

NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for reinstatement is granted and that a real estate
broker license be issued to Respondent if Respondent satisfies
the following conditions within twelve (12) months from the date
of this Order:

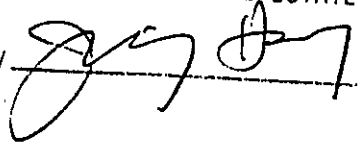
- This Order shall become effective immediately.

JEFF DAVIS
Real Estate Commissioner

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FILED
FEB 2 2001

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
BEHZAD DAVID HERAVI,)
Respondent.)

DRE No. H-28728 LA
OAH No. L-2000090283

DECISION AFTER REJECTION

The matter came on for hearing before Jerry Mitchell, Administrative Law Judge, of the Office of Administrative Hearings, in Los Angeles, California, on October 25, 2000.

Elliott Mac Lennan, Counsel, represented the Complainant. Respondent, a licensed attorney, was present and represented himself.

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

On October 26, 2000, 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 Code of the State of California, Respondent was served with

1 notice of my determination not to adopt the Proposed Decision of
2 the Administrative Law Judge along with a copy of said Proposed
3 Decision. On November 17, 2000, Respondent was notified that the
4 case would be decided by me upon the record, the transcript of
5 proceedings held on October 25, 2000, and upon written argument
6 offered by Respondent.

7 I have given careful consideration to the record in
8 this case, including the transcript of the proceedings of
9 October 25, 2000, received on December 13, 2000. Written
10 argument has been submitted by Respondent.

11 After further consideration of the matter, the
12 following shall constitute the Decision of the Real Estate
13 Commissioner in the above-entitled matter:

14 FINDINGS OF FACT

15 The Finding of Facts set forth in the Proposed Decision
16 of October 26, 2000, of the Administrative Law Judge are adopted
17 as the Findings of Fact of the Real Estate Commissioner.

18 LEGAL CONCLUSIONS

19 The Legal Conclusions are hereby adopted as the Legal
20 Conclusion of the Real Estate Commissioner. The following Legal
21 Conclusion is added:

22 3. Pursuant to Title 10, Chapter 6, California Code of
23 Regulations (Regulations), Criteria of Rehabilitation (Revocation
24 or Suspension) Section 2912(d), Respondent has yet to complete
25 formal probation.

26 4. Pursuant to Section 2912(1) of the Regulations,
27 Respondent has not changed his attitude with respect to his crime

1 in light of Respondent's assertion that he did nothing wrong and
2 has been punished enough. Sufficient criteria by which to
3 indicate that rehabilitation has been achieved is lacking.

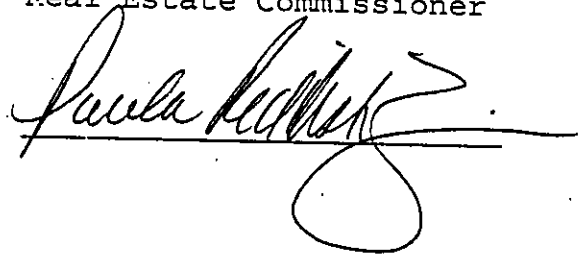
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5 ORDER

6
7 All licenses and license rights of Respondent BEHZAD
8 DAVID HERAVI under the Real Estate Law (Part 1 of Division 4 of
9 the Business and Professions Code) are revoked.

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11 This Decision shall become effective at 12 o'clock
12 noon on February 22, 2001

13 IT IS SO ORDERED January 30, 2001.

14 PAULA REDDISH ZINEMANN.
15 Real Estate Commissioner

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FILED
NOV 17 2000
DEPARTMENT OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
BEHZAD DAVID HERAVI,)
Respondent.)
_____)

NO. H-28728 LA
L-2000090283

NOTICE

TO: BEHZAD DAVID HERAVI, Respondent

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 26, 2000, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated October 26, 2000, is attached hereto for your information.

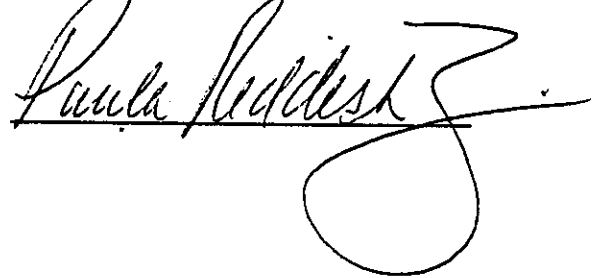
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on October 25, 2000, and any written argument hereafter submitted on behalf of Respondent and Complainant.

1 Written argument of Respondent to be considered by me
2 must be submitted within fifteen (15) days after receipt of the
3 transcript of the proceedings of October 25, 2000, at the
4 Los Angeles office of the Department of Real Estate unless an
5 extension of the time is granted for good cause shown.
6

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

12 DATED: November 13, 2000.

13 PAULA REDDISH ZINNEBANN
14 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) NO. H-28728 LA
)
 BEHZAD DAVID HERAVI,) OAH NO. L2000090283
)
 Respondent.)
 _____)

PROPOSED DECISION

This matter was heard October 25, 2000, at Los Angeles, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by Elliott Mac Lennan, Counsel. The respondent was present and represented himself.

FACTUAL FINDINGS

1. This matter proceeded on a First Amended Accusation, which was made and filed by Thomas McCrady in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2. Behzad David Heravi (hereinafter "respondent") is, and at all times pertinent hereto was, licensed by the Department of Real Estate of the State of California as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code.")

3. On February 7, 2000¹, in Case No. 299CR00067-004 FCD of the United States District Court, Eastern District of California, respondent was convicted, upon a plea of guilty, of violating 18 U.S.C. 641, a misdemeanor, for which he was sentenced to 12 months probation on various terms and conditions, including the payment of \$841,568.21 restitution. It appears that the restitution has been paid in full, through government seizures of respondent's assets.

4. The facts and circumstances resulting in the conviction were as follows: At all times pertinent hereto, respondent had a 22.5% interest in a business owned by his family (hereinafter "the family business"), which operated two retail shoe and medical products stores, one in West Los Angeles and the other in Reseda. During the period of about 1996 through 1998, respondent attended and completed law school, was admitted to the California

¹ The Accusation alleges that the conviction occurred on or about May 5, 2000; however, the documentary evidence and respondent's testimony indicates it occurred on February 7, 2000.

State Bar, began a law practice, and worked about 10 hours a week in the back room of the Reseda store, doing packing and shipping. During the aforesaid period, he received a total of \$841,568.21 as his share of the earnings from the family business. According to the Superseding Information to which he pleaded guilty, "he knew [the family business] had billed Medi-Cal for services and products not rendered and had received money from the said program, including money belonging to the United States Department of Health and Human Services, as a result of this false billing and he knew that some of the said funds received were funds that had been stolen from the United States. The amount of the stolen funds received by [respondent] were [sic] less than \$1,000."

6. The crime to which respondent pleaded guilty involves moral turpitude by its facts and circumstances and is substantially related, under Section 2910(a)(1) of Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

7. The federal probation office recommended that respondent be given the statutory maximum sentence of one year in prison. The federal prosecutor, however, filed a written motion for a downward departure to a sentence of straight probation. In support of that motion, the prosecutor stated in part: "This defendant was involved in going to law school and spent very little time in any aspect of the business. It was because of his marginal involvement that the government was willing to give him a misdemeanor count in this case."

8. Respondent states that all of the Medi-Cal billing for the family business was done in the West Los Angeles store, and that he had nothing to do with it and knew nothing about it. He states that he pleaded guilty to a misdemeanor for which he was promised probation because he was facing more serious charges and a possible ten-year prison sentence.

9. Respondent has had two previous misdemeanor convictions, both around 1990, for which there are no documents and few details in the record. According to respondent, one of the cases involved a charge of embezzlement that was reduced to disturbing the peace, and the other involved lewd conduct.

10. Respondent is married and has two children. He states that he has not been engaging in the real estate business or the practice of law during the past few months because both this proceeding and a State Bar proceeding have been pending against him. He and his wife have recently gone into the silk flower business in order to be able to make a living in the event his real estate license and/or his right to practice law are suspended or revoked. He points out that he has been a real estate licensee since 1987, has had no complaints against him or previous disciplinary action against his license, and his conviction did not involve a real estate matter. He maintains that he did nothing wrong, has been punished enough, and no action should be taken against his license.

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LEGAL CONCLUSIONS

1. The conviction set forth in Factual Finding 3 constitutes cause under Sections 490 and 10177(b) of the Code for suspension or revocation of respondent's licenses and license rights under the Real Estate Law.

2. Taking all of the circumstances into account, and particularly the remarks by the federal prosecutor minimizing respondent's involvement in the crime, the following order is deemed appropriate:

ORDER

Not Admitted

All licenses and licensing rights of respondent Behzad David. Heravi under the Real Estate Law are revoked; provided, however, a restricted real estate broker 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.

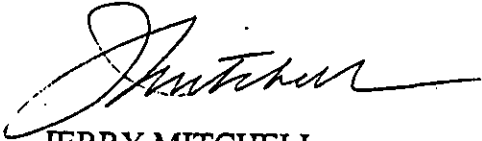
3. Respondent shall not be eligible to apply for the issuance of an unrestricted license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three years have elapsed from the effective date of this Decision.

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NOT RECORDED

4. 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 any 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 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: October 26, 2000


JERRY MITCHELL
Administrative Law Judge

59210

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
BEHZAD DAVID HERAVI,)
Respondent.)

Case No. H-28728 LA

OAH No. L-2000090283

FILED
SEP 20 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION By

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, OCTOBER 25, 2000, at the hour of 9:00 A.M., 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.

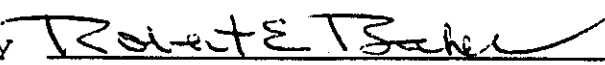
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented 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.

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: September 20, 2000

By 
ROBERT E. BAKER, Assistant Chief Counsel

cc: Behzad David Heravi

✓ Sacto.
OAH
CW

SAUTO
1 ROBERT E. BAKER, Counsel
2 State Bar No. 53100
3 Department of Real Estate
4 320 West 4th Street, Suite 350
5 Los Angeles, CA 90013-1105
6 Telephone: (213) 576-6982
7 Direct - (213) 576-6905

FILED
SEP 13 2000

DEPARTMENT OF REAL ESTATE

By [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-28728 LA
12)
13 BEHZAD DAVID HERAVI,) FIRST AMENDED ACCUSATION
14 Respondent.)
_____)

15 I

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against BEHZAD DAVID HERAVI is informed and alleges in his
19 official capacity as follows:

20 II

21 At all times mentioned herein, BEHZAD DAVID HERAVI
22 (hereinafter referred to as "Respondent") was and still is
23 licensed by the Department of Real Estate of the State of
24 California ("Department") as a real estate broker under the Real
25 Estate Law (Part 1 of Division 4 of the Business and Professions
26 Code, hereinafter "Code"). This license expires on July 9, 2002.

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III

On or about May 5, 2000, in United States District Court, Eastern District of California, in Case No. 2:99CR00067-004 FCD Respondent BEHZAD DAVID HERAVI, aka Behzad Heravi pled guilty to the crime of violating 18 USC 641 (Theft of Government Property), a misdemeanor and a crime involving moral turpitude. Respondent was sentenced to probation for a period of 12 months and ordered to make restitution amounting to \$841,568.21.

IV

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

V

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.

VI

Respondent is presently licensed in California as an attorney.

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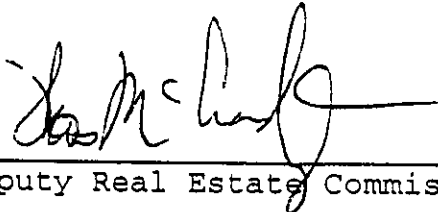
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of
5 BEHZAD DAVID HERAVI, under the Real Estate Law and for such
6 other and further relief as may be proper under applicable
7 provisions of law.

8 Dated at Los Angeles, California
9 this 13th day of September, 2000.

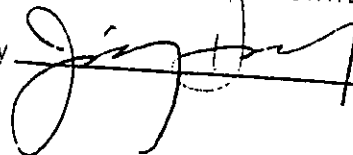
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11 Deputy Real Estate Commissioner
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24 cc: Behzad David Heravi
25 Thomas McCrady
26 ✓ Sacto
27 CW



SA 10
1 ROBERT E. B...ER, Counsel
2 State Bar No. 53100
3 Department of Real Estate
4 320 West 4th Street, Suite 350
5 Los Angeles, CA 90013-1105
6 Telephone: (213) 576-6982
7 Direct - (213) 576-6905

FILED
SEP 06 2000
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11 In the Matter of the Accusation of) No. H-28728 LA
12)
13 BEHZAD DAVID HERAVI,) A C C U S A T I O N
14 Respondent.)
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I

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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/or license rights of BEHZAD DAVID HERAVI, under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California
this 6th day of September, 2000.

Deputy Real Estate Commissioner

cc: Behzad David Heravi
Thomas McCrady
✓ Sacto
CW