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FILED

JUL 26 2004

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * *

By *Jean A. Lomax*

In the Matter of the Accusation of)
ANNE TRAN MCKEITH,)
Respondent.)
_____)

NO. H-8692 SF
OAH NO. N-2004050059

DECISION

The Proposed Decision dated June 25, 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 August 16, 2004.

IT IS SO ORDERED July 7, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ANNE TRAN McKEITH,

Respondent.

Case No. H-8692 SF

OAH No. N2004050059

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on June 14, 2004.

Truly Sughrue, Staff Counsel, represented Complainant.

Respondent was present and represented by Steven Clark, Attorney at Law.

The matter was submitted on June 14, 2004.

FACTUAL FINDINGS

1. Les R. Bettencourt made this accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California and not otherwise.
2. Anne Tran McKeith (respondent) is presently licensed and has license rights under the Real Estate Law as a real estate salesperson.
3. On April 26, 2001, in the United States District Court for the Northern District of California, respondent was convicted of a violation of Title 31 United States Code, sections 5324, subdivision (a)(3) and 5322, subdivision (b) (Structuring to Avoid Reporting Requirements), a crime involving moral turpitude that is substantially related to the duties, qualifications and functions of a licensee.
4. In 1993, respondent, while an employee of Wells Fargo Bank, structured deposits and withdrawals of an account in order to avoid the requirement of reporting the transactions to the Internal Revenue Service.

5. Respondent was sentenced to three years probation on the condition that she serve six months home confinement and pay a \$6,000 fine. Respondent has met all the terms and conditions of her sentence and probation and was released from probation as of February 6, 2004.

6. Respondent thought she was helping one of her brothers who had told her that he was in trouble as a result of a gambling problem. She believed that her brother was a legitimate business person. She no longer associates with this brother who is in federal prison.

7. Respondent did not receive any personal gain from this incident and the bank did not lose any money as a result of this incident.

8. It has been over nine years since this incident occurred and six years since respondent was arrested for the crime. She never had a problem with the criminal justice system before this incident nor has she had any problems since this incident.

9. Respondent volunteers her time at a home for the elderly called Bruceville Terrace. She visits new residents and assists the hospitality chairperson.

10. Respondent has demonstrated remorse for her actions. She was concerned for her brother's safety, but now realizes she should never have helped him by violating the law.

11. Respondent came to the United States when she was eleven years old. She went to school in the San Jose area and graduated from San Jose State University with a degree in business finance. Respondent had nine brothers and sisters. Her parents did not have time to serve as a role model for her or give her much guidance. She had to work to support herself through college.

12. Respondent is presently employed by Golden State Realty and Mortgage Company. Respondent has been honest and forthright about her conviction with her employer. Her employing broker testified that he is willing to supervise her. She also established that she has an excellent reputation in her community for honesty and integrity. She is well thought of by her colleagues, clients and friends. Respondent had two excellent character witnesses testify on her behalf. They were both aware of her conviction and found it to be inconsistent with her good character.

13. Based on all the evidence of mitigation, extenuation and rehabilitation it would not be against the public interest to allow respondent a restricted license at this time.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3, 4, and 5, cause for disciplinary action exists pursuant to Business and Professions Code sections 490 and 10177 subdivision (b) (Conviction of a substantially related offense).

2. The matters in mitigation, extenuation and rehabilitation as set forth in Findings 5 through 13 have been considered in making the following order.

ORDER

All licenses and licensing rights of respondent Anne Tran McKeith under the Real Estate Law 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 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 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 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 renewal 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 the 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 25, 2004

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

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

FILED
MAY - 4 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Application of

ANNE T. McKEITH,

Respondent

Case No. H-8692 SF

OAH No.

**FIRST CONTINUED
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

**OFFICE OF ADMINISTRATIVE HEARING
THE ELIHU HARRIS STATE BUILDING
1515 CLAY STREET, SUITE 206
OAKLAND, CALIFORNIA 94612**

on **JUNE 14, 2004**, 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 4, 2004

By

Larry A. Alamao
LARRY A. ALAMA, Counsel

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

FILED
APR 29 2004

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

ANNE T. McKEITH,

} Case No. H-8692 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 **JUNE 14, 2003**, at the hour of **9:00 AM**, 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.

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DEPARTMENT OF REAL ESTATE

By

Larry Alamas
LARRY A. ALAMAS, Counsel

Dated: APRIL 27, 2004

1 LARRY A. ALAMAO, Counsel
2 State Bar No. 47379
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0789

FILED
MAR 22 2004

DEPARTMENT OF REAL ESTATE

By John Lee Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ANNE T. McKEITH,) NO. H-8692 SF
13 Respondent.) ACCUSATION
14)

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against ANNE T. McKEITH (hereinafter referred to as
18 Respondent), is informed and alleges as follows:

19 I

20 The Complainant, LES R. BETTENCOURT, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation in his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law (Part 1 of Division 4 of the
26 Business and Professions Code) (Code) as a real estate
27 salesperson.

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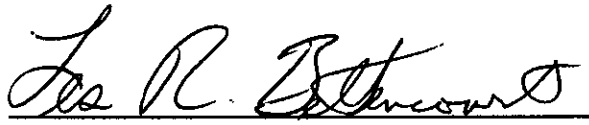
III

On or about April 26, 2001, in the U. S. District Court for the Northern District of California, Respondent was convicted of a violation of Title 31 United States Code, Sections 5324(a)(3) and 5322(b) (Structuring to Avoid Reporting Requirements), a crime involving moral turpitude which is substantially related under Section 2910, 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 licenses 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 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 the provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 24th day of February, 2004