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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

JAN 18 1979
DEPARTMENT OF REAL ESTATE
BY *E. H. Fox*

In the Matter of the Accusation of
SURENDRA CHANDULAL SHAH,

Respondent.

No. H-20137 LA

L- 16540

DECISION

The Proposed Decision dated December 1, 1978,
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.

This Decision shall become effective at 12 o'clock
noon on February 7, 1979.

IT IS SO ORDERED 11/16/79.

David H Fox
DAVID H. FOX
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of)	
SURENDRA CHANDULAL SHAH,)	NO. H-20137 LA
Respondent.)	L-16540
_____)	

PROPOSED DECISION

This matter came on regularly for hearing before Robert A. Neher, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on November 30, 1978 at 1:30 p.m. Sean Crahan, Counsel, represented the complainant. Respondent appeared by his attorney, Lawrence H. Lackman. Documentary evidence including evidence by way of written stipulation was introduced and the matter submitted. The Administrative Law Judge finds the following facts:

I

Leighton J. Peatman made the accusation in his official capacity as a Deputy Real Estate Commissioner.

II

On January 1, 1976 respondent was issued a real estate salesperson's license to be in effect through August 18, 1978. Said license was cancelled on April 1, 1976. Thereafter, on October 17, 1978, respondent renewed his license, which will expire October 16, 1982.

III

On or about March 26, 1976, respondent purchased real property located at 11456 East Hart Street in Artesia, California. For the purpose of obtaining a loan of approximately 90% of the purchase price thereof, respondent knowingly executed papers in which he fraudulently or dishonestly represented that he intended to occupy that property as his primary residence. Respondent further fraudulently or dishonestly represented that property which he owned at 17320 South Mapes Avenue in Cerritos, California, would be rented to a tenant. These representations were fraudulent or dishonest in that respondent then and there well knew he would not occupy 11456 East Hart Street as his primary residence and that he then and there well knew that he would not rent 17320 South Mapes Avenue to a tenant. Said representations were fraudulent by virtue of the fact that Beverly Hills Federal Savings and Loan Association did loan respondent approximately 90% of the purchase

price of 11456 East Hart Street in Artesia, California; but would not have done so had they known respondent's lack of intent to use said property as his primary residence.

IV

On or about May 25, 1976, respondent purchased real property at 17115 South Mapes Avenue in Cerritos, California. For the purpose of obtaining a loan of approximately 90% of the purchase price thereof, respondent knowingly executed papers in which he fraudulently or dishonestly represented that he would occupy said property as his primary residence. On those same papers respondent further fraudulently or dishonestly failed to disclose his ownership of 11456 East Hart Street in Artesia, California. Further, respondent fraudulently or dishonestly concealed his ownership of 17320 South Mapes Avenue in Cerritos, California by falsely representing that he was renting that property.

Respondent's representations, non-disclosure, and concealment were fraudulent or dishonest in that he then and there well knew that he would not occupy 17115 South Mapes Avenue as his primary residence and that he was the owner of both the 17320 South Mapes and the 11456 East Hart Street properties.

Respondent's representations, non-disclosure and concealment were fraudulent by virtue of the fact that California Mortgage Service loaned respondent approximately 90% of the purchase price of 17115 South Mapes Avenue in reliance on his representations, non-disclosure and concealment; but would not have done so had they known of his intention not to occupy said property and or this ownership of the two other properties.

Respondent's representations, non-disclosure and concealment were further fraudulent in that respondent made said representations, non-disclosure and concealment with knowledge that California Mortgage Service would assign or sell the promissory note to the Federal National Mortgage Association (FNMA) and that respondent knew that FNMA required property purchasers to occupy the properties as their primary residences. In fact, FNMA did purchase the promissory note executed by respondent in favor of California Mortgage Service in reliance upon respondent's representations, non-disclosure or concealment; and would not have purchased said promissory note had FNMA known respondent's true intention not to occupy said property as his primary residence.

V

On or about August 12, 1976, respondent purchased real property at 17104 Janell Avenue in Cerritos, California. For the purpose of obtaining a loan of approximately 90% of the purchase price thereof, respondent knowingly executed papers in which he fraudulent or dishonestly represented that he would occupy the property as his primary residence. Respondent further fraudulently or dishonestly failed to disclose his ownership of real properties at 11456 East Hart Street in Artesia and at 17115 South Mapes Avenue in Cerritos, California. Respondent further fraudulently or dishonestly represented that the property which he owned at 17320 South Mapes Avenue would be rented to a tenant.

Respondent's representations and non-disclosures were fraudulent or dishonest in that he then and there well knew he would not occupy 17104 Janell Avenue in Cerritos as his primary residence; that he knew that he owned both properties at 11456 East Hart and at 17115 South Mapes Avenue; and that he would not rent 17320 South Mapes in Cerritos to a tenant.

Respondent's representations and non-disclosures were fraudulent by virtue of the fact that Mason McDuffie Company of Southern California loaned approximately 90% of the purchase price to respondent; and would not have done so had they known that he would not occupy 17104 Janell Avenue in Cerritos, California, as his primary residence.

VI

Respondent's conduct with respect to each of the three loan applications as described above constitutes (a) conduct which would warrant the denial of an application for a real estate license; and (b) fraud or dishonest dealing as to each and every loan application above alleged.

* * * * *

Pursuant to the foregoing findings of fact, and the stipulation of the parties, the Administrative Law Judge makes the following determination of issues:

Cause for disciplinary action against the real estate salesperson's license of respondent exists pursuant to Sections 10177(f) and 10177(j) of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The real estate salesperson's license of respondent Surendra Chandulal Shah is hereby revoked; provided, however a restricted salesperson's license shall be issued 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 said license no sooner than one-hundred and twenty (120) days nor later than one (1) year from the effective date of the decision herein. 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 all the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

1. Said restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction (including conviction on a plea of nolo contendere) of a crime which bears a significant relation to respondent's qualifications, functions or duties as a real estate licensee.

2. Said restricted license 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 this restricted license.

3. 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 of a restricted license until two (2) years have elapsed from the date of issuance of the restricted license to respondent.

4. Respondent shall obey all laws of the United States, the State of California and its political subdivisions, and he shall further obey and comply with all rules and regulations of the Real Estate Commissioner.

5. Respondent shall submit with his application for said restricted license under an employing broker, or any application in the future for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:

a. That he or she has read the decision of the Commissioner which granted the right to a restricted license; and

b. That he or she will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

6. Respondent shall report in writing to the Department of Real Estate as the Commissioner shall direct by his decision herein or by separate written order issued while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter, as a result of the hearing had before me on November 30, 1978, at Los Angeles, California, and recommend its adoption as the decision of the Real Estate Commissioner.

DATED: Dec 78


ROBERT A. NEHER
Administrative Law Judge
Office of Administrative Hearings

RAN:mh

FILED

MAR 30 1978

DEPARTMENT OF REAL ESTATE

BY *Sybil Williams*

1 SEAN CRAHAN, Counsel
Department of Real Estate
2 107 South Broadway, Room 8107
Los Angeles, California 90012
3 (213) 620-4790
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7

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) NO. H-20137 LA
12 SURENDRA CHANDULAL SHAH,) A C C U S A T I O N
13 Respondent.)

14 The complainant, Leighton J. Peatman, a Deputy Real
15 Estate Commissioner of the State of California, for cause of
16 accusation against SURENDRA CHANDULAL SHAH, alleges as follows:

17 I

18 The complainant, Leighton J. Peatman, a Deputy Real
19 Estate Commissioner of the State of California, makes this
20 accusation in his official capacity.

21 II

22 At all times herein mentioned, SURENDRA CHANDULAL SHAH
23 (hereinafter referred to as respondent), has been and now is
24 licensed by the Department of Real Estate of the State of
25 California as a real estate salesperson.

26 III

27 On or about March 26, 1976, respondent purchased real

1 property located at 11456 East Hart Street in Artesia, California.
2 For the purpose of obtaining a loan of approximately 90% of the
3 purchase price thereof, respondent knowingly executed papers in
4 which he fraudulently or dishonestly represented that he intended
5 to occupy that property as his primary residence. Respondent
6 further fraudulently or dishonestly represented that property
7 which he owned at 17320 South Mapes Avenue in Cerritos, Cali-
8 fornia, would be rented to a tenant. These representations were
9 fraudulent or dishonest in that respondent then and there well
10 knew he would not occupy 11456 East Hart Street as his primary
11 residence and that he then and there well knew that he would not
12 rent 17320 South Mapes Avenue to a tenant. Said representations
13 were fraudulent by virtue of the fact that Beverly Hills Federal
14 Savings and Loan Association did loan respondent approximately
15 90% of the purchase price of 11456 East Hart Street in Artesia,
16 California; but would not have done so had they known respondent's
17 lack of intent to use said property as his primary residence.

18 IV

19 On or about May 25, 1976, respondent purchased real
20 property at 17115 South Mapes Avenue in Cerritos, California.
21 For the purpose of obtaining a loan or approximately 90% of the
22 purchase price thereof, respondent knowingly executed papers in
23 which he fraudulently or dishonestly represented that he would
24 occupy said property as his primary residence. On those same
25 papers respondent further fraudulently or dishonestly failed to
26 disclose his ownership of 11456 East Hart Street in Artesia,
27 California. Further, respondent fraudulently or dishonestly

1 concealed his ownership of 17320 South Mapes Avenue in Cerritos,
2 California by falsely representing that he was renting that
3 property.

4 Respondent's representations, non-disclosure, and
5 concealment were fraudulent or dishonest in that he then and
6 there well knew that he would not occupy 17115 South Mapes Avenue
7 as his primary residence and that he was the owner of both the
8 17320 South Mapes and the 11456 East Hart Street properties.

9 Respondent's representations, non-disclosure and
10 concealment were fraudulent by virtue of the fact that Cali-
11 fornia Mortgage Service loaned respondent approximately 90% of
12 the purchase price of 17115 South Mapes Avenue in reliance on his
13 representations, non-disclosure and concealment; but would not
14 have done so had they known of his intention not to occupy said
15 property and or of this ownership of the two other properties.

16 Respondent's representations, non-disclosure and
17 concealment were further fraudulent in that respondent made said
18 representations, non-disclosure and concealment with knowledge
19 that California Mortgage Service would assign or sell the
20 promissory note to the Federal National Mortgage Association
21 (FNMA) and that respondent knew that FNMA required property
22 purchasers to occupy the properties as their primary residences.
23 In fact, FNMA did purchase the promissory note executed by
24 respondent in favor of California Mortgage Service in reliance
25 upon respondent's representations, non-disclosure or concealment;
26 and would not have purchased said promissory note had FNMA known
27 respondent's true intention not to occupy said property as his

1 primary residence.

2 V

3 On or about August 12, 1976, respondent purchased real
4 property at 17104 Janell Avenue in Cerritos, California. For the
5 purpose of obtaining a loan of approximately 90% of the purchase
6 price thereof, respondent knowingly executed papers in which he
7 fraudulently or dishonestly represented that he would occupy the
8 property as his primary residence. Respondent further
9 fraudulently or dishonestly failed to disclose his ownership of
10 real properties at 11456 East Hart Street in Artesia and at 17115
11 South Mapes Avenue in Cerritos, California. Respondent further
12 fraudulently or dishonestly represented that the property which
13 he owned at 17320 South Mapes Avenue would be rented to a tenant.

14 Respondent's representations and non-disclosures were
15 fraudulent or dishonest in that he then and there well knew he
16 would not occupy 17104 Janell Avenue in Cerritos as his primary
17 residence; that he knew that he owned both properties at 11456
18 East Hart and at 17115 South Mapes Avenue; and that he would not
19 rent 17320 South Mapes in Cerritos to a tenant.

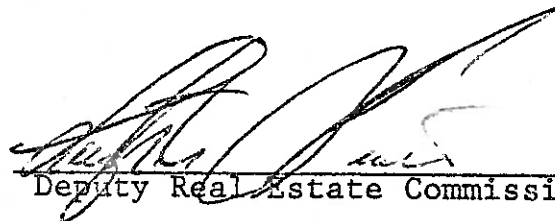
20 Respondent's representations and non-disclosures were
21 fraudulent by virtue of the fact that Mason McDuffie Company of
22 Southern California loaned approximately 90% of the purchase
23 price to respondent; and would not have done so had they known
24 that he would not occupy 17104 Janell Avenue in Cerritos, Cali-
25 fornia, as his primary residence.

26 VI

27 Respondent's conduct with respect to each of the three

1 loan applications as described above constitutes (a) conduct
2 which would warrant the denial of an application for a real
3 estate license; and (b) fraud or dishonest dealing as to each and
4 every loan application above alleged. Said conduct constitutes
5 grounds for the suspension or revocation of respondent's real
6 estate license under the provisions of the California Business
7 and Professions Code (B&P Code), Sections 10177(f) and 10177(j).
8

9 WHEREFORE, the complainant prays that the above-
10 mentioned Accusation be set for hearing, and upon proof of the
11 charges contained therein that the Real Estate Commissioner
12 suspend or revoke the license held by the respondent, and any
13 and all rights which he may presently have in such license, and
14 for such other and further relief as may be proper in the
15 premises under the provisions of Sections 11500 through 11528 of
16 the Government Code, and Section 10100, Division 4, of the
17 Business and Professions Code of the State of California.
18 Dated at Los Angeles, California
19 this 30th day of March, 1978.
20

21 
22 Deputy Real Estate Commissioner
23
24

25 cc: Surendra Chandulal Shah
26 Carlson, Sacto
27 OAH
RB