

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 12 1999
DEPARTMENT OF REAL ESTATE

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By CS

In the Matter of the Accusation of)
)
)
 WILLIAM S. CHANG,)
)
)
 Respondent.)
)

No. H-27887 LA
L-1998100397

DECISION

The Proposed Decision dated December 11, 1998, 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 February 2, 1999

IT IS SO ORDERED

December 29, 1998

JIM ANTT, JR.
Real Estate Commissioner

Betty R. Ludeman
BY: Betty R. Ludeman
Assistant Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the	)	
Accusation of:	)	Case No. H-27887 LA
	)	
WILLIAM S. CHANG,	)	OAH No. L1998100397
	)	
Respondent.	)	
_____	)	

PROPOSED DECISION

This matter came on for hearing before John F. Grannis, Administrative Law Judge Pro Tem of the Office of Administrative Hearings, on November 10, 1998, at Los Angeles, California.

Darlene Avaretta, Staff Counsel, represented complainant, Thomas McCrady ("complainant").

Respondent, William S. Chang ("respondent") appeared personally and represented himself.

The parties submitted oral and documentary evidence at the hearing, and submitted the matter for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following factual findings:

1. Complainant, acting in his official capacity as Deputy Real Estate Commissioner of the Department of Real Estate of the State of California ("Department"), and not otherwise, filed the Accusation on October 15, 1998.

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2. Respondent is currently a real estate salesperson and the holder of License No. 01193883, which the Department issued to respondent on March 7, 1995. Respondent's license expires on March 6, 1999.

3. On July 13, 1998, respondent was convicted in the United States District Court for the Central District of California, on a plea of guilty in Case No. 98-332-JSL, of making false statements to a financial institution, in violation of 18 United States Code Sections 1014 and 2(b). By pleading guilty, respondent admitted the elements of the crime. He thus admitted that he knowingly made a false statement to a financial institution whose deposits were insured by the FDIC; that the statement was material to the lending activities of the institution, and that he made the statement for the purpose of influencing the institution in its lending activities. The court sentenced respondent to formal probation for a period of three years, subject to terms and conditions including the performance of 100 hours of community service, and including the payment of restitution in the amount of \$30,000.00.

4. This conviction arose out of respondent's activities in November 1990 as a real estate loan officer for Exim Mortgage Company. In the course of that employment respondent assisted his clients, Mr. and Mrs. Chon, with a refinance loan application.

5. In his plea agreement, dated April 9, 1998, respondent admitted certain facts to be true. These facts establish that, on November 13, 1990, respondent submitted a loan application on behalf of the Chons to Plaza Savings and Loan ("PSL"), knowing the application to contain several false statements. The loan application included two documents purporting to be the Chons' 1988 and 1989 federal income tax returns. These documents overstated the Chons' income for those years, and in fact they had never been filed with the IRS. The loan application also included documents purporting to be copies of cancelled checks from the Chons to the IRS, in payment of their 1988 and 1989 tax liabilities. These putative cancelled checks were entirely fraudulent and fictitious, and were created solely to corroborate the Chons' false tax returns. The loan application also contained false and fraudulent copies of the Chons' bank statements, which had been altered to overstate the balances in their bank accounts. PSL approved a loan to the Chons in the amount of \$390,000.00. The Chons defaulted on the loan in February 1993. PSL suffered a net loss of \$30,000.00 as a result of the Chons' default. This offense is thus a crime of moral turpitude, and is substantially related to the qualifications, functions and duties of a real estate licensee.

6. Respondent was a credible witness in his own behalf. He admits all of the foregoing facts, with two exceptions. Respondent testified that the Chons submitted all their own documentation, including the false tax returns,

the false cancelled checks, and the altered bank statements. He further testified that he did not process any of these documents. Instead, he testified, the staff at Exim Mortgage processed the entire loan package. This last fact was confirmed, respondent testified, by FBI handwriting analysis at the time of his conviction. Respondent now denies knowing in 1990 that the Chons' loan application contained false or fraudulent information.

7. Respondent began working as a loan officer for Exim Mortgage in September 1990. He simply answered a classified ad in the newspaper. He had no prior experience in real estate, or real estate lending, and he was not a real estate licensee. The Chon loan was his very first loan transaction, and in handling it respondent simply followed the loan procedures provided to him by his employer. His only active role in the processing of the Chons' loan application was to meet with them and to collect from them the supporting documents for their loan application.

8. Some time later respondent became concerned about the legality of Exim's loan practices. Respondent left Exim, and he stopped doing loan transactions altogether. However, he remained active in the Korean American Mortgage Association ("KAMA"), and he served as that group's vice-president during 1993 and 1994. In that capacity he began organizing seminars on proper loan procedures for loan officers serving the local Korean community. These seminars provided extensive instructions on how to identify and eliminate false or fraudulent information from a loan application, and they included presentations by the Department, the District Attorney, and the FBI. Respondent considered this to be a form of penance to his community for his past mistakes, and he often spent his own money putting on these seminars.

9. In 1995 respondent took and passed his real estate exam, and obtained his real estate salesperson's license. He has since submitted evidence to the Department of having completed two of the real estate courses required for broker applicants under Business and Professions Code Section 10153.2. He has worked for Century 21, Sandbank Realty, in Cerritos, California, since March 1996. He has never had any complaints or disciplinary actions against him or his license for any post-licensure conduct.

10. In 1996, after respondent began working for Sandbank Realty, federal authorities began an investigation into the Chon loan. By that time, Exim Mortgage was out of business, and its principals had disappeared. When criminal charges were brought against respondent, he cooperated with the authorities and agreed to plead guilty.

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11. Respondent has complied with all of the terms and conditions of his probation to date. He has completed 60 hours of his community service obligation, and he is paying his restitution obligation in installments of \$400.00 per month.

12. Respondent is married, and has two sons, ages 6 and 8. He is very close to his wife and children. They are all very active together in the activities of their church, where respondent serves as a choir team leader. Respondent also serves as a volunteer assistant in the Long Beach Junior Golf Association, of which his sons are members. He continues to be extremely remorseful for violating the standards of honesty and integrity required of a real estate licensee. He is committed to avoiding any repetition of his past errors.

LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists for the suspension or revocation of respondent's license under Business and Professions Code Sections 490 and 10177(b), for conviction of a crime of moral turpitude that is substantially related to the qualifications, functions and duties of a real estate licensee, as set forth in Findings 3,4 and 5.

2. Respondent's inexperience and naiveté at the time of the underlying fraud, as set forth in Findings 6 and 7, is considered to be a mitigating factor in this case.

3. As set forth in Findings 8,9,10,11,12 and 13, respondent has satisfied a number of the Department's own rehabilitation criteria, which are set forth in Section 2912 of the Regulations of the Real Estate Commissioner. Although respondent's conviction occurred in July 1998, the single criminal act for which he was convicted occurred eight years ago [§2912(a)]. Respondent is making restitution payments as a condition of his probation [§2912(b)] and he has already made excellent progress toward successful completion of probation [§2912(d)]. Respondent has a stable family life, and he enjoys a close relationship with his wife and two sons [§2912(i)]. He is also involved, in a significant and conscientious way, in the activities of his church, and in the junior golf association to which his sons belong [§2912(k)]. Most importantly, respondent has undergone a complete change in his personal and professional attitudes

since November 1990 [§2912(l)]. He realized on his own that the practices of his former employer were illegal and wrong, and he left that employment voluntarily, as set forth in Finding 8. He corrected his own business practices accordingly, on his own initiative [§2912(g)]. He also established new and different business relationships within the local Korean community [§2912(h)]. Respondent then undertook a significant educational project, again on his own initiative, and often at his own expense, to help eliminate false or fraudulent loan application practices, as set forth in Finding 9. Since then, he has successfully taken and passed his real estate exam, he has obtained his real estate license, and he has completed two real estate courses [§2912(j)]. These facts constitute evidence of significant rehabilitation.

4. Discipline is clearly warranted in this case. However, the purpose of an administrative disciplinary proceeding such as this is to protect the public interest, not to punish the individual respondent. Camacho v. Youde (1979) 95 Cal.App.3d 161,164. In this case, respondent has voluntarily submitted himself to conviction and sentencing by the criminal justice system. However, even before any criminal charge was brought against him, respondent already had taken significant steps on his own initiative, and at his own expense, to reform himself, and to make amends for his past mistakes. Respondent appears committed to avoiding any repetition of those errors, and he is highly motivated to avoid going to jail. Thus, the fact that he is currently on federal probation makes it all the more likely he will succeed in his rehabilitative efforts. Based on his high level of rehabilitation to date, it appears respondent will be unlikely to backslide into any fraudulent practices in the future. Consequently, the public interest will be adequately protected by the Order set forth below.

ORDER

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

All licenses and licensing rights of respondent William S. Chang under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson's license shall be issued to respondent pursuant to Business and Professions Code Section 10156.5, upon respondent's application and payment of the required fee within ninety (90) days after the effective date of this Decision. The restricted license so issued to respondent shall be subject to all of the provisions of Business and Professions Code Section 10156.7, and to the following limitations, conditions and restrictions imposed under the authority of Business and Professions Code Section 10156.6:

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 any provisions of the California Real Estate Law, the Subdivided Lands Law, the Regulations of the Real Estate Commissioner or any limitations, conditions or restrictions attaching to the restricted license.

3. Respondent shall not be eligible to apply for either the issuance of an unrestricted real estate license or the removal of any of the limitations, conditions or restrictions attaching to the restricted license until three (3) years have elapsed from the effective date this Decision.

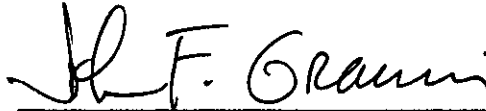
4. Respondent shall submit, with any application for license under an employing broker, or with any application for transfer to a new employing real estate broker, a statement signed by the prospective employing broker, on a form approved by the Department, which shall certify as follows:

- (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 carefully review all real estate transaction documents prepared by respondent as a restricted licensee, and will otherwise exercise close supervision over respondent's performance as a restricted licensee of any and all acts for which a real estate license is required.

5. Respondent shall, within nine (9) months after the effective date of this Decision, shall submit evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance or renewal of a real estate license to her, 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 by appropriate Order suspend the restricted license until respondent submits such satisfactory evidence. In the event of any such suspension the Commissioner shall afford respondent the opportunity for a hearing to present such evidence under the provisions of the Administrative Procedure Act.

6. Respondent shall, within six months after the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department, including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may by appropriate Order suspend respondent's license until respondent passes the examination.

DATED: December 11, 1998

A handwritten signature in cursive script, reading "John F. Grannis", written over a horizontal line.

JOHN F. GRANNIS

Administrative Law Judge Pro Tem
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

Case No. H-27887 LA

WILLIAM S. CHANG,)

OAH No. L-1998100397

Respondent(s)

FILED
OCT 29 1998
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By CS

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on TUESDAY, NOVEMBER 10, 1998, at the hour of 1:30 P.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: October 29, 1998

By

Darlene Averetta

DARLENE AVERETTA, Counsel

cc: William S. Chang
Sandbank, Inc.
/Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

1 DARLENE AVERETTA, Counsel
2 State Bar No. 159969
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012

6 (213) 897-3937

FILED
OCT 15 1998
DEPARTMENT OF REAL ESTATE

By C37

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) NO. H-27887 LA
12 WILLIAM S. CHANG,)
13 Respondent.)
14)

A C C U S A T I O N

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against WILLIAM S. CHANG (hereinafter "Respondent"), alleges as
18 follows:

19 I

20 The Complainant, Thomas McCrady, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation
22 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 California Business and Professions Code (hereinafter "Code"),
27 as a real estate salesperson.

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III

Respondent was originally licensed by the Department of Real Estate of the State of California, as a real estate salesperson on March 7, 1995.

IV

On or about July 13, 1998, in the United States District Court, for the Central District of California, Respondent, WILLIAM S. CHANG, aka William Sungjoo Chang, was convicted of violating 18 United States Code ("U.S.C.") Section 1014, in conjunction with 18 U.S.C. Section 2(b) (Causing False Statements to Financial Institution). Said crime is a felony involving moral turpitude, and bears a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

V

The crime of which Respondent was convicted, as described in Paragraph IV above, constitutes cause under Code Sections 490 and 10177(b) for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondent,
5 WILLIAM S. CHANG, under the Real Estate Law (Part 1 of Division 4
6 of the Business and Professions Code), and for such other and
7 further relief as may be proper under other applicable provisions
8 of law.

9 Dated at Los Angeles, California
10 this 15th day of October, 1998.

11
12 THOMAS MCCRADY
13 Deputy Real Estate Commissioner
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25 cc: William S. Chang
26 Sacto.
27 PM

