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FILED
MAR 17 2003

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By 

* * * * *

In the Matter of the Application of)

No. H-29750 LA

JAMES LEE MUHAMMAD,

L-2002110351

Respondent.

DECISION

The Proposed Decision dated February 10, 2003 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.

Pursuant to Section 11517(b) (3) of the Government Code, the following correction is made:

Legal Conclusions Number 2, page 9, paragraph 3, line 2, delete "regardless of whether the license would have been issued if the conviction were disclosed".

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 April 7, 2003.

IT IS SO ORDERED March 13, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

John R. Liberator

BY: **John R. Liberator**
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JAMES LEE MUHAMMAD, aka
JAMES LEE THURMAN, aka
JAMES THURMON,

Respondent.

Case No. H-29750-LA

OAH No. L2002110351

PROPOSED DECISION

Administrative Law Judge M. Amanda Behe, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on January 14, 2003.

Mary Work, Counsel, represented the Department of Real Estate.

Respondent represented himself.

The matter was submitted on January 14, 2003.

FACTUAL FINDINGS

1. Maria Suarez is a Deputy Real Estate Commissioner of the State of California Department of Real Estate (hereinafter "the Department") and made and filed the Statement of Issues in her official capacity. The Statement of Issues was amended at hearing.

2. On October 4, 2001, James Lee Muhammad aka James Lee Thurman aka James Thurmon (hereinafter "respondent") applied to the Department for a real estate salesperson license pursuant to Business and Professions Code section 10153.3. Any license issued as a result of that application would be subject to the conditions of Section 10153.4 of the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

3. Business and Professions Code section 475 provides that:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

- (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
- (2) Conviction of a crime.
- (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
- (4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

4. Business and Professions Code section 480 provides that:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or
- (3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

“(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or

that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

“(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.”

5. Business and Professions Code section 10177 provides that:

“The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

“(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation, or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

“(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

“(c) ...”

6. Title 10, California Code of Regulations (CCR) section 2910, sets forth the criteria for determining whether the actions of a respondent are substantially related to the licensed activity, as follows:

“(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

(1) The fraudulent taking, obtaining, appropriating or retaining funds or property belonging to another person.

- (2) Counterfeiting, forging or altering of an instrument or the uttering of a false statement.
- (3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state or local government.
- (4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.
- (5) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code.
- (6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.
- (7) Willfully violating or failing to comply with a statutory requirement that a license, permit or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.
- (8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.
- (9) Contempt of court or willful failure to comply with a court order.
- (10) Conduct which demonstrates a pattern of repeated and willful disregard of law.

“(b) The conviction of a crime constituting an attempt, solicitation or conspiracy to commit any of the above enumerated acts or omissions is also deemed to be substantially related to the qualifications, functions or duties of a licensee of the department.

“(c) If the crime or act is substantially related to the qualifications, functions or duties of a licensee of the department, the context in which the crime or act were committed shall go only to the question of the weight to be accorded to the crime or acts in considering the action to be taken with respect to the applicant or licensee.”

7. On October 4, 2001, respondent filed a Salesperson License Application (DRE Form No. 202) which contained the following instruction:

"Carefully read and provide detailed answers to questions #24-26. 'Convicted' as used in Question 25 includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere, or a forfeiture of bail. All convictions must be disclosed whether or not the plea or verdict was set aside, the conviction against you was dismissed, or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code."

8. The Salesperson License Application contained the following Question #25:

"HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? (YOU MAY OMIT ANY TRAFFIC VIOLATION WHERE THE DISPOSITION WAS A FINE AND THE AMOUNT WAS \$100 OR LESS.)" Question #25 was followed by two blocks marked "NO" and "YES", respectively, and the direction "IF YES, COMPLETE #27 BELOW."

9. Entry #27 of the Salesperson License Application stated:

"DETAILED EXPLANATION OF ITEMS 24-26. COMPLETE ONE LINE FOR EACH VIOLATION AND PROVIDE EXPLANATION BELOW. IF YOU ARE UNABLE TO PROVIDE THIS INFORMATION, A DETAILED EXPLANATION MAY SUFFICE. INDICATE WHETHER EACH CONVICTION WAS A MISDEMEANOR OR FELONY AT THE TIME THE CONVICTION OCCURRED. IF THE CONVICTION STATUS HAS BEEN SUBSEQUENTLY CHANGED OR REDUCED, NOTE THAT FACT IN THE EXPLANATION AREA BELOW."

Entry #27 was followed by a chart with blanks labeled "Court of Conviction", "Arresting Agency", "Date of Conviction", "Type of Conviction" (felony or misdemeanor), "Code Number Violated", "Code Section Violated" and "Disposition".

10. The Salesperson License Application contained the following Question #24A:

"HAVE YOU EVER HAD A DENIED, SUSPENDED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE?" Question #24A was followed by two blocks marked "NO" and "YES", respectively, and the direction "IF YES, COMPLETE #24B-24F AND 27A-27D. INCLUDE THE DATE ACTION WAS TAKEN, REASON IT OCCURRED, AND (IF APPLICABLE) WHEN ACTION AGAINST YOU WAS TERMINATED"

11. The Salesperson License Application incorporated a "Salesperson Certification" immediately above respondent's signature by which respondent attested that the information on the application was true. The Salesperson Certification in relevant part stated: "I certify under penalty of perjury under the laws of the State of California that the foregoing answers and statements given in this application are true and correct ..."

12. In response to Question #25 respondent answered "NO." He made no answer to entry #27. His response was false and misleading in that he has the conviction set forth below.

13. On April 17, 1997, in the San Bernadino County Municipal Court District, West Valley Division, County of San Bernardino, State of California, respondent was convicted on his plea of guilty of a misdemeanor violation of Penal Code section 529.5(a) [FALSE GOVERNMENT DOCUMENT], a crime involving moral turpitude. The crime of which respondent was convicted is substantially related to the qualifications, functions and duties of the licensed activity.

The circumstances of the crime were that in filing for a driver's license respondent falsely represented under penalty of perjury that he had never applied for a California driver's license when in fact he had applied for and been issued such a license under the name "James Thurman." Through his deceit he obtained and thereafter used a license in the name "James Thurmon."

14. In response to Question #24A respondent answered "NO." His response was false and misleading in that on January 8, 1999, in Department case No. H-27842-LA his application for a real estate salesperson's license under his name James Lee Thurman was denied.

15. Respondent attempted to collaterally attack his conviction. An inquiry into the circumstances surrounding a conviction may not form the basis for impeaching that conviction. Arneson v. Fox (1980) 28 Cal.3d 440, 449. Matanky v. Board of Medical Examiners (1978) 79 Cal.App.3d 293, 302.

16. Respondent's criminal conviction is substantially related to the qualifications, functions and duties of the licensed activity pursuant to Title 10 CCR sections 2910 (a)(2) and (4) and (10) in that the criminal act involved the uttering of a false statement, and the employment of deceit and misrepresentation to achieve an end, and conduct which demonstrates a pattern of willful disregard of law.

17. The Department's criteria for rehabilitation in Title 10 CCR section 2911 have been considered with regard to respondent's application. The criteria provide:

"The following criteria have been developed by the department pursuant to Section 482(a) of the Business and Professions Code for the purpose of evaluating the rehabilitation of an applicant for issuance or for reinstatement of a license in considering whether or not to deny the issuance or reinstatement on account of a crime or act committed by the applicant:

(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought. (A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)

(b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the applicant.

(c) Expungement of criminal convictions resulting from immoral or antisocial acts.

(d) Expungement or discontinuance of a requirement of registration pursuant to the provisions of Section 290 of the Penal Code.

- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinence from the use of controlled substances or alcohol for not less than two years if the conduct which is the basis to deny the departmental action sought is attributable in part to the use of controlled substances or alcohol.
- (g) Payment of the fine or other monetary penalty imposed in connection with a criminal conviction or quasi-criminal judgment.
- (h) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the conviction or conduct that is the basis for denial of the agency action sought.
- (i) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.
- (k) Correction of business practices resulting in injury to others or with the potential to cause such injury.
- (l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) New and different social and business relationships from those which existed at the time of the conduct that is the basis for denial of the departmental action sought.
- (n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:
 - (1) Testimony of applicant.
 - (2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.
 - (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
 - (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.

18. Respondent failed to present evidence to establish rehabilitation pursuant to Title 10, California Code of Regulations, section 2911. While five years have passed since respondent's criminal conviction it is substantially related to the qualifications and duties of a licensee, and has not been expunged. Respondent represented that the ordered fine was paid, and probation completed.

Respondent is married with children. He did not present evidence of the fulfillment of parental and familial responsibilities subsequent to the criminal conviction. He is involved in one community program designed to provide social benefits or to ameliorate social problems.

No evidence suggested that respondent has new and different social and business relationships from those which existed at the time of his conviction, or any change in attitude.

19. On October 28, 1997, respondent met with Department representative Carlos Lopez regarding his application. With regard to his conviction respondent acknowledged that in October 1996 he was pulled over for a traffic violation and the officer observed that he had two driver's licenses, one under the name "Thurman" and the other under the name "Thurmon." He further admitted that he secured the falsified license to evade prosecution for traffic warrants under his true name.

At the time he met with Mr. Lopez respondent was employed as a loan officer assistant with Mortgage America and Century 21, King Realtors. His duties involved delivering documents to escrow and title companies and to clients. He admitted that his driver's license was revoked at the time of the interview.

20. Respondent testified that he wished to present an "alibi for myself ... not bogged by excuses ... in atonement and reconciliation." He testified that his efforts to pass the real estate salesperson examination, after previously failing that test, demonstrate his "dedication" to the profession.

With regard to his failure to disclose his conviction respondent first stated that he had no explanation. He opined that "moral turpitude is more than marking incorrect boxes." His testimony suggests confusion that the Department asserts that his completion of the application, rather than his conviction, involves moral turpitude. He next claimed that he failed to disclose his conviction because he overlooked the question. In fact, he did not overlook the question but answered it falsely. His third explanation was that he answered "NO" because he was so elated to pass the examination. None of his theories or claims were persuasive. A licensee of the Department must complete numerous documents completely and honestly. Respondent displays an inability to comply with that requirement.

At hearing respondent contradicted his representations to Mr. Lopez [see Finding 19] regarding securing the driver's license under the name "Thurmon" to evade prosecution for traffic warrants under his true name. He testified that he was not trying to avoid arrest or the consequences of his actions, but was only motivated by "immaturity." His testimony was not credible. He admitted that he just gave "an excuse" to Mr. Lopez, but stated that "I have not changed my story in essence." In fact, his testimony was a wholly improbable "story."

Respondent claimed that he failed to list the prior denial of his license as a result of an "oversight." His representation was not credible. He admitted that he did not tell his employers that his license was denied by the Department, or about his conviction.

LEGAL CONCLUSIONS

1. Cause for denial of respondent's application for a real estate salesperson's license was established pursuant to Business and Professions Code sections 475(a)(2), 480 and 10177(b). Respondent was convicted of an offense involving moral turpitude which bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee. Respondent was convicted of a crime within the definition of moral turpitude considered by the Fifth District Court of Appeals in Clerici v. Department of Motor Vehicles (1990) 224 Cal.App.3d 1016.

2. Cause for denial of respondent's application for a real estate salesperson's license was established pursuant to Business and Professions Code sections 475(a)(1), 480(c) and 10177(a). Respondent's failure to reveal his conviction in the Salesperson License Application constitutes an attempt to procure a license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact.

Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee." Harrington v. Department of Real Estate (1989) 214 Cal.App.3d 394, 402. "If appellant's offenses reflect unfavorably on his honesty, it may be said he lacks the necessary qualifications to become a real estate salesperson." Harrington, supra, 402. "The Legislature intended to insure that real estate brokers and salespersons will be honest, truthful and worthy of the fiduciary responsibilities which they will bear." Harrington, supra, 402, Ring v. Smith (1970) 5 Cal.App.3d 197, 205.

"A knowing misrepresentation of a material fact is grounds for revocation of a California license, ~~regardless of whether the license would have been issued if the conviction were disclosed.~~ Madrid v. Department of Real Estate (1984) 152 Cal.App.3d 454. "The conviction which appellant failed to disclose here was a felony (later reduced to a misdemeanor) which occurred five years prior to his license application. Thus, unlike Jones, the conviction was neither minor nor remote in time. The trier of fact did not believe appellant's inconsistent explanations for his failure to disclose the Arizona conviction: He 'just plumb forgot about it' and he thought the application pertained only to California convictions. Thus, unlike DeRasmo, the omission of the conviction from the license application here was found to be willful, satisfying the requirement of fraud, misrepresentation or deceit under Business and Professions Code section 10177, subdivision (a)." Id., 459-460.

3. Cause for denial of respondent's application for a real estate salesperson's license was established pursuant to Business and Professions Code sections 475(a)(1), 480(c)

and 10177(a) and (f). The prior denial of his application for a license is grounds for denial, and his failure to reveal that matter constitutes an attempt to procure a license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact.

ORDER

The application of respondent James Lee Muhammad aka James Lee Thurman aka James Thurmon for a Real Estate Salesperson license is DENIED.

Dated:

February 10, 2003



M. AMANDA BEHE

Administrative Law Judge

Office of Administrative Hearings

4410

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-29750 LA
JAMES LEE MUHAMMAD,) OAH No. L-2002110351
_____) Respondent

FILED
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DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

By [Signature]

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 TUESDAY, JANUARY 14, 2003, at the hour of 9:00 A.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 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: December 3, 2002

By [Signature]
MARY E. WORK, Counsel

cc: James Lee Muhammad
R M K Financial Corp.
✓ Sacto.
OAH

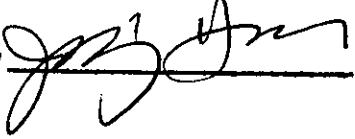
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6
7

FILED
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DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 JAMES LEE MUHAMMAD,) NO. H-29750 LA
13 Respondent.) STATEMENT OF ISSUES
14

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against JAMES LEE MUHAMMAD, aka James Lee Thurman (hereinafter
18 "Respondent") is informed and alleges in her official capacity as
19 follows:

20 I

21 On or about October 4, 2001, Respondent applied to the
22 Department of Real Estate of the State of California for a real
23 estate salesperson license with the knowledge and understanding
24 that any license issues as a result would be subject to
25 conditions of Section 10153.4 of the Business and Professions
26 Code.
27

1 II

2
3 FIRST CAUSE OF ACTION
4 (FAILURE TO REVEAL CRIMINAL CONVICTION)

5 In response to Question 25 of said application, to wit:
6 "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
7 Convictions expunged under Penal Code Section 1203.4 must be
8 disclosed. However, you may omit minor traffic citations which
9 do not constitute a misdemeanor or felony offense." Respondent
10 answered "No." In fact, Respondent has a criminal conviction on
11 his record.

12 III

13 On or about April 29, 1997, in the San Bernardino
14 County Municipal Court District, West Valley Division, County of
15 San Bernardino, State of California, in case number FWV012313,
16 Respondent was convicted, upon his plea of guilty, of a violating
17 Section 529.5(a) of the Penal Code (False Government Document) a
18 misdemeanor crime involving moral turpitude that is substantially
19 related under Section 2910, Title 10, Chapter 6, California Code
20 of Regulations to the qualifications, functions or duties of a
21 real estate licensee.

22 IV

23 Respondent's failure to disclose the conviction set
24 forth in Paragraph III, above, in said application, constitutes
25 the procurement of a real estate license by misrepresentation,
26 fraud or deceit or by making a material misstatement of fact in
27 said application which is cause for denial of issuance of a
license to an applicant under Sections 475(a)(1), 480(c) and

1 10177(a) of the California Business and Professions Code.

2
3 V

4 SECOND CAUSE OF ACTION
(CRIMINAL CONVICTION)

5 Further, the crime for which Respondent was convicted,
6 as described above in Paragraph III, constitutes cause for
7 denial of his application for a real estate license under
8 Sections 475(a)(2), 480(a)(1) and 10177(b) of the California
9 Business and Professions Code.

10 VI

11 THIRD CAUSE OF ACTION
12 (FAILURE TO REVEAL PRIOR DENIAL OF LICENSE)

13 In response to question 24A of the same application
14 described above in Paragraph II, to wit: "HAVE YOU EVER HAD A
15 DENIED, SUSPENDED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE
16 (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE?"

17 Respondent answered "No."

18 VII

19 On or about January 8, 1999, in Department's case
20 number H-27842 LA, Respondent's application for a real estate
21 license was denied.

22 VIII

23 Respondent's failure to disclose the previous denial
24 of his application for a real estate license, as described
25 above, constitutes the procurement of a real estate license by
26 misrepresentation, fraud or deceit or by making a material
27 misstatement of fact in said application which is cause for

1 denial of issuance of a license to an applicant under Sections
2 475(a)(1), 480(c) and 10177(a) of the California Business and
3 Professions Code.

4 FACTS IN AGGRAVATION

5 The prior Statement of Issues, H-27842 LA, filed on or
6 about October 15, 1998, was based on the same allegation set
7 forth above in Paragraph III.

8 The Statement of Issues is brought under the
9 provisions of Section 10100, Division 4 of the Business and
10 Professions Code of the State of California and Sections 11500
11 through 11528 of the Government Code.

12 WHEREFORE, the Complainant prays that the above-
13 entitled matter be set for hearing and, upon proof of the
14 charges contained herein, that the Commissioner refuse to
15 authorize the issuance of, and deny the issuance of a real
16 estate license to Respondent, JAMES LEE MUHAMMAD and for such
17 other and further relief as may be proper in the premises.

18 Dated at Los Angeles, California

19 this 17th day of October, 2002.

20 
21 MARIA SUAREZ
22 DEPUTY REAL ESTATE COMMISSIONER

23
24 cc: James Lee Muhammad
25 Maria Suarez
26 SACTO
GD
27 R M K Financial Corp.