LES R. BETTENCOURT, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation against Respondent in his official capacity and not
27 otherwise.

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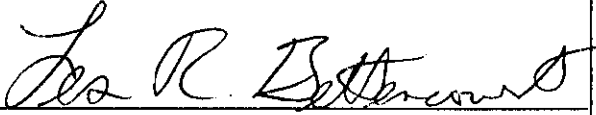
III

On or about October 10, 2002, in the Superior Court of the State of California, County of Santa Clara, Respondent was convicted of violation of California Penal Code Section 484/488 (THEFT FROM A MERCHANT), a misdemeanor, a crime involving moral turpitude, and/or a crime which bears a substantial relationship under Section 2910 of 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 license(s) 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 license(s) 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 Oakland, California,
this 3rd day of February, 2004.