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FILED
OCT 4 2002
DEPARTMENT OF REAL ESTATE

Jana B. Brown

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-29475 LA
MURTAZA ALI LADHA,)	L-2002050705
)	
)	
Respondent.)	

ORDER DENYING RECONSIDERATION

On August 8, 2002, a Decision was rendered in the above-entitled matter. The Decision was to become effective on September 4, 2002 but was stayed by separate Order to October 4, 2002.

On August 28, 2002, Respondent petitioned for reconsideration of the Decision of August 8, 2002.

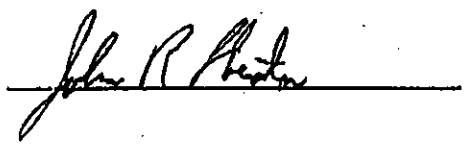
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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of August 8, 2002, and reconsideration is hereby denied.

IT IS SO ORDERED October 3, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BY: John R. Liberator
Chief Deputy Commissioner

Sacto Day

FILED
AUG 29 2002
DEPARTMENT OF REAL ESTATE

By *Jane B. Ann*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Application of)	NO. H-29475 LA
) L-2002050705
MURTAZA ALI LAHDA,)
)
)
Respondent.)

ORDER STAYING EFFECTIVE DATE

On August 7, 2002, a Decision was rendered in the above entitled matter to become effective September 4, 2002.

IT IS HEREBY ORDERED that the effective date of the Decision of August 7, 2002, is stayed for a period of 30 days.

The Decision of August 7, 2002, shall become effective at 12 o' clock noon on October 4, 2002.

DATED: AUG 29 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By:

Dolores Ramos
DOLORES RAMOS
Regional Manager

lbo

*Subs
said*

FILED
AUG 15 2002
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By *Lawrence B. Brown*

* * * * *

In the Matter of the Application of)	No. H-29475 LA
MURTAZA ALI LADHA,	L-2002050705
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Respondent.)
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DECISION

The Proposed Decision dated July 11, 2002, 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 application for a real estate salesperson license is denied. There is no statutory restriction on when application may again be made for this license. If and when application is again made for this license, all competent evidence of rehabilitation presented by respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on ~~September 4, 2002~~.

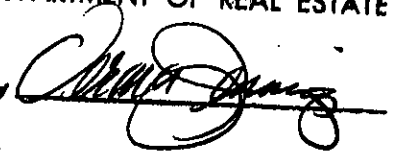
IT IS SO ORDERED

August 8, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By 

In the Matter of the Statement of Issues
Against:

Case No. H29475 LA
OAH No. L2002050705

MURTAZA ALI LADHA,

Respondent.

PROPOSED DECISION

On June 27, 2002, this matter came on regularly for hearing at the Office of Administrative Hearings, 320 W. 4th Street, Los Angeles, California, before Administrative Law Judge William L. Marcus. Murtaza Ali Ladha ("respondent") was present and represented himself in pro per; complainant Maria Suarez was represented by James R. Peel, Staff Counsel. Following the presentation of evidence and of oral argument, the record was closed and the matter was submitted for decision on June 27, 2002.

FACTUAL FINDINGS

1. Maria Suarez, acting in her official capacity as a deputy real estate commissioner, filed the Statement of Issues against respondent based on a criminal conviction and the omission of that conviction from his application for a real estate salesperson license.
2. On December 10, 2001, respondent applied for a license as a real estate salesperson. In response to Question #25 on the application, regarding whether respondent had ever been convicted of any violation of law¹, respondent marked "no." The box containing Question #25 directed the applicant to complete box #27 if "yes" was marked. That box was left blank.
3. On May 17, 1988, respondent pled guilty to, and was convicted of, one count of theft in violation of Penal Code section 488, a misdemeanor. Respondent was sentenced to 12 months probation and fined and assessed \$285.00. It is assumed, in the absence of evidence to the contrary, that the 12 months probation to which respondent was sentenced 14 years ago has been successfully completed (People v. Ladha, Case No. MW411631²).

¹ The question allowed the omission of drunk or reckless driving convictions and minor traffic citations which did not constitute a misdemeanor or felony.

² Because other records of the conviction have been purged, and the abstract does not name the court involved, the only information about which California court is involved is that the arrest was by the Montclair police department.

4. The facts and circumstances were that when respondent was 21 or 22 years old he went to a mall with friends and took a pair of pants from J.C. Penney. Respondent described the conviction as occurring when he was new to the United States and as being a "silly" mistake. He said he had no intent of stealing the pants (apparently meaning when he entered the store). The conviction is substantially related to the qualifications, functions, and duties of a real estate salesperson, according to the criteria in section 2910 of title 10 of the California Code of Regulations, and is a crime involving moral turpitude.

5. Respondent testified that he had no other convictions, that he had learned his lesson, and that he had "forgotten" about it. He testified he went back to Pakistan, married, and then returned to the United States (he and his wife have 10 and 7 year old sons).

5. Respondent testified that he omitted the conviction from his application because he "assumed" the question called only for convictions within the last seven years. His manager at Tarbell Realtors prepared the application and, respondent testified, read the question about convictions to respondent. Respondent testified he did not read the portion of the application stating that "all" convictions must be disclosed; he testified he did not check the application for accuracy, but just gave the manager a check, after which the manager mailed the application. Respondent acknowledged he signed the application after it was completely filled out, but testified he did not read the portion preceding the signature line, which is captioned "SALESPERSON CERTIFICATION—Please Read Carefully" and which provides, in pertinent part, that he was certifying under penalty of perjury that the foregoing answers and statements given in this application are true and correct.

6. Respondent has taken one of the two courses necessary for licensure as a real estate salesperson, completing it in December 2001, at Santiago Canyon College (see Exh. C). He testified he is a notary public, but then acknowledged he has passed the examination and is not yet licensed. He testified he has a M.B.A. degree from Pakistan (see Exh. B)³. Respondent has also had 8-10 semesters at Mount San Antonio College, attending part-time, but has not earned a degree.

7. Respondent had not, as of the time of hearing, completed the educational requirements, pursuant to Business and Professions Code section 10153.4, necessary to obtain a real estate salesperson license.

8. He testified he was in the computer business from 1989-1997, manufacturing memory modules; however, business had become very slow, so he was "moving into" real estate. He has two brothers and two good friends who are already in the business and who will all help him "when he gets a license." He also tried selling cars, including in 2001, and has a current salesperson license from the DMV; he started selling again in

³ It is not clear whether this is equivalent to a post-graduate degree in the United States; respondent testified to 3-5 years college in Pakistan; Exhibit C's English translation refers to completing the examination and coursework in the academic year 1994, but the degree is shown as issued on October 28, 1995.

May 2002 at Toyota of Glendora. Respondent testified he was ready to "open tomorrow" and that he even has his signs ready. Respondent testified he wants to create a better life for his family.

9. Respondent attends a mosque and volunteers time every Sunday. He takes his sons to class at the mosque and teaches the basics of the religion to children there. He also raises funds for the Sunday classes or for those who are jobless.

10. Respondent was clearly aware at the time he completed the application for licensure that he had been convicted in 1988. His explanation that he "assumed" convictions older than 7 years were not covered by the question on the application is not credible. His explanation that he did not read that question, the certification at the end of the application, or the rest of the application, is even more incredible. Respondent is an educated person. He has applied for a notary public commission; he holds a DMV salesperson license; he wants to be in the real estate business; he ran, for at least 8 years, a successful computer business. In each of the application processes and in all of his businesses and professions the preparation, review, approval, and signing of a variety of documents would have been inherently necessary and common. Respondent could not have performed these functions were he as cavalier about reviewing and completing documents as he would have the Department believe.

11. Respondent did not provide evidence in mitigation or rehabilitation except as provided above. Respondent clearly believes he is entitled to be licensed. Respondent has just as clearly not come to terms either with the seriousness of his conviction, the seriousness with which he should have dealt with the process of applying for a license as a real estate salesperson, nor the seriousness of his omissions from that application.

LEGAL CONCLUSIONS

1. Cause exists for denial of respondent's application for licensure pursuant to Business and Professions Code sections 480(a)(1) and 10177(b) for the criminal conviction set out in Factual Finding #3 and #4.

2. The crime, by its nature, has a substantial relationship to the qualifications, functions and duties of a real estate salesperson according to the criteria in section 2910 of title 10 of the California Code of Regulations.

3. Honesty and integrity are critical to the responsibilities of a real estate salesperson; theft of property from a store demonstrates a lack of honesty and integrity. A conviction for violation of Penal Code section 488 is inconsistent with the honesty and integrity of a real estate salesperson, despite the age of the conviction and the apparently relatively small amount involved. Little evidence, other than the passage of time, and the apparent successful completion of probation, was produced to establish rehabilitation. In light of respondent's incredible testimony as to the circumstance of his conviction and his both incredible and cavalier attitude toward the application process (see Factual

Findings #10 and #11), it is clear that he has not come to terms with the nature of his conduct or his responsibility for his own acts and is not a fit person for licensure by the Department.


4. Cause for denial of respondent's application for licensure also exists pursuant to Business and Professions Code sections 480(c) and 10177(a), for knowing and intentional omission of the 1988 conviction from respondent's application for licensure, as more particularly set out in Factual Findings Nos. 2, 5, and 10. Failure to honestly and accurately complete a licensure or renewal form which is to be executed under penalty of perjury demonstrates a fundamental lack of the care, honesty, and integrity which are essential to performing the responsibilities of a real estate salesperson. Intentional failure to include the fact of a conviction, and information about such a conviction, clearly deprives the agency of the ability to promptly identify, and consider, crimes of which its licensees have been convicted. To allow respondent to obtain a license in light of this violation, particularly in light of the attitude with which he approached the application process and his incredible testimony at hearing, would be contrary to the public interest.

5. Respondent is subject to revocation for criminal conviction, for the omission from his application, and for the criminal conviction and omission taken together.

ORDER

The application of Murtaza Ali Ladha for licensure as a real estate salesperson is denied based on his criminal conviction, on the omission of the 1990 application from his application, and on the criminal conviction and the omission taken together.

DATED: July 11, 2002


WILLIAM L. MARCUS
Administrative Law Judge
Office of Administrative Hearings

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Zaney

FILED
JUN 4 2002
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Lama B. - Com

In the Matter of the Application of) Case No. H-29475 LA
))
MURTAZA ALI LAHDA,) L-2002050705
))
Respondent(s))

NOTICE OF HEARING ON APPLICATION

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, 320 West Fourth Street, Suite 630, Los Angeles, California, on JUNE 27, 2002 at the hour of 1:30 p.m., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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 for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: June 4, 2002

DEPARTMENT OF REAL ESTATE

By: James R. Peel
JAMES R. PEEL, Counsel

cc: Murtaza Ali Ladha
Sacto.
OAH

RE 500 JRP:lbo

Peel

FILED
MAY 10 2002
DEPARTMENT OF REAL ESTATE

Jane B. [Signature]

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
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7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Application of)	No. H-29475 LA
12	MURTAZA ALI LADHA,)	<u>STATEMENT OF ISSUES</u>
13	Respondent.)	

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against MURTAZA ALI LADHA (Respondent), is informed and alleges
18 in her official capacity as follows:

I

20 On or about December 10, 2001, Respondent applied to
21 the Department of Real Estate of the State of California for a
22 real estate salesperson license with the knowledge and
23 understanding that any license issued as a result of that
24 application would be subject to the conditions of Section 10153.4
25 of the Business and Professions Code.

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II

In response to Question 25 of said application, to wit, "Have you ever been convicted of any violation of law?", Respondent answered "No" and failed to disclose the matter set forth in Paragraph III.

III

On or about May 17, 1988, in the Municipal Court for the County of San Bernardino, State of California, Respondent was convicted of violating Section 488 of the Penal Code (Petty Theft), a crime involving moral turpitude, and substantially related to the qualifications, functions or duties of a real estate licensee.

IV

The matter described in Paragraph III constitutes cause for denial of his application for a real estate salesperson license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

V

Respondent's failure to disclose the matter set forth in Paragraph III, above, in said application, constitutes the attempted procurement of a real estate salesperson license by misrepresentation, fraud, or deceit, or by making a material misstatement of fact in said application which is cause to deny Respondent's real estate license application under Sections 475(a)(1), 480(c) and 10177(a) of the California Business and Professions Code.

///

1 The Statement of Issues is brought under the provisions
2 of Section 10100, Division 4 of the Business and Professions Code
3 of the State of California and Sections 11500 through 11528 of
4 the Government Code.

5
6 WHEREFORE, the Complainant prays that the above-
7 entitled matter be set for hearing and, upon proof of the charges
8 contained herein, that the Commissioner refuse to authorize the
9 issuance of, and deny the issuance of, a real estate salesperson
10 license to Respondent MURTAZA ALI LADHA, and for such other and
11 further relief as may be proper in the premises.

12 Dated at Los Angeles, California
13 this 9th day of May, 2002.

14
15 
16 MARIA SUAREZ
17 Deputy Real Estate Commissioner

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19
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21
22
23 cc: Murtaza Ali Ladha
24 FM Tarbell Co.
25 Sacto.
26 Maria Suarez
27 MA

lbo