

FILED

DEC 12 2007

DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-10208 SF
JAMES LUU, THANH-PHUONG THUY)	
BUI, and HANH HUNG NGUYEN,)	
)	
Respondents.)	
)	

DECISION

This Decision is being issued in accordance with the Provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11520 of the Government Code, and pursuant to the Order of Default filed on November 21, 2007, and findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate licenses and licensing rights.

The right to reinstatement of a revoked real estate license 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 Respondents.

FINDINGS OF FACT

I

On October 12, 2007, E.J. Haberer II made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by

certified mail, to all Respondents' last known mailing addresses on file with the Department on October 16, 2007, and to Respondents Thanh-Phuong Thuy Bui and Hanh Hung Nguyen on October 30, 2007.

On November 21, 2007, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

III

At all times mentioned herein, Respondent JAMES LUU (hereinafter "LUU") was and is licensed by the Department as a real estate salesperson.

IV

At all times mentioned herein, Respondent THANH-PHUONG THUY BUI (hereinafter "PHUONG BUI") was and is licensed by the Department as a real estate salesperson.

V

At all times mentioned herein, Respondent HANH HUNG NGUYEN (hereinafter "NGUYEN") was and is licensed by the department as a real estate salesperson.

VI

At all times mentioned herein Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of:

(a) Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property; and

(b) Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondent on

behalf of others for compensation or in expectation of a compensation.

VII

Between on or about April 10, 2006 and July 17, 2006, LUU and Mariano Ortega (hereinafter "Ortega") solicited and obtained loans in the amount of \$580,000 and \$145,000 from Landmark Home Mortgage, Inc. to be secured by an encumbrance on the property located 3540 Mono Place, Davis, California (hereinafter "Davis property") by representing, contrary to fact, that the subject property would be LUU's primary residence and that LUU had put a \$10,000 earnest money deposit on the property. Both LUU and Ortega knew these statements were false at the time made. In truth, LUU was acting as a straw buyer for Ortega, Ortega was purchasing the property as his primary residence, Ortega paid the \$10,000 deposit, and LUU never intended to occupy the property.

VIII

Between on or about April 10, 2006 and July 17, 2006, LUU, PHUONG BUI, and NGUYEN solicited and obtained loans in the amount of \$1,000,000 and \$350,000 from Innovia Estates and Mortgage Corp. to be secured by an encumbrance on the property located 7108 Lahinch, Gilroy, California (hereinafter "Gilroy property") by representing, contrary to fact, that the subject property would be LUU's primary residence and that \$205,000 of the purchase price was for "repairs" of the Gilroy property. LUU, PHUONG BUI, and NGUYEN knew these statements were false at the time made. In truth, LUU was acting as a straw buyer for PHUONG BUI and NGUYEN, PHUONG BUI and NGUYEN were purchasing the property as their primary residence, LUU never intended to occupy the property, and the \$205,000 for "repairs" was paid to Ortega who paid the money to PHUONG BUI and NGUYEN. LUU also concealed and failed to disclose the purchase of the Davis property from the lender.

IX

Between on or about April 10, 2006 and July 17, 2006, LUU solicited and obtained a loan in the amount of \$650,000 from JP Morgan Chase Bank and \$215,000 from Citibank to be secured by an encumbrance on real property located 3008 Calle de las Flores, San Jose, California, by concealing and failing to disclose the purchase of the Davis and Gilroy properties from the lender.

X

The acts and omissions of Respondents LUU, PHUONG BUI, and NGUYEN described above constitute fraud and dishonest dealing, and constitute cause to suspend or revoke all licenses and license rights of Respondent pursuant to the provisions of

Sections 10176(a), 10176(i), and 10177(j) of the Code.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10176(a), 10176(i), and 10177(j).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

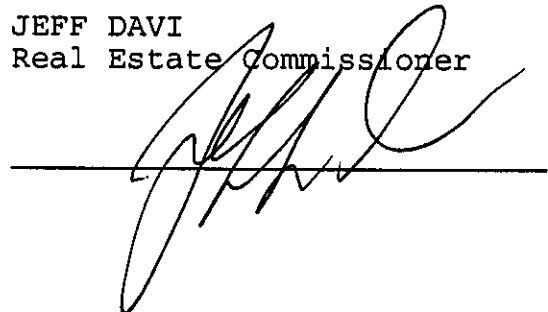
All licenses and licensing rights of Respondent JAMES LUU, THANH-PHUONG THUY BUI, and HANH HUNG NGUYEN, under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on JAN - 2 2008.

DATED: _____

12-11-07

JEFF DAVI
Real Estate Commissioner



1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

DEC 12 2007

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-10208 SF

12 JAMES LUU, THANH-PHUONG THUY)
13 BUI, and HANH HUNG NGUYEN)

DEFAULT ORDER

14 Respondents.)

15
16 Respondents, JAMES LUU, THANH-PHUONG THUY BUI, and HANH
17 HUNG NGUYEN, having failed to file a Notice of Defense within the
18 time required by Section 11506 of the Government Code, are now in
19 default. It is, therefore, ordered that a default be entered on
20 the record in this matter.

21
22 IT IS SO ORDERED

November 21, 2007.

23 JEFF DAVI

Real Estate Commissioner

24
25 By:

Steven Ellis
26 STEVEN ELLIS

Regional Manager

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
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7 Telephone: (916) 227-0781

FILED
OCT 16 2007
DEPARTMENT OF REAL ESTATE
By Anne Shawn

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) No. H-10208 SF
13 JAMES LUU, THANH-PHUONG THUY)
14 BUI, and HANH HUNG NGUYEN)
15 Respondents.)
16

17 The Complainant, E. J. HABERER II, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against JAMES LUU, THANH-PHUONG THUY BUI, and HANH HUNG NGUYEN,
20 (hereinafter "Respondents"), are informed and alleges as follows:

21 I

22 The Complainant, E. J. HABERER II, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 his official capacity.

25 \\\
26 \\\
27 \\\

II

1
2 Respondents are presently licensed and/or have license
3 rights under the Real Estate Law, Part 1 of Division 4 of the
4 Business and Professions Code (hereinafter "Code").

5
6 III

7 At all times mentioned herein, Respondent JAMES LUU
8 (hereinafter "LUU") was and is licensed by the Department as a
9 real estate salesperson.

10
11 IV

12 At all times mentioned herein, Respondent THANH-PHUONG
13 THUY BUI (hereinafter "PHUONG BUI") was and is licensed by the
14 Department as a real estate salesperson.

15
16 V

17 At all times mentioned herein, Respondent HANH HUNG
18 NGUYEN (hereinafter "NGUYEN") was and is licensed by the
19 Department as a real estate salesperson.

20
21 VI

22 At all times mentioned herein Respondents engaged in
23 the business of, acted in the capacity of, advertised or assumed
24 to act as real estate brokers in the State of California within
25 the meaning of:

26 (a) Section 10131(a) of the Code, including the
27 operation and conduct of a real estate resale brokerage with the
public wherein, on behalf of others, for compensation or in
expectation of compensation, Respondents sold and offered to

1 sell, bought and offered to buy, solicited prospective sellers
2 and purchasers of, solicited and obtained listings of, and
3 negotiated the purchase and resale of real property; and

4 (b) Section 10131(d) of the Code, including the
5 operation and conduct of a mortgage loan brokerage business with
6 the public wherein Respondents solicited lenders and borrowers
7 for loans secured directly or collaterally by liens on real
8 property or a business opportunity, and wherein such loans were
9 arranged, negotiated, processed, and consummated by Respondent on
10 behalf of others for compensation or in expectation of a
11 compensation.

12 VII

13 Between on or about April 10, 2006 and July 17, 2006,
14 LUU and Mariano Ortega (hereinafter "Ortega") solicited and
15 obtained loans in the amount of \$580,000 and \$145,000 from
16 Landmark Home Mortgage Inc. to be secured by an encumbrance on
17 the property located 3540 Mono Place, Davis, California
18 (hereinafter "Davis property") by representing, contrary to fact,
19 that the subject property would be LUU's primary residence and
20 that LUU had put a \$10,000 earnest money deposit on the property.
21 Both LUU and Ortega knew these statements were false at the time
22 made. In truth, LUU was acting as a straw buyer for Ortega,
23 Ortega was purchasing the property as his primary residence,
24 Ortega paid the \$10,000 deposit, and LUU never intended to occupy
25 the property.
26
27

VIII

1
2 Between on or about April 10, 2006 and July 17, 2006,
3 LUU, PHUONG BUI, and NGUYEN solicited and obtained loans in the
4 amount of \$1,000,000 and \$350,000 from Innovia Estates and
5 Mortgage Corp. to be secured by an encumbrance on the property
6 located 7108 Lahinch, Gilroy, California (hereinafter "Gilroy
7 property") by representing, contrary to fact, that the subject
8 property would be LUU's primary residence and that \$205,000 of
9 the purchase price was for "repairs" on the Gilroy property.
10 LUU, PHUONG BUI, and NGUYEN knew these statements were false at
11 the time made. In truth, LUU was acting as a straw buyer for
12 PHUONG BUI and NGUYEN, PHUONG BUI and NGUYEN were purchasing the
13 property as their primary residence, LUU never intended to occupy
14 the property, and the \$205,000 for "repairs" was paid to Ortega
15 who paid the money to PHUONG BUI and NGUYEN. LUU also concealed
16 and failed to disclose the purchase of the Davis property from
17 the lender.
18


19 IX

20 Between on or about April 10, 2006 and July 17, 2006,
21 LUU solicited and obtained a loan in the amount of \$650,000 from
22 JP Morgan Chase Bank and \$215,000 from Citibank to be secured by
23 an encumbrance on real property located at 3008 Calle de las
24 Flores, San Jose, California, by concealing and failing to
25 disclose the purchase of the Davis and Gilroy properties from the
26 lender.
27

X

1
2 The acts and omissions of Respondents LUU, PHUONG BUI,
3 and NGUYEN described in above constitute fraud and/or dishonest
4 dealing, and constitute cause to suspend or revoke all licenses
5 and license rights of Respondent pursuant to the provisions of
6 Sections 10176(a), 10176(i), and/or 10177(j) of the Code.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents
11 under the Real Estate Law (Part 1 of Division 4 of the Business
12 and Professions Code), and for such other and further relief as
13 may be proper under other provisions of law.
14

15
16 
17 E. J. HABERER II
Deputy Real Estate Commissioner

18 Dated at Oakland, California,
19 this 12th day of October, 2007
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