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FILED
NOV 15 1996
DEPARTMENT OF REAL ESTATE

By *K. McDevitt*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-26398 LA
)	
ALLEN HARTOUNIAN,)	L-9604025
)	
Respondent.)	
<hr/>		

DECISION AFTER REJECTION

The above-entitled matter came on for hearing before Joseph D. Montoya, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on June 28, 1996.

James R. Peel, Counsel, represented the Complainant. Respondent was present at the hearing and was represented by his attorney, Joe Ingber.

Evidence was received, the hearing closed and the matter was submitted.

On July 9, 1996, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government

1 Code of the State of California, respondent was served with
2 notice of my determination not to adopt the Proposed Decision of
3 the Administrative Law Judge along with a copy of said Proposed
4 Decision. Respondent was notified that the case would be
5 decided by me upon the record, the transcript of proceedings
6 held on June 28, 1996, and upon any written argument offered by
7 the parties.

8 Argument has been submitted by the respondent.

9 I have given careful consideration to the record in
10 this case including the transcript of the proceedings of
11 June 28, 1996.

12 The following shall constitute the Decision of the
13 Real Estate Commissioner in this proceeding:

14 The Findings of Facts and Determination of Issues in
15 the Proposed Decision of July 9, 1996, are hereby adopted as the
16 Findings of Fact and Determination of Issues of the Real Estate
17 Commissioner.

18 ORDER

19 The Order in the original Proposed Decision dated
20 July 9, 1996, is hereby adopted as the Order of the Real Estate
21 Commissioner in this matter. That Order revokes respondent's
22 real estate licenses but provides for issuance of a restricted
23 real estate salesperson license. However, in addition to all
24 conditions set forth in the Proposed Decision of July 9, 1996,
25 respondent shall, within six months from the effective date of
26 the restricted license, take and pass the Professional
27 Responsibility Examination administered by the Department



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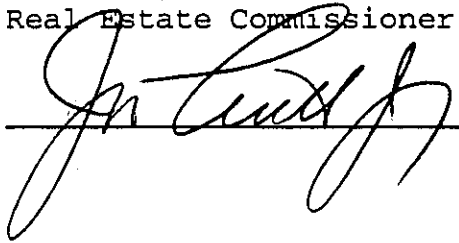
including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent passes the examination.

If and when application is made for a real estate license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on DEC 5 1996.

IT IS SO ORDERED 11/12/96.

JIM ANTT, JR.
Real Estate Commissioner



FILED
'JUL 30 1996
DEPARTMENT OF REAL ESTATE

By R. Medeiros

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ALEN HARTOUNIAN,)
Respondent.)

NO. H-26491 LA
L-9604025

NOTICE

TO: ALEN HARTOUNIAN, Respondent
and
JOE INGBER, his Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 9, 1996, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 9, 1996, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on June 28, 1996, and any written argument hereafter submitted on behalf of

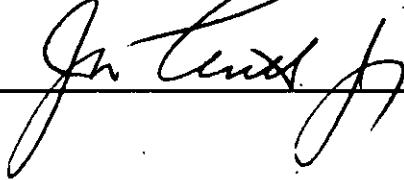
1 respondent and complainant.

2 Written argument of respondent to be considered by me
3 must be submitted within 15 days after receipt of the transcript
4 of the proceedings of June 28, 1996, at the Los Angeles office of
5 the Department of Real Estate unless an extension of the time is
6 granted for good cause shown.

7 Written argument of complainant to be considered by me
8 must be submitted within 15 days after receipt of the argument of
9 respondent at the Los Angeles office of the Department of Real
10 Estate unless an extension of the time is granted for good cause
11 shown.

12 DATED: 7/23/96

13 JIM ANTT, JR.
14 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
against)

ALEN HARTOUNIAN,)

Respondent.)

No. H 26491 LA

L-9604025

PROPOSED DECISION

On June 28, 1996, in Los Angeles, California, Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Mr. James R. Peel, staff counsel, represented the complainant.

Respondent appeared, and was represented by counsel, Mr. Joe Ingber.

Evidence was received, and the matter was submitted.

The Administrative Law Judge finds as follows:

FINDINGS OF FACT

1. The Accusation was filed by Thomas McCrady, a Deputy Real Estate Commissioner, Department of Real Estate, State of California, acting solely in his capacity as such.

2. Respondent is presently licensed and has licensing rights under the California Real Estate Law as a real estate salesperson. He has held this license since June 3, 1993, without prior imposition of discipline.

3. On August 18, 1995 Respondent entered a plea of Nolo Contendere to a charge of violating section 459 of the Penal Code, misdemeanor burglary, in the Municipal Court, Glendale Judicial District. Based on his plea, he was convicted of that crime. Respondent was sentenced to serve one day in jail, and placed on two years summary probation for that offense. The probation conditions included that he make restitution of \$100.00, and pay a

fine and penalty assessment totaling \$405.00. Respondent promptly paid such fines and restitution.

4. Respondent had committed the aforementioned crime by shoplifting clothing from a department store.

5. The aforementioned misdemeanor is one involving moral turpitude per se, and one substantially related to the qualifications, duties, and functions of a real estate salesperson. The crime involved the taking of another's property for the personal gain of Respondent; under Department regulations such a crime is "substantially related." (See 10 CRC 2910(8).)

6. The conviction referred to in Finding number 3, above, is the only conviction suffered by the Respondent.

7. Respondent has a stable family situation, in that he has a wife and two children, who depend on him for support.

8. Respondent appeared sorry for his criminal act, expressing embarrassment and remorse. In mitigation, Respondent was undergoing severe financial and personal stress at the time of the incident. He acknowledged his wrongdoing by pleading nolo contendere to the charges at the first court appearance, and promptly paying the fines levied by the Court.

9. Respondent has been employed as a mortgage officer for the same firm since he was licensed in 1993.

DETERMINATION OF ISSUES

1. It is determined that cause exists to suspend or revoke the respondent's license pursuant to Sections 490 and 10177(b) of the Business and Professions Code, and Title 10, section 2910 of the California Code of Regulations, in that the crime of shoplifting which Respondent was convicted is a crime of moral turpitude, substantially related to the duties, qualifications, and functions of a real estate salesperson. (Finding 5.)

2. It is determined that Respondent has taken steps toward rehabilitation, as defined in 10 CRC 2912, in that he has acknowledged his acts were wrong, he has made restitution, he is in compliance with his probation, and he is employed in his chosen profession.

3. Notwithstanding the foregoing, it is determined that Respondent has not established complete rehabilitation.

4. It is determined that it is in the best interests of the Public, and the Respondent, that he be allowed to continue in

his occupation, subject to restrictions, so as to complete his rehabilitation while tending to prevent harm to any consumers of his services.

ORDER

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

All licenses and licensing rights of Respondent Alen Hartounian 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 three (3) 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:

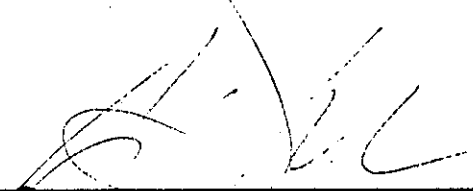
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted

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 twelve (12) 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.

July 9, 1996



Joseph D. Montoya, Administrative
Law Judge

Handwritten initials/signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 17 1996
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ALLEN HARTOUNIAN,

} _____

Respondent

Case No. H-26491 LA

OAH No. L-9604025

By *K. H. ...*

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 _____
Office of Administrative Hearings, 314 West First Street, Los Angeles

on June 28, 1996, at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: May 17, 1996

By: *James R. Peef*
Counsel

cc: Alen Hartounian
Joe Ingber, Esq.
Sacto OAH DR

*Sacto
7/08*

FILED
APR 15 1996
DEPARTMENT OF REAL ESTATE

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

In the Matter of the Accusation of

ALLEN HARTOUNIAN,

}

By *R. Medersholt*

Case No. H-26491 LA

OAH No. L-9604025

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 _____
Office of Administrative Hearings, 314 West First Street, Los Angeles**

on May 17, 1996 at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: April 15, 1996

By *James R. Peel* Counsel

cc: Alen Hartounian
Joe Ingber, Esq.
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JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED
FEB 20 1996
DEPARTMENT OF REAL ESTATE

By Laura B. Orson

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-26491 LA
)	
ALEN HARTOUNIAN,)	<u>A C C U S A T I O N</u>
)	
)	
Respondent.)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ALEN HARTOUNIAN, alleges as follows:

I

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

ALEN HARTOUNIAN (hereinafter referred to as respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

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III

At all times herein mentioned, respondent was licensed as a real estate salesperson by the Department of Real Estate of the State of California.

IV

On or about August 18, 1995, in the Municipal Court of California, County of Los Angeles, respondent was convicted of violating Penal Code Section 459 (burglary), a crime involving moral turpitude.

V

The crime of which respondent was convicted bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

VI

Respondent's criminal conviction is 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.

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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 ALEN HARTOUNIAN 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 applicable provisions of law.

Dated at Los Angeles, California
this 20th day of February, 1996.

THOMAS McCRADY

Deputy Real Estate Commissioner

cc: Alen Hartounian
Sacto.
DR

lbo